COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

Senate

Official Hansard

No. 2, 2007
Monday, 26 February 2007

FORTY-FIRST PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

BY AUTHORITY OF THE SENATE
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SITTING DAYS—2007

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

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FORTY-FIRST PARLIAMENT
FIRST SESSION—EIGHTH 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. Nigel Gregory Scullion
Leader of the Australian Labor Party—Senator Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Lynette Fay Allison
Leader of the Australian Greens—Senator Robert James Brown
Leader of the Family First Party—Senator Steve Fielding
Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Stephen Parry
Nationals Whip—Senator Fiona Joy Nash
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
Australian Democrats Whip—Senator Andrew John Julian Bartlett
Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate
**Members of the Senate**

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

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

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

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<td>Prime Minister</td>
<td>The Hon. John Winston Howard</td>
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<tr>
<td>Transport and Regional Services and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello</td>
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<td>Trade</td>
<td>The Hon. Warren Errol Truss</td>
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<tr>
<td>Defence</td>
<td>The Hon. Dr Brendan John Nelson</td>
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<tr>
<td>Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer</td>
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<tr>
<td>Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott</td>
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<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock</td>
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<tr>
<td>Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<tr>
<td>Agriculture, Fisheries and Forestry and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran</td>
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<td>Immigration and Citizenship</td>
<td>The Hon. Kevin James Andrews</td>
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<tr>
<td>Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>The Hon. Julie Isabel Bishop</td>
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<td>Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs</td>
<td>The Hon. Malcolm Thomas Brough</td>
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<td>The Hon. Ian Elgin Macfarlane</td>
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<td>Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service</td>
<td>The Hon. Joseph Benedict Hockey</td>
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<tr>
<td>Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
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<tr>
<td>Environment and Water Resources</td>
<td>The Hon. Malcolm Bligh Turnbull</td>
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<td>Human Services</td>
<td>Senator the Hon. Ian Gordon Campbell</td>
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(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation
Senator the Hon. Eric Abetz
Minister for the Arts and Sport
Senator the Hon. George Henry Brandis SC
Minister for Community Services
Senator the Hon. Nigel Gregory Scullion
Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP
Special Minister of State
The Hon. Gary Roy Nairn MP
Minister for Vocational and Further Education
The Hon. Andrew John Robb MP
Minister for Ageing
Senator the Hon. Santo Santoro
Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP
Minister for Veterans' Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP
Minister for Workforce Participation
The Hon. Dr Sharman Nancy Stone MP
Assistant Minister for Health and Ageing
The Hon. Christopher Maurice Pyne MP
Assistant Minister for the Environment and Water Resources
The Hon. John Kenneth Cobb MP
Parliamentary Secretary to the Minister for Finance and Administration
Senator the Hon. Richard Mansell Colbeck
Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Robert Charles Baldwin MP
Parliamentary Secretary to the Minister for Defence
The Hon. Peter John Lindsay MP
Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Minister for Immigration and Citizenship
The Hon. Teresa Gambaro MP
Parliamentary Secretary to the Prime Minister
The Hon. Anthony David Hawthorn Smith MP
Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Gregory Andrew Hunt MP
SHADOW MINISTRY

Leader of the Opposition
Kevin Michael Rudd MP

Deputy Leader of the Opposition, Shadow Minister for Employment and Industrial Relations and Shadow Minister for Social Inclusion
Julia Eileen Gillard MP

Leader of the Opposition in the Senate and Shadow Minister for National Development, Resources and Energy
Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Senator Stephen Michael Conroy

Shadow Minister for Infrastructure and Water and Manager of Opposition Business in the House
Anthony Norman Albanese MP

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

Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy
Christopher Eyles Bowen MP

Shadow Minister for Immigration, Integration and Citizenship
Anthony Stephen Burke MP

Shadow Minister for Industry and Shadow Minister for Innovation, Science and Research
Senator Kim John Carr

Shadow Minister for Trade and Regional Development
The Hon. Simon Findlay Crean MP

Shadow Minister for Service Economy, Small Business and Independent Contractors
Craig Anthony Emerson MP

Shadow Minister for Multicultural Affairs, Urban Development and Affairs
Laurence Donald Thomas Ferguson MP

Shadow Minister for Transport, Roads and Shadow Minister for Tourism
Martin John Ferguson MP

Shadow Minister for Defence
Joel Andrew Fitzgibbon MP

Shadow Minister for Climate Change, Environment and Heritage and Shadow Minister for the Arts
Peter Robert Garrett MP

Shadow Minister for Veterans’ Affairs, Shadow Minister for Defence Science and Personnel and Shadow Special Minister of State
Alan Peter Griffin MP

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

Shadow Minister for Sport, Recreation and Health Promotion and Shadow Minister for Local Government
Senator Kate Alexandra Lundy

Shadow Minister for Families and Community Services and Shadow Minister for Indigenous Affairs and Reconciliation
Jennifer Louise Macklin MP

Shadow Minister for Foreign Affairs
Robert Bruce McClelland MP

Shadow Minister for Ageing, Disabilities and Carers
Senator Jan Elizabeth McLucas
Shadow Minister for Federal/State Relations and
Shadow Minister for International Development Assistance
Robert Francis McMullan MP

Shadow Minister for Primary Industries, Fisheries
and Forestry
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Human Services, Housing,
Youth and Women
Tanya Joan Plibersek MP

Shadow Minister for Health
Nicola Louise Roxon MP

Shadow Minister for Superannuation and Inter-
genерational Finance and Shadow Minister for
Banking and Financial Services
Senator the Hon. Nicholas John Sherry

Shadow Minister for Education and Training
Stephen Francis Smith MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Minister for Finance
Lindsay James Tanner MP

Shadow Attorney-General and Deputy Manager of
Opposition Business in the House
Kelvin John Thomson MP

Shadow Minister for Public Administration and
Accountability, Shadow Minister for Corporate
Governance and Responsibility and Shadow
Minister for Workforce Participation
Senator Penelope Ying Yen Wong

Shadow Parliamentary Secretary for Foreign Af-
fairs
Anthony Michael Byrne MP

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

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

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

Shadow Parliamentary Secretary for Industrial
Relations
Brendan Patrick John O’Connor MP

Shadow Parliamentary Secretary for Industry and
Innovation
Bernard Fernando Ripoll MP

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

Shadow Parliamentary Secretary to the Leader of
the Opposition (Social and Community Affairs)
Senator Ursula Mary Stephens
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Monday, 26 February 2007

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

AUSTRALIAN CITIZENSHIP BILL 2006
AUSTRALIAN CITIZENSHIP (TRANSITIONAL AND CONSEQUENTIAL) BILL 2006

Second Reading

Debate resumed from 7 February, on motion by Senator Ian Campbell:

That these bills be now read a second time.

upon which Senator Bartlett had moved by way of amendment:

At the end of the motion, add:

“but the Senate:

(a) recognising that:
   (i) dual citizenship is part and parcel of Australian society,
   (ii) a significant proportion of Australians hold dual citizenship, and
   (iii) these Australians are disenfranchised in the sense that they are not able to run for election to the Federal Parliament without relinquishing their dual citizenship;

(b) calls on all parties in the Parliament to support, as a matter of urgency, legislation to initiate a referendum to remove the prohibition on dual citizens being able to run for Federal Parliament;

(c) calls on the Government to:
   (i) instruct the Department of Immigration and Citizenship to develop and implement a comprehensive public information campaign to describe and promote the operation of the new Australian Citizenship Act,
   (ii) allocate sufficient funds for a television, radio and newspaper advertising campaign in Australia and overseas about the operation of the new Act,

(ii) require the Department of Immigration and Citizenship and the Department of Foreign Affairs and Trade to coordinate the dissemination of written information about the operation of the new Act to be available in Australian diplomatic posts overseas, and

(iv) require the Department of Immigration and Citizenship to work closely with the Privacy Commissioner, to restrict to the maximum extent possible the collection, access, use and disclosure of personal identifying information.”

Senator FORSHAW (New South Wales) (12.31 pm)—I rise to make some remarks on the Australian Citizenship Bill 2006 and cognate bill. In doing so, I acknowledge that many of the aspects of the legislation are non-controversial. I want to particularly highlight some recent events that occurred with regard to a citizenship ceremony in the Sutherland shire on Australia Day which certainly were controversial. When this bill was first introduced the then minister, in his second reading speech, stated:

Today I have the honour to present the Australian Citizenship Bill 2005 which deals with the core of our national identity—Australian citizenship.

This bill, once passed by the Parliament will replace legislation which introduced the concept and reality of Australian citizenship on Australia Day 1949.

During debate in the House, many members reflected on citizenship ceremonies they had attended. They commented on the obvious pride and joy of former migrants and humanitarian entrants to this country making the pledge, which is the final step in becoming an Australian citizen. Like all members of parliament, both in the House and in the Senate, I have attended
many Australian citizenship ceremonies over the years. I refer particularly to Australia Day citizenship ceremonies held in the Sutherland shire each year. These are very large occasions. Indeed, usually there are some 150 to 200 people taking out citizenship that day. It is a major event on the shire calendar and, as Sutherland shire people are prone to be very parochial, they regard this part of Australia as the birthplace of the Australian nation, when Cook first landed in 1770. They are always significant events. All the state and federal politicians and local councillors attend, and it is a great day. After the ceremony is concluded there is always a good old-fashioned Aussie barbecue. It is wonderful to see not only the new Australian citizens who attend that day and take out citizenship but also the many families and friends who come along to enjoy that special occasion.

They have always been bipartisan events. Indeed, as I said, I have been attending these ceremonies since I came into this parliament in 1994. I can say, without contradiction, that they have always been treated appropriately by the respective members of parliament, whichever political persuasion they come from. My federal colleagues Danna Vale and Bruce Baird and state members always treat the occasion as an opportunity to express their appreciation to new citizens and to welcome them as part of the great Australian nation. Until this year, I cannot recall any one occasion where there has been an attempt to use that event as a political platform. But, sadly, this year that is what happened. The Australia Day ceremony received a fair amount of coverage in the media, both in print and on radio in Sydney, so I want to set the record straight.

Prior to Australia Day, the leader of the New South Wales opposition, Mr Debnam, approached the council requesting an invitation to attend and speak at the Australia Day ceremony. He is not a local member of parliament for that area; he is in fact the member for Vaucluse. He sought not to attend an Australia Day citizenship ceremony in his own electorate but to come to the Sutherland shire and attend one in that region. I think the reasons are pretty obvious. Firstly, the Liberal Party hopes to win two state marginal seats in that area, Miranda and Menai. The second—unfortunately, as we all recall—is the Cronulla riots two years ago. There is no doubt in my mind, and in the mind of many others, that the NSW Leader of the Opposition sought to use the occasion to try to gain some cheap political advantage by attending and speaking at the ceremony in Sutherland. He sought an invitation and it was granted. The mayor—who happens to have been a member of the Liberal Party but decided to run as an Independent for mayor—extended an invitation to Mr Debnam and welcomed him to the occasion. Indeed, as a result of that, other local members of parliament declined the opportunity to speak on that occasion because it would have extended the ceremony for a much longer period.

Mr Debnam provided a copy of his speech to the council, to the mayor, prior to Australia Day. There were a number of paragraphs in that speech which were blatantly political. For instance, he directly referred to candidates for the Liberal Party in the two seats I have just mentioned. He sought to highlight the fact that they were running for the seats and to give them some support. He also made a number of comments which were clearly an unfortunate reflection upon the history surrounding the Cronulla riots, which, I must say, people of all political persuasions in the shire have been working hard to overcome. I pay particular tribute to my federal colleague Bruce Baird. Along with the council and other members of parliament, he has endeavoured to improve community
relations in that area. For instance, a program has been running where young people of Muslim faith have been encouraged to join the local surf clubs and train to be lifesavers. A range of programs such as this have been initiated and I think they have been working well.

On Australia Day, the leader of the Liberal Party opposition in New South Wales decided that he wanted to go to the Sutherland shire and make a big partisan political speech to try and promote his state candidates. Naturally there was an objection from the mayor and the council to the content of the speech and Mr Debnam was asked to take out the offending paragraphs. I might interpose here by reminding all senators, not that they need reminding, that it is a specific requirement of the government, and an appropriate requirement of the government—it has been a longstanding requirement of governments, whether they be Labor or Liberal—that these ceremonies be treated in a bipartisan way. I quote from the letter forwarded to me and other members of parliament by Andrew Robb, who was Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs in January this year. In the section that refers to the conduct of ceremonies the letter states:

The Code makes clear, at page 28, that “All elected local representatives, at the Federal, State/Territory and Local Government level, shall over time have an opportunity to provide a welcoming speech ...”.

I stress that the reference is to ‘elected local representatives’. It continues:

There is reference to the possibility of brief messages of welcome from local clubs and associations and/or any local celebrity—

I do not think Mr Debnam is a local celebrity in the Sutherland shire; he might be trying to be one—

and that “... it is essential that the dignity and bipartisan significance of citizenship ceremonies be maintained at all time. Citizenship ceremonies shall not be used as forums for political or partisan expression ...”.

I read that out because it was very clear that the first speech prepared by Mr Debnam which he intended to give on that day contravened those specific requirements for bipartisan and non-political content. When Mr Debnam was asked to take out the offending paragraphs in his speech he embarked upon a media campaign in Sydney. He claimed that he was being banned from speaking, that he was being muzzled, that he was being censored. On one occasion he said that he did not really care whether or not the mayor liked his speech. He said he would give his speech either inside the council centre at the citizenship ceremony or on the footsteps of the council building. He became very defiant and built it up as if his right to make a speech was being rejected. The fact is that he had no right, technically, to make the speech. He had sought an invitation which had been acceded to and then he sought to abuse it.

Eventually Mr Debnam redrafted his speech and took out the offending paragraphs. At least he backed down in that respect. However, on the morning of Australia Day he was all over the radio running this campaign, attacking the mayor and attacking the council, saying they were trying to ban him. Indeed, there were articles and editorials in the newspapers—I refer particularly to the Daily Telegraph of Saturday, 27 January, the day after Australia Day—which picked up the theme that Mr Debnam was promoting and which were critical of the mayor and the council for seeking to have Mr Debnam abide by the code.

The fact of the matter is that on that day Mr Debnam, I thought in a most outrageous and disgraceful manner, tried to hijack an Australian citizenship ceremony for base partisan political motives. You ask the question: why would the state member for Vau-
House of Representatives

Thursday, 8 February 2007

Mr Speaker—The New South Wales Leader of the Opposition, on Australia Day seek to travel to the Sutherland shire—an area with which he has had no association at all up until recently—to give a citizenship speech? Normally members do that in their own electorate, or they might attend a major function in a capital city. But no; it was quite obvious what Mr Debnam was doing. During his speech he referred to what had happened at Cronulla. As I said earlier, there has been a lot of good work done by a lot of people to heal the wounds that were so disgracefully opened in late 2005 with the Cronulla riots. Frankly, I think Mr Debnam’s conduct deserves to be condemned.

I am particularly concerned that radio commentators such as Alan Jones picked up on this, and again ran Mr Debnam’s mantra that he was being denied free speech. We all recall—the record is very clear—the conduct of Alan Jones on the radio in the weeks leading up to the Cronulla riots. He was on the radio, some might say, inciting people to come down to Cronulla that weekend to those protest rallies. Certainly they turned ugly. I am particularly intrigued by that because Mr Jones, like Mr Debnam, would normally have trouble even finding his way to the Sutherland shire. I can give a direct instance of that. A couple of years ago Alan Jones was the guest speaker at the opening of an art exhibition at the local gallery in the Sutherland shire. I was there. Mr Jones came out, and in his opening remarks to the assembled gathering he commented upon the fact that it had been a long, long time since he had been to the Sutherland shire and that he had really had trouble finding his way there. He normally only drives on the outskirts of the shire as he heads down to his country estate—somewhere in the Kangaroo Valley. I think. Probably the last time he had visited the shire was when he was coaching Balmain, back in the days when they were not terribly successful—they were probably playing a game at Shark Park. Why do I mention this? It is because Alan Jones is on the radio speaking as if he is an expert on community relations, crime, ethnic tensions and so on in the Sutherland shire, when he would not have the first iota of knowledge of what happens in our community.

I wanted to put this on the record today because I find it intriguing that members of this government have, from time to time, taken the opportunity to condemn mayors or other politicians—generally from our side of the fence—for making what they believe are partisan political speeches at citizenship ceremonies. If they did make those partisan political speeches then I would accept that they should not have done so. But this is the government’s code. I find it incredible that the person who seeks to be the next Premier of New South Wales would so abuse the requirements of a code that is laid down by his fellow Liberal government here in Canberra. People in the Sutherland shire, like any other community, do not appreciate people from outside coming in and stirring up trouble—and that goes for politicians like Mr Debnam as much as it goes for anyone else.

Question negatived.
Original question agreed to.
Bills read a second time.

In Committee

AUSTRALIAN CITIZENSHIP BILL 2006
Bill—by leave—taken as a whole.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (12.49 pm)—by leave—I move government amendments (1) to (9) together:

(1) Clause 19B, page 21 (line 18), omit “(7),” substitute “(7A),”.

(2) Clause 19D, page 24 (line 5), before “has been”, insert “subject to subsection (7A),”.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (12.49 pm)—by leave—I move government amendments (1) to (9) together:

(1) Clause 19B, page 21 (line 18), omit “(7),” substitute “(7A),”.

(2) Clause 19D, page 24 (line 5), before “has been”, insert “subject to subsection (7A),”.

CHAMBER
(3) Clause 19D, page 24 (after line 20), after subclause (7), insert:

(7A) The Minister may decide that subparagraph (6)(a)(ii) does not apply in relation to a person if, taking into account the circumstances that resulted in the person’s conviction, the Minister is satisfied that it would be unreasonable for that subparagraph to apply in relation to the person.

(4) Clause 19G, page 26 (line 4), omit “(4B)”, substitute “(4C)”. 

(5) Clause 24, page 34 (line 17), before “has been”, insert “subject to subsection (4C), “.

(6) Clause 24, page 34 (after line 32), after subclause (4B), insert:

(4C) The Minister may decide that subparagraph (4A)(a)(ii) does not apply in relation to a person if, taking into account the circumstances that resulted in the person’s conviction, the Minister is satisfied that it would be unreasonable for that subparagraph to apply in relation to the person.

(7) Clause 28A, page 41 (line 10), omit “(6)”, substitute “(7)”.

(8) Clause 30, page 43 (line 19), before “has been”, insert “subject to subsection (7), “.

(9) Clause 30, page 43 (after line 34), at the end of the clause, add:

(7) The Minister may decide that subparagraph (5)(a)(ii) does not apply in relation to a person if, taking into account the circumstances that resulted in the person’s conviction, the Minister is satisfied that it would be unreasonable for that subparagraph to apply in relation to the person.

There are some tabling notes on the amendments to the bill, which I now table and which summarise the amendments. This might benefit Democrat and Green senators, who also have some amendments to move. The amendments effectively change the wording of the current bill, which would require the minister to refuse a citizenship application from a stateless person born in Australia who has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least five years. The gist of the amendments is that they will now provide for a discretion to refuse—putting a discretion in the hands of the minister, as opposed to a mandated requirement that the minister shall refuse. The amendments recognise that there may be cases where the operation of a mandatory refusal provision would not be reasonable because of the particular circumstances resulting in a person’s conviction. So they create a bit of leeway for the minister to look at the circumstances and some flexibility to take those into account.

I table a supplementary explanatory memorandum and a replacement explanatory memorandum which relate to the government amendments moved to this bill. They go into more detail than I have done.

Senator BARTLETT (Queensland) (12.51 pm)—I apologise for not being here at the start of the committee stage. Given how much the government has talked about the crucial importance of citizenship and its central and pivotal nature to the strength of our future nation, I thought the minister might have at least summed up the debate on the second reading stage, so the committee stage started rather earlier than I anticipated. However, the amendment that the minister has spoken about is a sensible one. I appreciate he is here in a representative capacity rather than being the actual minister responsible for citizenship.

It is important to address the matter that the minister raised. My understanding is that this is one of a number of proposals or issues that were identified during the Senate committee inquiry into this legislation. It is a little bit hard to remember, because the Senate committee inquiry was 12 months ago.
Despite the ‘pivotal and crucial importance’ of citizenship to the Australian government, it has taken them 12 months to actually bring on the legislation for debate. But as I said in the second reading stage, there are a number of positive measures that were in the original piece of legislation. They were supported by me and, I think, all parties in the Senate committee report 12 months ago, and we were keen to get on with them. There were constructive recommendations in that report about additional measures. This extra bit of flexibility that the minister has indicated is certainly one of those, and it merits support.

Question agreed to.

Senator BARTLETT (Queensland) (12.53 pm)—I move Democrat amendment (1) on sheet 4868:

(1) Clause 3, page 6 (after line 8), after the definition of foreign law, insert:

**good character** is a discretionary test which a person does not pass if:

(a) the person has a substantial criminal record; or

(b) the person has or has had an association with another person, or with a group or organisation, whom the Minister reasonably suspects has been or is involved in criminal conduct; or

(c) having regard to either of the following:

(i) the person’s past and present criminal conduct; or

(ii) the person’s past and present general conduct;

the person is not of good character; or

(d) in the event the person were allowed to enter or to remain in Australia, there is a significant risk that the person would:

(i) engage in criminal conduct in Australia; or

(ii) harass, molest, intimidate or stalk another person in Australia; or

(iii) vilify a segment of the Australian community; or

(iv) incite discord in the Australian community or in a segment of that community; or

(v) represent a danger to the Australian community or to a segment of that community, whether by way of being liable to become involved in activities that are disruptive to, or in violence threatening harm to, that community or segment, or in any other way.

Note: **Substantial criminal record** is defined in subsection 501(7) of the Migration Act 1958.

This amendment deals with the definition of good character. The amendment is there before the chamber, so senators can read it. It deals with ‘good character’ being a discretionary test. This area is one of those that I think merit close scrutiny. It is an appropriate one to consider when we are having genuine debates about what citizenship is about rather than some of the populist frippery that occasionally passes for it: what are the circumstances under which somebody will be deemed to be not of good character?

This is an important area, and I am not just referring to the specifics of what is in the amendment before us. We hear from time to time media commentators and talkback radio shock jocks talking about throwing somebody out of the country whenever something unpopular is done. Unfortunately we also hear it from time to time from senior government ministers. Indeed, since we last debated this legislation a couple of weeks ago, in the intervening period between then and now, we had such commentary from as esteemed a figure as the Treasurer, Mr Costello, the Deputy Leader of the Liberal Party and someone who sees himself as a...
Prime Minister in waiting. He made comments, I think it was on Melbourne radio, saying that even for people with dual citizenship—that is, people who have already had citizenship granted to them—if they acted in a way that he said would be seen as divisive in Australia, there should be the potential to cancel Australian citizenship. If they have another citizenship—by no coincidence at all he used the example of somebody with Egyptian citizenship—we could cancel their Australian citizenship and send them back.

This issue of how tightly we define character is a very important one. It is, I should hasten to add, not a facet of the legislation currently before us—at least, I hope it is not; I do not think it is—that a person, once they have been granted Australian citizenship, can have it cancelled on the grounds of matters such as character or subsequent criminal behaviour. There are very limited grounds under which somebody’s citizenship can be cancelled once it has been granted. But it is important at this stage of the debate around a topic like this that we get it clearly on the record from the government representatives in the chamber that such ideas as those put forward by Mr Costello are not government policy and are not going to become government policy.

If we are genuinely going to have an approach of encouraging this pathway from migration to residency to citizenship—and that is one I strongly support—then people need to know if they take up Australian citizenship whilst remaining a dual citizen of another nation that they are not going to have that Australian citizenship cancelled capriciously for political reasons or because a government decides that they are being divisive. We all know that one of those core Australian values that is about citizenship is the right to freedom of speech, and that includes of course the right to freedom of speech about matters that we might find we disagree very strongly with. I am sure the Egyptian-Australian dual citizen that Mr Costello had in mind is one such person.

It is very important that people who come here and become migrants and citizens know that that is a secure choice, because many of them come from precisely those countries where voicing an unpopular opinion—being accused of being divisive—is enough to get them offside with the government of the time. That is why it is important to have clear definitions. I am going a bit wider than what my amendment specifically relates to because, I might say, since we last debated this legislation Mr Costello has made those comments. He is not just a maverick back-bencher. He is a very senior member of this government putting forward a clear-cut proposal that people who become Australian citizens should be able to subsequently have their citizenship cancelled if they are seen to behave in a sufficiently divisive way. That, I suggest, is a very destructive notion to put forward. It would be very constructive for it to be made clear in this debate that it is not government policy and it is not going to become government policy.

It has been, as I understand it, a bipartisan or a multipartisan view in this parliament for some time that dual citizenship is a good thing. Previous amendments to the Citizenship Act prior to this one have specifically encouraged people to retain other citizenships and become Australian as well. Indeed, some of the core amendments contained within the primary legislation before us go further in that regard, to further expand it and to enable people to become Australian citizens without suffering the penalty of losing citizenship of another country.

Those are developments I welcome. I welcome the fact they are being advanced further by the government’s constructive components of this legislation, but we also
have this parallel message being put out by the Treasurer, a senior government minister, suggesting that dual citizenship is a risky business because it might mean that, down the track, we have got an out to get rid of you and somewhere else to send you. That is a very destructive notion that runs counter to what I would have thought was government policy. It reinforces why it is important to have clear definitions of character.

Character in this case goes more to granting in the first place, not the cancelling down the track, but it has similar sorts of issues. You cannot have a minister deciding that a person of bad character is someone who says things that we find offensive or that we deem to be against undefined notions, like Australian values. That is why we need to have it more clearly detailed, and that is the intent of this amendment.

Senator Ludwig (Queensland) (1.01 pm)—I want to indicate Labor’s support for the position put by the Democrats. I will not go into great detail; Senator Bartlett has summed up the debate rather well as to why he is arguing for a definition of good character. The definition of good character that is included in Senator Bartlett’s amendment does seem to accord with that which you would think would be included in a statute such as this. Therefore, on that basis, we do think it is a good idea and deserves support.

Senator Ian Campbell (Western Australia—Minister for Human Services) (1.01 pm)—The government read the Senate committee report. It is recommendation 8 that Senator Bartlett’s amendment has picked up. The government believes that the term is sufficiently broad to include any and all of the circumstances which can be taken in isolation or together that need to be considered in assessing whether or not a person is of good character for the purposes of Australian citizenship. It needs to be pointed out that applicants refused on the basis of not being of good character have the right to a merits review of the decision by the AAT.

Question negatived.

Senator Bartlett (Queensland) (1.02 pm)—I move a second reading of Australian Democrat amendment (2) on sheet 4868:

(2) Page 12 (after line 31), after clause 10, insert:

10A Best interests of a child

(1) Whenever a decision is taken under this Act in relation to a child, the best interests of the child must be the paramount consideration.

(2) For the purposes of this section, best interests of the child include:

(a) a child’s right to stability, security and adequate and responsible care; and

(b) a child’s own social networks and his or her ongoing ability to maintain such networks; and

(c) a child’s school, sporting and other leisure activities; and

(d) any other special needs of the child.

This amendment details, as its heading suggests, an insertion to be added to the legislation to detail the best interests of the child and to specifically state that, when a decision is taken under the Citizenship Act in relation to a child, the best interests of the child must be the paramount consideration. That does not mean the only, sole, single consideration; it means the paramount consideration. The best interests of the child include their right to stability, security, adequate and responsible care, a child’s own social networks and his or her ongoing ability to maintain such networks, their school, and sporting or other leisure activities.

I am on record in this chamber, from the many times when I have spoken on immigration issues and citizenship issues, acknowledging that these are difficult areas of law,
that you do, from time to time, come up against specific circumstances that present very difficult decisions because they are decisions that affect people’s lives. A decision about whether or not someone has citizenship obviously can relate—and when it is being contended it often does relate—to whether or not they are able to remain in the country, whether or not they have the security of being able to stay in that country.

Obviously a decision around that, in many circumstances, can be a hugely significant decision about the path that person’s life goes down. Often some of the more difficult ones are the ones where children are involved. They are not particularly common, but they do happen. There have certainly been cases in the past where decisions have been made that I believe would be immensely harmful to the child’s long-term interests. As the amendment suggests, some of this can go to stability, security and adequate and responsible care, particularly whether or not they would be in a position to be able to receive the best care. Often it can relate to whether or not they would be torn away from a very secure environment—one where they have lots of networks of support, adequate educational assistance and other sorts of things that are crucial for their development—and moved to somewhere where those things are either absent or far weaker.

I believe that it is of merit to specifically detail that when those sorts of factors come into play the best interests of the child are made paramount. As I said, that does not mean overriding absolutely everything else completely so that nothing else gets taken into account, but it does indicate that the interests of the child do not get pushed below other matters. Too often that happens, particularly when, in some cases, these decisions do have a political atmosphere about them, regardless of which party is in government. In those circumstances it is often quite easy to let the politics of the day dictate something and use that to cull the various factors that are taken into account rather than take into account the things that I believe should be given primacy. The best interests of the child or children is one of those factors. It does not negate other things completely, but it does mean that it should be given the primacy that it deserves.

Senator LUDWIG (Queensland) (1.06 pm)—In this instance the matter was not central to the committee recommendations, although it was briefly discussed. The arguments that Senator Bartlett has put forward, although persuasive, are not persuasive enough for us to find favour with them. The Labor Party is not minded to support the amendment that the Australian Democrats propose in the form that they propose it.

I do understand the point that Senator Bartlett has made. I think that decision makers do have to reflect on all the criteria, but in this instance—applying for Australian citizenship—when children are applying in their own right, or when they are included in their parents’ citizenship application, under the existing law they are not required to be a permanent resident or satisfy the usual residency requirements. So there are considerations already taken into account when children apply for Australian citizenship. Of course, in some cases, to meet the residency requirements it is possible to include periods spent outside Australia while the person is on a permanent visa. There are matters that I think have to be further considered when looking at the amendment that you have proposed to see how it also interacts with other rights. In short, without going into great detail, before that matter would find favour we would want more information and perhaps a further look at it through a committee process. But, in the first instance, without having had the opportunity the Labor Party cannot support it.
Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (1.08 pm)—The government will not be supporting the amendment. I think Senator Bartlett’s instincts are absolutely noble, but his recommendations and indeed this amendment are even broader than, for example, the Convention on the Rights of the Child, which requires that, in all actions concerning children, the best interest of the child is a primary consideration. This amendment talks about a ‘paramount’ consideration. It is not an amendment that adds to this act. Its intentions are noble, but I think it is a potentially dangerous change in the context of this act.

Question negatived.

Senator NETTLE (New South Wales) (1.09 pm)—by leave—I move Australian Greens amendments (1), (6) and (7) together:

(1) Clause 17, page 19 (line 21) to page 20 (line 7), omit subclause (4).

(6) Clause 24, page 34 (lines 5 to 32), omit subclause (4).

(7) Clause 30, page 43 (lines 6 to 34), omit subclause (4).

I have spoken to these amendments in my second reading speech, which was some time ago now. This legislation gives ASIO the power to veto any citizenship application. These amendments seek to remove the power given to ASIO by this piece of legislation to veto any citizenship application. As I explained in my second reading speech, it is the view of the Greens that the decision about who is granted citizenship should be made by the government of the day. We accept that there is a role for ASIO in this process. We believe that ASIO should continue to do what they do now—that is, they should be able to provide advice to the government in relation to citizenship applications; they should have the capacity to vet applications and make recommendations.

But the decision maker should be the government and the minister.

This piece of legislation allows ASIO to tell the government who should become a citizen, but it is the view of the Greens that the government of the day should make the decision on who can or cannot become an Australian citizen. It is perfectly acceptable for ASIO, like any other department, to make recommendations to the government—to say yes in this case or no in that case. That is ASIO’s job, but we do not think it is the role of ASIO, our secret police force, to make the decision on who is granted citizenship. The Greens believe that is a decision the elected government should make. This amendment seeks to return us to the situation that we have today, which is that ASIO can say they think a person should or should not be granted citizenship. That is entirely appropriate. But it is the view of the Greens that the government should be the decision maker.

In my second reading speech I spoke about a number of issues and community groups such as the New South Wales Council for Civil Liberties, which raised this issue in its submission to the inquiry into this bill. They called the bill:

... an unwelcome intrusion of faceless secret agents into the process of defining who is a citizen in our free and democratic society.

They went on to say:

The proposal violates the Statelessness Convention because the Minister will not be able to prevent a person from becoming stateless.

The clause that the Greens are seeking to have removed says that, if ASIO says, ‘Don’t give this person citizenship,’ the minister has no power to say that he will or will not take ASIO’s advice. Under what is proposed in this legislation, if a stateless person is applying for Australian citizenship the minister is required to deny them citizenship because ASIO has told the minister to do so. Whether
they have told them the reasons or not, certainly nobody else knows; whether the minister knows or not is unclear to me. The minister has to take ASIO’s recommendation and say, ‘You cannot become a citizen.’ They make people stateless by having to refuse them citizenship. If a stateless person applies to become a citizen of Australia, and the minister is required under the legislation to take ASIO’s recommendation that they not become a citizen, then the minister is making somebody stateless.

This is why the New South Wales Council for Civil Liberties, in its submission to the inquiry into this bill, criticised the legislation for violating the statelessness convention, to which Australia is a signatory. The legislation does that because it does not allow the minister to prevent someone from becoming stateless. The Greens want to give the power to determine who gets citizenship or not to the government of the day, rather than to ASIO, as this piece of legislation seeks to do. The New South Wales Council for Civil Liberties was:

... concerned that, in the current political climate, this proposal will disproportionately impact upon the Muslim community. This could undermine the desirability of Australian citizenship in the eyes of some, rather than fostering a strong multicultural community of citizens—our strongest defence against terrorism.

This is something that I have spoken of many times before, including in relation to this bill. We as a nation should be extremely proud of the fact that people from all around the world want to come and live in Australia. Indeed, many of them take out Australian citizenship. That is a great thing and something that we can all be proud of. The concern that I have raised on behalf of the Greens in relation to this legislation is that it puts more barriers in front of people in doing that, as does the government’s proposal around citizenship tests and English language tests.

Just yesterday I spent time with a number of people who work with newly arrived migrants—many of them are young Sudanese men, some from Darfur, and there was a young Burmese woman. There was a range of people that they work with. They teach an intensive English course supported by the federal government. They try to help them to understand how to engage in the Australian community. When you have a young man in your class and he thinks, ‘It’s hot—I’ll take my clothes off,’ that is something you have to struggle with. They have to say: ‘We don’t do that in Australia. If it is hot, you don’t just take all of your clothes off in the middle of a classroom.’ The young Burmese girl is so bruised from the beatings that she has received but, extraordinarily, she managed to have a child as a result of rape that she experienced in Burma and she is here in Australia trying to learn and understand English. What this piece of legislation and the government’s proposals around citizenship and English language tests do is make it even harder.

You have this young Sudanese boy who may be very comfortable and competent sitting on a hill looking after a herd of goats in Darfur, but he does not know how to cross the road or use a traffic light or what to do in the Australian community. He needs an intensive amount of assistance for that. That needs to be supported. It cannot be provided at the level that is required right now. The government’s proposals are that he also needs to learn English to a point where he is able to do a multiple choice test on a computer. This is a guy who has never learnt a language. He has never been to a school. I am sure he is extraordinarily competent at many things. He is probably a great athlete as well. He has arrived in Australia and this is his new home. He wants to become a citi-
zen. We should be supporting him in that process, not putting steps and barriers in place.

Those are the concerns that the Greens have about not just this bill but also other proposals that the government is putting forward to make it harder for new migrants to be able to become citizens. We do not think that everyone should be given citizenship—by no stretch of the imagination. But we think that the process that exists in Australia allows us to do that. I will get onto that issue later when we talk about how long people should wait before they can make an application for citizenship. The justifications we have heard from the government on this issue are questionable. Given that the government’s argument has been that we need to protect people from terrorism so we need to extend the citizenship waiting period from two years to four years, what are they saying about the system that exists now? I will be interested to hear from the minister on that point.

What the amendments that we are currently dealing with are saying and what the Greens believe is that the government of the day should determine who can become an Australian citizen. That is the system we have now. We think that ASIO has an important role to play in providing advice to the government. But we think that the government, not the secret police force, should determine who is able to be a citizen in Australia. I commend these amendments to the Senate.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (1.18 pm)—The government will oppose these amendments. We believe that the ASIO Act needs to be complied with before someone seeking to become a citizen can avail themselves of the provisions of the citizenship laws of this country, including what we hope will be a new law as a product of this debate today. The system as it has been described to me is that, if a person wanting to become a citizen has an adverse assessment by ASIO, they will obviously need to have that dealt with before they can seek to become a citizen. It is effectively saying that the ASIO Act, which is put in place to protect this country, needs to be complied with. Until that is complied with, no application can be considered under this act.

Senator LUDWIG (Queensland) (1.19 pm)—Senator Nettle, we do see the principles that you enunciate clearly in terms of the way this has proceeded. It is wrapped up in a broader issue. In part you are arguing, if I understand correctly, that the minister should have a separate decision-making process apart from ASIO. In other words, ASIO would make a decision and the minister would then be able to agree or disagree with that.

That always creates an interesting position. Based on which criteria is the minister exercising a power? ASIO would make an assessment based on the intelligence assessment that is available to them. It might include confidential information. It could include a range of information from various sources that has been drawn together by ASIO and related agencies. ASIO, as our national intelligence organisation, would then make that assessment. The minister would then, in the normal course of events, rely on that assessment in making the determination. That is the way that I would see it operating.

It has operated in the past in that same way for a range of decisions by ministers. Decisions are based on assessments by, in this instance, ASIO. Departing from that I think would be fraught with some concern. What you then have to do is step the minister into the position of ASIO. You then have to
say that the minister should assess the primary documents, the primary sources and all of the other evidence that might be garnered by ASIO in order to be in a position to make a determination—that is, if I understand the question correctly from the way that you have framed your amendment.

On that basis I could not see why we would support such a position. Effectively, you then would not be exercising a ministerial decision based on an ASIO report; you would have to make the primary decision yourself, as the minister. Why then would you have ASIO make the security assessment in the first place? I guess you would then have to have the minister or his delegates go and search out all of the relevant information to make a decision.

The usual course of events is that the minister does have to rely on security assessments. There is nothing to suggest that ASIO would not be making the appropriate security assessment in any event. Even in matters where ASIO do make security assessments, they are challengeable. If I remember correctly, that was challenged in the Scott Parkin matter and there was a judicial determination in that area. I know it is separate from it, but the primary area is that we are not minded to support the proposed amendment. We do see the points that you raise. We have read the committee report about this issue as well. It seems to suggest that there are differing legal views about this area as well and the matter remains unsettled. Although the proposed amendment does raise a matter regarding stateless people, we are not able to support it in total because of the way it is drafted.

Senator NETTLE (New South Wales) (1.23 pm)—I thought it was worth making clear what the proposed amendment actually does. Whilst I am very happy for Senator Ludwig to make comments on my discussion here in the chamber, the amendment proposes to omit the clauses that the government is proposing to put into this legislation that give ASIO the power to veto somebody’s citizenship. So rather than our setting up a new system, which is perhaps what Senator Ludwig thought that I was proposing, the amendment actually removes the government’s proposal in this legislation to give ASIO the veto power. What we are proposing is that we operate under the system by which decisions are currently made, with advice from ASIO, but we are not supportive of giving ASIO the power to veto every individual citizenship application.

Senator Ludwig interjecting—

Senator NETTLE—It does.

Question negatived.

Senator BARTLETT (Queensland) (1.24 pm)—by leave—I move Australian Democrat amendments (3), (8) and (9) on sheet 4868:

(3) Clause 17, page 19 (after line 28), after subclause (4), insert:

(4AA) Subsection (4) does not operate so as to refuse the application of a stateless person unless the person has been convicted of a national security offence.

(8) Clause 24, page 34 (after line 12), after subclause (4), insert:

(4AA) Subsection (4) does not operate so as to refuse the application of a stateless person unless the person has been convicted of a national security offence.

(9) Clause 30, page 43 (after line 13), after subclause (4), insert:

(4A) Subsection (4) does not operate so as to refuse the application of a stateless person unless the person has been convicted of a national security offence.

These proposed amendments relate to the treatment of a stateless person and basically go to trying to increase the protection of such people from being put in a circumstance
where they are at risk of being removed from Australia and in a position of statelessness globally. It was an area that was examined during the Senate committee inquiry and it is one where I believe there are not adequate protections.

The first amendment goes to adverse security assessments. We have just been talking about that to some extent—where a person cannot be approved to become a citizen at a time when an adverse security assessment is in place. I should point out that adverse security assessments do not automatically mean a person is a sure-fire terrorist or something like that. The relevant provision in the bill before us says at clause 17(4) that that adverse security assessment relates to whether somebody is directly or indirectly a risk to security. An indirect risk to security can be a lot wider and a lot looser than people may suggest.

The current wording in the legislation at clause 17(4) says that ‘the Minister must not approve the person becoming an Australian citizen at a time when an adverse security assessment ... is in force’. The Democrat amendment suggests that that should not operate so as to refuse the application of a stateless person unless they have been convicted of a national security offence. It is basically an exemption if it is applying to a stateless person. Again, at least as I would read it, it does not mean that the minister would be forced to give that person citizenship but it does mean that it would give them some leeway rather than as currently applies under subclause (4), where the minister simply cannot approve that person becoming an Australian citizen if they are subject to an adverse security assessment.

It should also be emphasised that my understanding of things currently under the Migration Act is that if people are subject to an adverse security assessment and they are outside the country, they cannot get in in the first place. So this would be an assessment that would apply to people who are already resident in Australia and do not have citizenship of any other country. That would apply to a fairly small number of people. But, as I said earlier, there are those rare occasions that throw up fairly difficult decisions. In the case of stateless people, there are people that, by definition, at least in some respects, are in quite a vulnerable circumstance. We believe that the stronger test of refusing an application if they are convicted of a national security offence is a better one for stateless people in those rare circumstances than the current one where an adverse security assessment is in place.

It does, to some extent, touch on the previous amendment moved by Senator Nettle. For the record, I should note that the Democrats were supportive of that amendment. We saw this not in relation to a citizenship matter but in relation to a migration matter—not just with the Scott Parkin circumstance but also and perhaps even more unforgivably in regard to the two Iraqi refugees who were marooned on Nauru for years as a consequence of an adverse security assessment. Because they were outside the country, they were in an even worse circumstance where they were not able to have any sort of judicial review.

As Senator Ludwig rightly said, in circumstances where people are in the country there is a limited scope of judicial review, although I should note with the Scott Parkin case there has been fairly strong resistance by ASIO and by the federal government themselves about the scope and nature of what is being able to be reviewed. I understand that matter is still being determined and assessed by the courts so I will not go into it further, but it is not a particularly comprehensive and thorough form of review.
that is available to people, or at least may well turn out to be the case.

I think the very small number of vulnerable people who are in a stateless circumstance should not have the security of a citizenship application refused automatically just because of the adverse security assessment. As I said, that does not mean in itself that they are a serious risk to the community. An indirect risk to security can mean a lot of things, as we saw of course with one of those two refugees who were stuck on Nauru. A couple of years later that person, after having been brought to Australia because of serious health concerns, then had another ASIO review and, for reasons that I suspect nobody will ever know, was suddenly found not to present an adverse security risk to Australia. Quite what could have changed for that person when all they did in the intervening year or two was to stay stuck on Nauru, how they could over that period of time have ceased to be a security risk, we will probably never know. Attempts to try and question ASIO about this in Senate committee hearings met with the not unexpected stonewall that they were not able to comment on national security matters. It is all well and good for us to note this circular catch-22 situation of being unable to get information about security matters because it is a security matter. But when you are the person stuck with that adverse assessment, and the consequence is a lifetime of insecurity and uncertainty and of being in limbo, then it is not just a curious logical conundrum, it is a very serious circumstance. That is why we believe these amendments are desirable.

It should be re-emphasised that what we are putting in place here is a whole new citizenship act. The bill before us updates, modernises and improves, by and large, the existing Citizenship Act and replaces it—and if there is ever a time to make sure we get it right it is at the beginning, when we are putting it in place. I believe this is one area where, whilst it will only affect a small number of people, an improvement can be made. It is an important improvement for ensuring better rights for people who are vulnerable, for stateless people who may otherwise be left in limbo due to what is, in effect, a completely unchallengeable and unknowable security risk assessment from ASIO.

Senator HURLEY (South Australia) (1.32 pm)—As Senator Bartlett quite rightly just pointed out, the bulk of the bill we are considering is very good and puts our Australian Citizenship Act on a very good footing; it is just that there are some lingering concerns about particular aspects of it. Indeed, during the committee hearings the Human Rights and Equal Opportunity Commission made the point that they had not been consulted, I believe, prior to the bill being drafted. That surprised me a great deal. They were particularly concerned about the issue of statelessness. Senator Bartlett has quite rightly pointed out some of the difficulties that may arise under this bill.

I would like to hark back to other difficulties that I pointed out during my speech in the second reading debate in relation to people who, through renunciation, lost their citizenship under section 18 of the old bill. While I am on my feet I might also go through a few questions that I have about how the bill, when it is enacted and becomes law, will be dealt with. During the additional estimates we heard stories of a Maltese person who lost their Australian citizenship not under section 18, as most Maltese people do, but under section 17. This is quite a complicated bill and that particular section makes it very complicated, as do issues like statelessness and so on. I am wondering whether increased resources will be made available to the department, particularly in those key overseas locations where a lot of people will apply for or inquire about resumption of citi-
izenship—Malta being one and the United States and Papua New Guinea being others—and what protocols will be in place. For example, will elderly people such as the United States war brides, who are in their 80s or even 90s, be treated as a priority and assisted through the process?

I think it may also assist the process of people assessing whether they themselves or members of their family are eligible under the new citizenship rules if the Australian citizenship instructions, which I understand are currently only available to migration agents, are made more widely available. I understand, of course, that they have to be rewritten to take into account the new rules, but I think it would assist the process greatly if they could be more generally available to the public. There is also the question for people who are already here in Australia under working visas or other arrangements of what arrangements will be made for them to be advised of whether they might be able to take up Australian citizenship or resume their Australian citizenship if they are eligible and how that will come about. I raise these issues at this point hoping that the minister might have some response to them later in the piece.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (1.36 pm)—If the minister believes we need increased resources at those posts, I am sure that he will seek them through the normal budget process. It is what we would expect him to do, if that is the case.

In response to the amendment moved by Senator Bartlett, I just make the point that the government accepted the Senate committee amendment that he refers to—committee recommendation No. 10—and it included in the bill, by way of an amendment in the House of Representatives on November 28 last year, to install a new section 4A. That says:

If the person is covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen if the person has been convicted of a national security offence.

Effectively, this achieves the aim sought by Senator Bartlett’s amendment—and I will not quote that because it is in front of all senators. But, in longhand, I am saying that the policy intent sought by Senator Bartlett has been achieved by the government amendment and, therefore, the bill before us requires no further amendment; otherwise, effectively, you would have a clause 4A, which would say exactly the same as Senator Bartlett’s new clause 4AA.

Senator LUDWIG (Queensland) (1.38 pm)—That, in fact, was one of the questions I was going to ask of Senator Bartlett: in terms of the current position that the government seems to have moved to, does your amendment go to that or to some additional required matter that you have seized on, which is within the committee recommendations? The committee made a range of recommendations, but particularly in respect of stateless persons—and invariably I am looking at the report of the Legal and Constitutional Legislation Committee at 3.50, which deals with stateless people. The committee’s view was highlighted at 3.58, which states:

The Committee notes that the proposed Bill does change the law in two important ways. Further, while the Committee appreciates that legal opinion may differ, there is a legitimate question as to whether proposed paragraph 21(8)(c)—and I will not go into the detail there—is sufficient to meet the objectives of the Convention. Australia may have adopted an unduly restrictive interpretation of its obligations in this regard.

But recommendations 10 and 11 go to those issues, in addition to recommendations having been made more generally. I do not know
whether that, in fact, answers the amendment that you suggest. On the basis that, as I understand it, we have come to the position where the government has now conceded there were issues surrounding the original drafting of the bill dealing with this matter, Labor is not in a position to support your amendment without more being put. We do see that the government has moved to address the issue to ensure that, as far as was raised by the Legal and Constitutional Legislation Committee, it is remedied. If that is not the case, Senator Bartlett, I would like to hear more.

Senator BARTLETT (Queensland) (1.41 pm)—My understanding is that the amendment further reinforced the principle in place. It may be, as the minister says, that it is unnecessary because of the amendments made in the House of Representatives. It should be noted that the bill before the chambers is not the same bill that was before the Senate committee, because it was subsequently amended many months later by the House of Representatives, which included changes being made in response to the Senate committee report and one key change in particular regarding the period of residency requirement, which was not flagged at all when the Senate committee considered the legislation a year ago. However, in any case, my understanding is that the Democrat amendments here just reinforce the principle sought to be applied from the issues that were brought up in the Senate committee hearings.

From time to time I hear government ministers say, ‘All these amendments aren’t necessary because they are already covered,’ which in my view usually means that it does not hurt if they are passed. But I am quite happy to accept the minister’s assurance regarding the effect of the amendments that have already been made in the House of Representatives.

Question negatived.

Senator LUDWIG (Queensland) (1.42 pm)—We have already dealt with the government amendments, by leave, in total. I now seek leave to move amendments (1) to (8) and (11) on sheet 5172 together.

Leave granted.

Senator LUDWIG—I move:
(1) Clause 19D, page 24 (line 6), omit “or a foreign law.”.
(2) Clause 19D, page 24 (after line 10), after subclause (6), insert:
(6A) If the person is covered by subparagraph (7)(b)(i), and the person has been convicted of an offence against a foreign law for which the person has been sentenced to a period of imprisonment of at least 5 years, the Minister may grant the person citizenship.
(6B) If the Minister makes a decision under subsection (6A), the Minister must cause notice of the making of the decision and the reasons for the decision to be laid before each House of Parliament within 15 sitting days after the day on which the decision was made.
(3) Clause 21, page 28 (line 32), after “17”, insert “or 18”.
(4) Clause 22, page 30 (line 4), omit “4”, substitute “3”.
(5) Clause 22, page 30 (line 8), omit “4”, substitute “3”.
(6) Clause 22, page 30 (line 15), omit “4”, substitute “3”.
(7) Clause 22, page 31 (line 3), omit “4”, substitute “3”.
(8) Clause 24, page 34 (line 18), omit “or a foreign law.”.
(11) Clause 30, page 43 (after line 24), after subclause (5), insert:
(5A) If the person is covered by subparagraph (6)(b)(i), and the person has been convicted of an offence against a foreign law for which the person has been sentenced to a period of imprisonment
of at least 5 years, the Minister may grant the person citizenship.

(5AB) If the Minister makes a decision under subsection (5A), the Minister must cause notice of the making of the decision and the reasons for the decision to be laid before each House of Parliament within 15 sitting days after the day on which the decision was made.

These amendments are relatively self-explanatory, unless there is a great need to go into the detail of any one specifically. Half the difficulty here, of course, is that this is truncated from the original second reading debate we had. However, at that time I did foreshadow the amendments that Labor would be moving. They relate to the policies that this bill was to introduce. One was to render certain types of stateless persons ineligible for citizenship if they were convicted of an offence under a foreign law for which the sentence is five years imprisonment or more; the minister in such a case had to refuse citizenship.

There is in that instance a problem in the government allowing another country to determine our citizenship—it is a matter I raised during the second reading debate where I gave a range of examples. I will not go to those again but it would seem clear that in circumstances where other countries are used to determine the decision of the minister it is appalling and should not be countenanced in any way. It could get to a situation where countries that do not have our view of the world would be determining outcomes. It would be improper and wrong, under the government’s proposal, that somebody of the stature of a person such as Mahatma Gandhi would be refused citizenship to Australia if this were applicable. Yes, a conviction under a foreign law should definitely raise alarm bells. There is no argument about that. It should be a matter that the government should consider, but it should not determine our citizenship. That is where we fall out with the government’s view.

I take up what Senator Hurley said earlier—that this bill introduces many good measures. While the committee stage will focus on amendments to the bill, it is not the central thrust of the bill. The central thrust is to rewrite the citizenship legislation in such a way that it provides a significant improvement and that it has by and large cross-party and minor party support.

This is the time for debate on the particulars. We are seeking to ensure in this particular instance that other countries do not determine our citizenship laws. That would be wrong. The government should not outsource our citizenship to other regimes which do not have views similar to ours. The government did introduce an amendment to add a test of reasonableness, which Labor had been calling for. We are glad that the government paid attention to Labor’s concerns, but it was only after much argument. In this instance, we think our amendments should be supported and we commend them to the Senate.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (1.47 pm)—I thank Senator Ludwig for picking up the fact that the government has indeed amended the bill in a way we believe makes this new amendment unnecessary. It is an example of the government engaging in a constructive legislative process. The government amendment does not differentiate between Australian and foreign law and is consistent with our obligations under the Convention on the Reduction of Statelessness. The mandatory provision to refuse an application need not apply ‘if taking into account the circumstances that result in the person’s conviction the minister is satisfied that it would be unreasonable for that provision to apply in relation to that person’—the reasonableness test to which the senator was
referring. That is an amendment which the government has made. We believe it addresses the concerns of Senator Ludwig and the opposition, therefore rendering this amendment unnecessary. It is also important to note that there is a right of review of any of the decisions to refuse to exercise the discretion included in the government's amendment. It instils an amount of fairness, which the opposition is seeking. We believe the amendment moved is no longer necessary.

Senator LUDWIG (Queensland) (1.48 pm)—After hearing that, I acknowledge that you have moved some way, and I think I said that, but not far enough. Although you might consider you have met the obligation in meeting our concerns, we think it goes to a further point that you have not picked up on. On that basis we still prefer our amendment over yours, particularly in relation to the notice of and the reasons for decision to be laid before each house of parliament within 15 sitting days. Matters such as that are not unusual for this government to deal with. On that basis, it is worth acknowledging that the government has moved. I would not want to omit that from my contribution today, but it certainly has not moved far enough. We still prefer our amendment.

Question negatived.

Senator BARTLETT (Queensland) (1.50 pm)—Democrat amendment (4) goes to paragraphs (e) and (f) of the general eligibility for applying for citizenship. Before formally moving it, I might ask a couple of questions in regard to this. Basically we put it down as a protective amendment prior to Senate estimates—uncertain of how the government’s new citizenship test announced at the end of last year under the former parliamentary secretary, Mr Robb, would be implemented. It was made clear at Senate estimates that to implement this new test will require legislative change which, from the timetable put forward in estimates by the government or by the department, was to be put before the parliament this year some time prior to the election. I want to clarify in that case how, in the interim, the government or the department will be planning to assess these parts of the general eligibility requirements under the new Australian Citizenship Act, which is before us today. The parts that my foreshadowed amendment go to detail an eligibility requirement for a person to become an Australian citizen if the minister is satisfied that the person:

(e) possesses a basic knowledge of the English language at the time of the Minister’s decision on the application; and

(f) has an adequate knowledge of the responsibilities and privileges of Australian citizenship at the time of the Minister’s decision on the application.

I know we already have in place the basic English language test and that this could be seen as just a continuation of that but, given the change in the government’s policy to implement a specific test regarding knowledge of Australia, Australian society and perhaps the ubiquitous Australian values, I wanted to get an indication of whether there will be any change in the way these parts of the eligibility requirements will be assessed between now and when the legislative changes that have been foreshadowed in Senate estimates come into being.

I understand, again from what was said at Senate estimates, that there will not be a separate English language test under the new regime the government is proposing—that the test of someone’s basic knowledge will be part and parcel of the computer based multiple choice test of knowledge of Australia that is still being developed. As I understand it—and I am happy to be corrected on any of the things I am saying here when the minister responds—that is different from how things are now, which is that the level of
basic knowledge is assessed via the general standard interview that is done with the department and delegate of the minister.

I really want to ascertain whether these provisions in the new bill, parts (e) and (f), will be implemented differently in any way from what has applied to date, or whether it will just be business as usual up until any further legislative changes are brought in to implement a change in policy in regard to eligibility testing for acquiring Australian citizenship.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (1.54 pm)—The last comment that Senator Bartlett made was correct; it will be business as usual until there is an announcement or until the new legislation comes in.

Senator LUDWIG (Queensland) (1.54 pm)—I have a question at this stage of Senator Bartlett: does the amendment that you are moving take out the current citizenship test that we have? It seems to suggest that. If it does, then what does it replace it with? I understand that there are some concerns about what the government might be intending to do; however, that is currently not before us. The current test requires that a person:

(e) possesses a basic knowledge of the English language at the time of the Minister’s decision on the application; and

(f) has an adequate knowledge of the responsibilities and privileges of Australian citizenship at the time of the Minister’s decision on the application.

And it goes on. If Senator Bartlett is seeking to take out that current test then Labor would have some concerns and, as a consequence, would not support the amendment. How we deal with what the government does in the future is a matter for when we see the legislation, and the shadow minister responsible will obviously have something to say at that point. Already, I think the relevant shadow minister has spoken about this particular area but I do not want to get that confused with this debate. The debate we are having now is about Senator Bartlett’s amendment vis-a-vis the current test in the legislation. I was wondering if Senator Bartlett could clarify that position and let me know whether I am right about that.

Senator BARTLETT (Queensland) (1.56 pm)—As I said in my comments, I foreshadowed the amendment rather than formally moved it because I wanted to clarify the situation with the minister, which I was able to do to some extent in the estimates committee process. That was before this committee stage of the debate. I had a concern that the changes that the government announced on their new tests would be done administratively under this component of the bill here, but it has been made clear that that is not going to happen and that there will be a new legislative framework put forward for this new test. That being the case, I will not proceed with that foreshadowed amendment. I will let that one sit and we can look at the actual legislation dealing with citizenship when it does come in at some stage down the track. I will take the opportunity before we hit the suspension at two o’clock for question time to get one final response from the minister as to whether there is any rough timetable he can give for when the legislation dealing with the new test might be introduced or when we could see an exposure draft.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (1.57 pm)—As I said, that will be a matter for announcement by the minister responsible. As I recall from the estimates committee process, the senator was given very thorough answers to questions about what the government has in mind and where we are at with the process. Apart from that, we are opposed to the amendment because it quite clearly on the face of it removes the provision in the bill that refers to a knowledge of
the English language. That is something that has been part of the citizenship process in Australia for some time and I think it would be very silly—and I think most Australians would regard it as silly—to remove it from the law.

Senator LUDWIG (Queensland) (1.58 pm)—Senator Bartlett, have you formally moved the amendment?

Senator Bartlett—No.

Senator LUDWIG—I understand that he has not, so I will not talk to it any further. I understand the point that he makes and I understand what he would like to get the government to do. We would all like to get the government to do that but, unfortunately, I suspect that that is not a matter for the minister before us; it is a matter for the minister dealing with citizenship to bring that forward. It would be helpful if they could comply; however, that is a matter for the minister of the day to determine.

On the broader issue, I have noted Senator Bartlett’s position of being able to pursue both in Senate estimates and here an issue that you seek greater information on and I concur with that. It would be helpful if the minister did make it plain what the current position is. In any event, without the amendment having been moved, I indicate that Labor does not support the amendment that Senator Bartlett foreshadowed and, until he does move it, we will not need to formalise our position on it.

Progress reported.

QUESTIONS WITHOUT NOTICE

Iraq

Senator CHRIS EVANS (2.01 pm)—My question is directed to Senator Minchin in his capacity as the Minister representing the Prime Minister. I refer the minister to the announcement by the Prime Minister of the United Kingdom, Tony Blair, last week that he will start withdrawing British troops from Iraq later this year, and Denmark’s decision to withdraw its 430 ground troops in August. I also refer the minister to Vice President Cheney’s acknowledgement at the weekend that he did not think that the withdrawal of Australian troops from Iraq would harm our alliance with the United States. Didn’t also the Iraqi deputy foreign minister say last week that the Iraqi government would have no problem with a timetable for the withdrawal of Australian troops? Don’t these developments totally destroy each pillar of the government’s rationale for not planning a timetable for withdrawing Australian combat troops from Iraq? Will the government now accept the need for Australia to develop a strategy for exit from Iraq?

Senator MINCHIN—As the Leader of the Opposition in the Senate well knows, the government categorically rejects any proposition based on the notion that our ultimate withdrawal from Iraq should be based on the calendar and not on conditions. Our position is clear. Our position in Iraq and any ultimate withdrawal of our troops should be based on the conditions in that country permitting such a withdrawal and not on some arbitrary timetable as indicated by the opposition.

Senator Sherry—When will that be?

Senator MINCHIN—I make the point that the opposition, as is now clear from its position on those issues, walks on both sides of the street. It says to the left of its party and to the left of Australia: ‘We have got to rush to get out of Iraq. It’s a terrible war. Yes, we thought there were weapons of mass destruction there. We agreed with President Bush and Mr Howard on that. But now let us get out of there as fast as possible.’ On the other hand, it then says to those who do support and value the US alliance—

Senator Sherry—Five years!
The President—Order, Senator Sherry!

Senator MINCHIN—who are concerned about the position in Iraq and do not want to see that country descend into further chaos: ‘Of course we are going to leave all the combat troops there. We are going to make sure that the embassies are guarded et cetera.’ If you read the entrails and try to work out which side of the street Labor is actually walking on this issue, you find that there is not much of a withdrawal proposed by Labor apparently. Yet at the same time it says, ‘We must get out of Iraq.’ It is impossible to try to navigate your way through what on earth the Labor position is on this matter. It is a matter of enormous importance not only to Australia but also to our alliance with United States and to the global war on terror.

Our position is absolutely clear. We are committed to maintaining our forces in Iraq as long as they are required to ensure peace and stability in that country. We are not going to leave the Iraqi people in their time of need. We are not going to leave our most important ally at the time of their need. We do note what Mr Cheney said in his remarks. As the Prime Minister said, we note that Mr Cheney is a diplomat and did not want to interfere in Australian domestic politics. But we have absolutely no doubt that a precipitate withdrawal by Australia, which on one day of the week Mr Rudd apparently supports, would do damage to that alliance. It would be very damaging to our relationship with our most important ally, the United States.

As to the position of Great Britain, as the opposition well knows, this is a reduction in troops from some 7,000-plus to 5,000-plus. The UK will continue to have nearly 10 times the number of combat troops in Iraq that we have. They are reducing their numbers in the province for which they have been responsible for the very reason that they have been successful in restoring some peace and stability to the province in which they have been operating. The Labor Party well knows that the most difficult security situation in Iraq is in Baghdad. That is why the US appropriately and properly is increasing its commitment to ensure peace and stability in Baghdad. The British troop obligation has been in Basra, where conditions warrant the reduction in numbers. I note that, at the same time, the UK is planning a significant increase in its commitment to Afghanistan to assist the allies in the war on terror. So our position is absolutely clear. We stay until the job is done. We are not going to have a precipitate withdrawal, which is apparently today the Labor Party’s policy.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I am not too sure in the minister’s answer whether he was accusing Britain and Denmark of a precipitate withdrawal but I certainly note that the cut-and-run terminology seems to be abandoned. Minister, given that all the rationales that you have used in the past and all the pillars of your defence for our continued position in Iraq have collapsed, why won’t you develop a strategy for the exit of our troops from Iraq? What can you say to the Australian public about when our involvement will end? Why don’t you wake up to the reality that the other allies are seeking to withdraw from Iraq? Surely we ought to be considering an exit strategy now?

Senator MINCHIN—There are some 23-odd countries remaining in the alliance in Iraq, and we along with them are not going to abandon the Iraqi people to the fate of the terrorists. We are not going to hand victory to the terrorists. We are simply not going to abandon the Iraqi people in their time of need. The Iraqi government have made clear how important our role is and how valuable the Australian troops are to them. That is
why we are increasing our commitment for troop trainers, because the Australian troops are first-class and doing a fabulous job in Iraq. It is about time the opposition supported them.

Aged Care

Senator HUMPHRIES (2.07 pm)—My question is to the Minister for Ageing, Senator Santoro. Would the minister outline to the Senate what long-term policies the Howard government is putting in place to secure the future of aged care in Australia? Further, is the minister aware of any alternative views?

Senator SANTORO—I thank Senator Humphries for his continuing interest in matters of ageing throughout Australia. He is a great contributor to the very constructive debate that at least we on this side of the chamber take on. The $1.5 billion package that was announced by the Prime Minister a few weeks ago, titled ‘Securing the future of aged care for Australians’, is one of the most positive initiatives for ageing Australians that has ever been delivered by any government. In fact, it will ensure that the aged-care industry in this country is put on a very sound footing indeed and that ageing Australians who benefit from areas of policy outside the direct aged-care industry will also continue to benefit. It will provide financial security for the aged-care industry to ensure that it is able to grow and to meet the growing needs of ageing Australians. We sought to strike a sensitive balance between the various competing sectors of providers, recipients and taxpayers, and we have sought to ensure the long-term economic sustainability of all the players.

The package allocates $1 billion to increasing government payments for residents of aged-care homes. Additional care funding will be targeted to those with the highest care needs, while residents with moderate asset levels will also receive extra accommodation support. Equally importantly, it also delivers on the Howard government’s commitment to increase the availability of aged care in the community, with 7,200 additional community care places to be delivered over the next four years at a cost of $411 million. The additional places will take Australia’s aged-care ratio from the current 108 places per 1,000 people aged 70 and over to a record number of 113 places per 1,000 people aged 70 and over in 2011. This particular figure needs to be compared with around 93 places when the government was elected in 1996, when we took over government from those on the other side.

As the Prime Minister said when he made this announcement—and this is a point that anybody listening to this debate can never forget—the reason a $1.5 billion announcement was able to be made was the very strong economy and the economically responsible financial stewardship of the Australian economy. It is a huge investment in any part of the economy, but $1.5 billion in the aged-care sector is a huge investment and it has only been made possible because of the strength of the economic management of the Australian economy by the Prime Minister and his government over many years.

The package has been very well received throughout the industry. There are obviously still some implementation issues. We are getting a lot of feedback from the industry, most of it positive. We are looking at an implementation plan that will certainly enhance the viability of the industry.

This did not happen just in the last year. The Howard government are very proud that over the last 10 years we have striven to improve the welfare of ageing Australians. Only 10 years ago, as I have said previously, there was no accreditation, no independent quality checking, fewer than 5,000 commu-
nity care packages and 29,000 fewer residential places.

Senator Patterson interjecting—

Senator SANTORO—As Senator Patterson quite rightly interjects, some nursing homes were not quite up to the quality that we expect them to be. Today, I can honestly claim—and there would be very few Australians who would dispute it—that we have one of the best aged-care industries in the world. The Howard government continues to remain committed to the principles of quality, choice and affordability, and this $1.5 billion package clearly illustrates that commitment. (Time expired)

Iraq

Senator HURLEY (2.11 pm)—My question is to Senator Minchin, representing the Prime Minister. I refer the minister to a speech by the Minister for Defence last week where he compared the war in Iraq to the critical Kokoda campaign in the Second World War. Is the minister aware that the latest US National Intelligence Estimate says that the term ‘civil war’ accurately describes key elements of the Iraqi conflict, with over three million displaced persons and an average of 1,000 new civilian casualties each week? Does the minister know how or why anyone could seriously attempt to compare a civil war in Iraq with the Kokoda campaign, which cost Australian lives in the defence of Australia? Is it any wonder that many veterans have taken serious offence at the defence minister’s comparison? Can the minister indicate whether the Prime Minister will be demanding that Minister Nelson apologise to veterans, given the anger that his comments about the Kokoda campaign have caused?

Senator MINCHIN—I did see press reports of both Dr Nelson’s speech and the misinterpretation of that speech. I note that Minister Nelson has letters in a number of newspapers today making that point, that his remarks in the speech were completely and utterly misrepresented. I invite anybody to look at the context of the speech. I will not read the full transcript of what he said but I think any fair-minded Australian who does read the full transcript of his speech knows that he was not seeking to directly compare the war on terror and our role in the war on terror with the significant efforts of those involved in the Kokoda campaign to defend this country from what was then thought to be an invasion by Japan. Dr Nelson was not seeking to make that sort of comparison.

He was making the point, which the Labor Party does not seem to understand, that Australia, along with the civilised world, is involved in an international war, a war on terror, a war that has brought death and destruction right to the heart of New York City, as we have seen, to the heart of London and to the heart of Madrid. Thank God it has not happened here. But we are involved in a massive war against an extraordinary opponent that is properly described as a war on terror. All Australians need to understand the scale of that war and what is going to be required of us to defeat a much more difficult enemy in many ways.

So there is no way that Minister Nelson would ever seek to belittle the extraordinary chivalry and bravery of those who fought for Australia in the Kokoda campaign or in any other campaign involved in World War II, which was a conventional war against an enemy that, at the time, we thought were seeking to invade and take over this country. The government honours and respects the extraordinary efforts of those involved in the Kokoda campaign, as we applaud and respect the role of our forces active around the world involved in the war on terror.

It is a curious thing that the Labor Party seem to support the efforts of Australian troops in fighting this war on terror in places
like Afghanistan but apparently think we should simply abandon the war on terror in Iraq and leave that country to the devices of the terrorists. We do not agree with the Labor Party. We do not accept their hypocrisy on this issue when they say, ‘Yes, we should fight terrorists in Afghanistan but, no, we should not do it in Iraq.’ We do believe it is important to tackle the terrorists in Iraq and in Afghanistan.

Senator HURLEY—Mr President, I ask a supplementary question. Are not Minister Nelson’s stupid remarks just a sign of how desperate the government is to try to justify continuing Australian involvement in Iraq? Is not the Minister for Defence’s desperation caused by the fact that the pillars of the government’s rationale for keeping troops in Iraq are now totally discredited?

Senator MINCHIN—That really is an outrageous reflection on Minister Nelson. I refer you to what he actually said. He said that in 1942 ‘we had a gripping struggle on the Kokoda Track’. He continued:

No-one needed convincing Australia’s interests were at risk. But today we face something which is no less a risk to our culture, our values, our freedoms and way of life than was presented to us in 1942.

That is what he said. It is a different risk. It is harder to see for the average Australian trying to feed their kids et cetera. They were perfectly acceptable, sensible remarks, which indicates, as I have said, that he was taken grossly out of context. We defend and uphold the chivalry and bravery of those involved on the Kokoda Track just as we uphold the bravery of those fighting the war on terror on our behalf.

Australian Federal Police

Senator PARRY (2.16 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister please update the Senate on recent initiatives to strengthen relations between the Australian Federal Police and international law enforcement agencies.

Senator ELLISON—It is an important story which involves the Australian Federal Police working internationally with other law enforcement agencies in the fight against transnational crime and terrorism. Just last week the Police Commissioner for the AFP, Mick Keelty, signed an agreement with Europol. It is a timely question from Senator Parry, who was over there last year, I understand, and had talks with Europol officials in relation to such an agreement.

The AFP has 80 offices around the world in 27 different countries. It is extremely important, for a number of reasons, that we engage with Europol. We have seen increasing criminal activity from organised crime in Europe, particularly in eastern Europe. When you look at the fact that Europol brings in 27 member nations in Europe, that gives you an idea of the extensive coverage in relation to law enforcement. This will give us access to the databases of Europol and it is especially significant when you realise that the AFP are the only police force in the Asia-Pacific region to be granted this status. In fact, there are only a limited number of countries which have what we call third-party status with Europol.

We also have the universal issue of illicit drugs, but importantly we have seen amphetamine-type stimulants emanating increasingly from Europe, and that is another reason to have access to Europol. Europol is also involved in the fight against terrorism. Senator Minchin said quite correctly earlier that terrorism is striking at the heart of major cities in the Western world, Spain being an example. We have seen Willy Brigitte with his ties to France, and that is why it is so important that we have this forward engagement with organisations such as Europol.
The signing of this agreement is a significant step forward not only in recognition of the AFP internationally but also in relation to the extensive cooperation that we have with overseas law enforcement.

I am also pleased to report that, while the police commissioner was overseas last week, we opened an office in Dubai. That is an important area of the world. When the nearest office that we have open is in Islamabad, it gives you an idea of the immensity of the challenge in that region, not only geographically but also in relation to the security risks which are posed. It is anticipated that, early in the new year, we will be opening an office in Guangzhou in southern China and we will also look to open one in New Delhi in India. Those are two important areas for Australia—southern China for a number of aspects in relation to drug related matters, and India, where we have to engage in law enforcement assistance in relation to both counter-terrorism and transnational crime.

Last week was a good week for the AFP. It was a great step forward in our international cooperation and again demonstrates how highly our AFP is held in esteem and in regard by other countries. These agreements do not happen overnight; they come about by hard work and as a result of recognition by overseas law enforcement agencies of the great work that the men and women of the Australian Federal Police are doing. This is just part of the work in progress in the fight that we are engaging in against transnational crime and terrorism.

**Climate Change**

**Senator WONG** (2.20 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Is the minister aware of the call for a national carbon emissions trading scheme by the major energy and gas suppliers today? Does not this follow calls from CEOs of other major businesses, including BP, IAG, Origin Energy, Visy, and Westpac for such a trading scheme? Is not the government’s continued refusal to heed these calls from business now threatening billions of dollars of much-needed investment in electricity generation capacity with the potential to impact on Australia’s future economic prosperity? Will the minister finally acknowledge that a national trading scheme makes economic and environmental sense or does he still claim that these business leaders have got it wrong?

**Senator MINCHIN**—Yes, I have seen reports on the views of the Energy Supply Association of Australia and their views on an emissions trading scheme. I have to say that I think their view is motivated by a concern that what is being put forward by the Labor states focuses solely on energy supply. I listened with interest to their spokesman this morning making the point that any emissions trading scheme had to be comprehensive and apply to all sectors of the economy and the worst thing that could possibly happen is one that singles out the energy supply industry. I detect that to be the major motivation for the statement made by that association today.

I do remind Senator Wong and the ALP that the Prime Minister established some little while ago a task force specifically to examine the question of emissions trading—how an international scheme might work and how Australia could be part of such an emissions trading scheme. That task force has issued a discussion paper and responses to that discussion paper have been invited. It is reporting to the Prime Minister on 31 May. From our point of view we are happy for there to be a debate in the lead-up to the presentation of that report to the government, and there will of course be a government response to that report once it is received. We have said as a matter of principle that we are prepared to be part of a truly international
emissions trading scheme, because we are concerned that any one-off unilateral endeavour by Australia—as is apparently proposed by the Labor Party in this extraordinary proposition on their part that we should simply cut our emissions by 50 per cent without any regard for the economic consequences in so doing—is not acceptable because of the enormous damage such a proposition might do to the Australian economy with very little effect on the global emissions of greenhouse gases, given that Australia produces only around one per cent of global emissions. We note with interest what the ESAA said, we invite them to make their views known to the task force and we look forward to receiving the task force’s report.

Senator WONG—Mr President, I ask a supplementary question. Is the minister aware that the energy suppliers have also called for a long-term target for the reduction of greenhouse gas emissions? Minister, why hasn’t the government set such a target and is it because this minister and this government simply refuse to accept the scientific evidence of the threat of climate change? When will the Howard government catch up with business and the community and commit to tackling climate change?

Senator MINCHIN—I do not know where Senator Wong has been for 10 years. This government accepted 10 years ago the reality of climate change and the need to do something about it. We established the world’s first greenhouse gas office and we have spent some $2 billion over that period in greenhouse gas abatement endeavours. Our policies will reduce greenhouse gas emissions by some 87 million tonnes per annum by 2010. Our record is good; our record is clear. We will pursue policies which are practical and sensible and will not destroy jobs. We are not going to go down the path of shutting off the coal industry, like you lot want; we are going to do things that will reduce emissions in a cost-effective fashion and not destroy Australian jobs.

Smartcard

Senator TROETH (2.25 pm)—My question is to the Minister for Human Services, Senator Ian Campbell. Will the minister inform the Senate how the government is consulting with the Australian people regarding the potential health applications for the smartcard? Are there any alternative approaches?

Senator IAN CAMPBELL—Thank you, Senator Troeth, for what I regard as a very important question. This government is very keen to ensure that the people of Australia receive their health services and other benefits in an efficient and effective way—that those people who need help, for example from Medicare, get that help in an efficient way. Of course, Medicare e-claiming working together with the access card or the smartcard will ensure that families and people visiting their doctor will be able to see those transactions take place at the doctor’s surgery. We want to also ensure that those people who are ripping off the system—and Medicare and welfare fraud in Australia has been a substantial problem—are kicked out of the system. The people of Australia want to make sure that those people truly in need—whether it be because they need assistance with unemployment or assistance because they are veterans or assistance because they are taking their children to the doctor—get that assistance in a timely and effective manner but also that the fraudsters and the rorters that would rip off the taxpayers of Australia are kicked out of the system. That, indeed, is the core of Senator Troeth’s question about the smartcard and the access card. We want to roll out a modern, new, secure system to ensure that those people who deserve that support and deserve those services
get them in a timely manner and the fraudsters do not get them.

While we are bringing out this access card, which will replace at least three or four cards and up to 17 cards—a very convenient way for Australians to interact with their government—there is also space on the card for the people of Australia to voluntarily include information. Professor Fels, who is heading up a task force around the implementation of the access card, has released a discussion paper which will allow all Australians to provide feedback to the government on what goes into that space. I think that provides a very sensible step forward in the consultation process. We want Australians to have a sense of ownership about this card.

Senator Troeth asked about alternative policies. We have seen the Labor Party mindlessly opposing this card. They seem to be on the side of the fraudsters, on the side of the rorters—they do not seem to mind that the existing system does create fraud. But worse—and I thought this senator would have been more sensible—Senator Stott Despoja came out last week and said that if you do not for example

Opposition senators interjecting—

The PRESIDENT—Order!

Senator IAN CAMPBELL—You hear the fraudsters and the rorters making a lot of noise. It is very important that not only do we shut down the rorts and the fraud that Labor is supporting but we allow the Australian people to include emergency health information on this card so that if you are involved in a traffic accident or a medical emergency then information about allergies or about your health background or blood type or a range of other information can be quickly accessed by health professionals. Senator Stott Despoja last week had the audacity and the stupidity to come out and say that we would not provide people with health and emergency services if they did not put that information on the card. Can I reassure the people of Australia that this is a positive that will benefit people. It will mean that they can have quick access to Medicare and other services but also in an emergency this will be a very successful way to ensure that people get the best medical treatment possible but entirely voluntarily. It is their choice; it is their card. If they choose to put the information there, it could help save a life; if they don’t, then it is their choice.

Iraq

Senator ALLISON (2.29 pm)—My question is to the Minister representing the Prime Minister. I refer to the fact that British Prime Minister Blair announced his plan last week for British troops to be gradually brought home over the next 22 months, saying Iraqi forces could take on responsibility for the security of Basra and surrounding areas. Why is it that our Prime Minister cannot seem to make plans for troop withdrawal? Is it because he is waiting for President Bush to give permission? Isn’t it the case that the British military chiefs have for months advised that the presence of British troops in Basra is increasingly unnecessary, even provocative? What was the advice of our military advisers? Why exactly did the Prime Minister announce 70 extra troops to conduct training? Is it the case that they were not even requested by the Iraqi government—and, if not the Iraqi government, who did the Prime Minister take his orders from?

Senator MINCHIN—I think there were about 25 questions there, most of which sounded very much like Senator Evans’s question to me first up.

Senator Chris Evans—Not as eloquent, though, not as eloquent.

Senator MINCHIN—Perhaps not as eloquent. I am not sure that I have much to add to my answer to Senator Evans, with great
I will just repeat that the UK has made an enormous commitment to the people of Iraq. I think they started off with some 46,000 troops in order to bring freedom to the people of Iraq as part of the original coalition. They have been gradually reducing their commitment since 2003. Their latest announcement will bring their troops down to some 5,500—still some four times the total contribution being made by Australia. So there is still a very significant UK commitment to the people of Iraq and to the efforts by the coalition to bring peace to that country.

We think the most significant role we can play, indeed, is to assist in training the Iraqi security forces to provide for their own security. Of course, that is the condition upon which we base our presence in that country: that at the point we believe the Iraqi people can provide for their own security is the point at which it is appropriate for us to leave. The best way to achieve that is to ensure that we provide, as we are capable of doing, some of the best training in the world. We are pleased that we can increase our training commitment by some 70 personnel to enhance the coalition’s capacity to train Iraqi security forces and thereby hasten the day on which the Iraqi people will be able to look after themselves and we can exit.

Senator MINCHIN—I can assure Senator Allison of one thing and that is that this Prime Minister and this government make our own decisions about what is in Australia’s interests and what commitments we will make overseas. We are not told by anybody what to do or what not to do. We make the decisions. We made the decision that we should increase our training commitment by 70 people to bring about what you apparently want, Senator Allison: to hasten the day on which the Iraqi people will be able to look after themselves and we can exit.

Tasmanian Forests

Senator BARNETT (2.34 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Eric Abetz. Will the minister update the Senate on how the government is protecting, supporting and conserving both jobs and the environment in Tasmania’s forests? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Barnett for his question and note his strong commitment, like all of us on this side, to ensuring a balance between jobs and the environment in Tasmania’s forests. On Friday the Prime Minister signed off on minor amendments to the Tasmanian Regional Forest Agreement which will ensure that this balance continues. The amendments, made in response to a recent Federal Court decision, clarify the policy intent of the RFA, which was signed in 1997 between the Prime Minister and the then Tasmanian Premier Tony Rundle.

Senator Bob Brown—He got it wrong!

Senator ABETZ—Under this agreement, nearly one million hectares of old-growth...
forests are protected forever, and 45 per cent of Tasmania’s forests and 42 per cent of Tasmania’s total landmass are in reserves. The changes announced on Friday bring the agreement into line with the other nine regional forest agreements around the country. They confirm that, when combined with various management prescriptions, the massive Tasmanian reserve system protects Tasmania’s unique biodiversity and endangered species. I will be very clear. Not one extra tree will be cut down as a result of these amendments. Not a single animal will become extinct because of these amendments, not one. And 10,000 timber workers’ jobs also will be conserved—

Senator Bob Brown—Dragging Tasmania’s reputation through the mud!

Senator ABETZ—something that you never hear the incessantly interjecting Senator Brown ever talk about. That is 10,000 jobs which federal Labor does not care about either. While the Howard government has moved swiftly to address the uncertainty created by the recent decision, there has been a deafening silence from those opposite. The reason is that Mr Garrett, Labor’s environment spokesman, is opposed to forestry in Tasmania, and he is most definitely opposed to the Regional Forest Agreement in Tasmania. This is what Mr Garrett had to say about RFAs in 1999—and listen carefully, those opposite: ‘RFAs are a completely flawed and discredited process.’ The simple fact is that Labor’s Mr Garrett, just like Senator Brown, is opposed to regional forest agreements and is opposed to forestry in Tasmania.

While Mr Latham may well have gone, his extreme green antijobs agenda survives in the form of Mr Garrett which would prevail. Their record and the views of Mr Garrett make this very, very clear. Only the Howard government can be trusted to conserve both jobs and the environment, getting the sensible balance that Australians so desperately want.

Climate Change

Senator STERLE (2.38 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Is the minister aware of an answer by the Treasurer in question time on 15 February where he acknowledged that Treasury had not modelled the impact of climate change on the Australian economy? Further, is the minister aware of evidence from the Australian Greenhouse Office at estimates a day later where officials said that no work on the impact of cuts to greenhouse gas emissions on the economy had been commissioned by the government in the last two years? Can the minister explain why the government has not undertaken any analysis of climate change on the Australian economy? Doesn’t the government’s failure to undertake such analysis expose it as having been asleep at the wheel on climate change for the last 11 years?

Senator MINCHIN—As I say, this argument that the Labor Party is trying to perpetrate, that we have done nothing for 11 years, of course does not wash. You can see in the budget papers that $2 billion worth of spending initiatives have been undertaken. We are on target. We are very close to achieving our Kyoto target of a 108 per cent rise in emissions. So there has been an enormous commitment by our government on this issue.

As to the issue of whether or not there has been modelling of the impacts of climate change, I am advised that, indeed, we have undertaken extensive analysis of the implications of climate change on Australia. The Department of the Environment and Water
Resources has produced 14 publications on climate change impacts during the period 2002 to 2007. The most recent comprehensive report on impacts, *Climate change risk and vulnerability: promoting an efficient adaptation response in Australia*, was published in 2005. A 2006 report on science and impacts was called *Stronger evidence but new challenges*. *Climate change science 2001-2005* was also published by what is now DEW—a new acronym. Numerous reports have been published by other Australian government agencies: the CSIRO, ABARE and the Bureau of Meteorology. More recent reports on specific issues are available, as well as specific guides such as *2006: climate change impacts and risk management: a guide for business and government*, published by the same department.

So it is false to suggest that we are not seeking to ensure that we understand the possible impacts of climate change on Australia. We have been very actively engaged with international work in this area. We are the ones who set up the AP6 organisation to bring together the United States, China and India—who are responsible, among themselves, for some 56 per cent of global greenhouse gas emissions—to work on technological responses to climate change. So we have a very proud record that is premised on the basis that we do what is practical, sensible and achievable, that does not cost jobs, that does not whip up the sort of hysteria which some in the Labor Party propose, and that does not suggest closing down the coal industry, like some on the left of Australian politics purport to put forward.

**Senator STERLE**—Mr President, I ask a supplementary question. Isn’t the government’s failure to assess the impact of climate change on the economy further evidence that it is full of climate change sceptics, including the minister himself? Hasn’t the government’s failure to respond to the challenge of climate change seen Australia left behind and exposed to greater economic and environmental risk?

**Senator MINCHIN**—What we do know is that what I understand is still Labor Party policy of proposing a 50 per cent unilateral cut in Australia’s greenhouse gas emissions would do almost nothing for global greenhouse gas emissions. Senator Ian Campbell, a very good environment minister, kept making the point that you could shut down the Australian economy today and our emissions would be replaced by China alone within nine months. Get real. The Labor Party has no comprehension of what is involved in this issue and what the cost to the Australian economy could be in pursuing its 50 per cent cut, which would make no difference because China would replace it in nine months. We have been pursuing $2 billion worth of very practical, effective policies to reduce Australia’s greenhouse gas emissions without putting thousands of Australians out of jobs, as Labor’s policies would do.

**Centrelink**

**Senator SIEWERT** (2.42 pm)—My question is to the Minister for Human Services, Senator Ian Campbell. Is the minister aware of the dramatic increase in the number of Aboriginal Australians on income support payments who have been given an eight-week non-payment penalty, or breached, by Centrelink? Is the minister aware that, in the first three months of the new compliance system, 140 Aboriginal people were breached? This is nearly double the figure of the previous three months, or an increase of 133 per cent. Is the minister concerned that, of 170 breaches in his home state of WA, 50 were Aboriginal people—nearly a third of all breaches? Is the minister aware of these alarming figures? What does the minister intend to do to address this pressing problem?
Senator IAN CAMPBELL—I thank Senator Siewert for the question. Can I say that my strong belief is that one of the great outcomes of the strong economic growth that the Howard-Costello team has delivered for Australia will in fact be a substantial improvement in the outlook for Australians who struggle to be part of the workforce. Indigenous Australians are particularly at risk there. Many Indigenous Australians are particularly challenged. The Welfare to Work policy of the Australian government will ensure that as many Australians as possible who are challenged by a whole range of circumstances—quite often not of their own making—do get access to employment. The process of putting Australians in those circumstances through job capacity assessments, ensuring that they seek employment and ensuring that—as part of the mutual obligation with the government and society which provide support—they have a serious commitment to seeking work, is a very good policy that is being applied in, I think, a most successful way. In fact, if you look at the number of people who are moving from welfare to work, the statistics speak for themselves. This very morning I visited a Centrelink office and I spoke to some of the social workers at the front line who are—

Opposition senator interjecting—

Senator IAN CAMPBELL—I do it quite often, actually—looking at the implications for people who are seriously challenged. I addressed issues of what is occurring with Indigenous job seekers and breaching. The government will ensure that the policy is applied to people who breach those mutual obligation principles. We are very serious about ensuring that, where the rules apply, people know that the government is serious about it—and we do not make exceptions. We do ensure, however, that there are reviews of cases. We do know that, in the case of Indigenous job seekers, the application of it is very important.

Mr President, please be under no illusion: we will apply the Welfare to Work principles diligently. We will do so right across the Australian community. We will ensure, however, that mitigating factors are taken into account, not only for Indigenous Australians but for other Australians who are faced with special circumstances and circumstances beyond their control.

Senator SIEWERT—Mr President, I ask a supplementary question. I will repeat the first part of my question: is the minister aware of the significant increase of breachings of Aboriginal Australians as a result of the Welfare to Work changes? I will add to that: is the minister familiar with the Centrelink Indigenous penalty strategy and does the minister consider that the strategy is proving effective? Is the minister aware of the situations in which Aboriginal people are being breached against the expressed recommendations of Indigenous service officers under this strategy?

Senator IAN CAMPBELL—I am very well aware of the strategy and I am very well aware of the fact that at Centrelink offices right around Australia, in metropolitan areas and in remote Australia, we look at it very carefully and work with our customers. We work very closely with people who are engaged in Welfare to Work. We have Indigenous customer services advisers, who work very closely with Indigenous people. In fact, in the week before last I was down in Redfern working with one of the Indigenous service advisers talking about how they engage with the Indigenous community.

The best thing we can do for Australia is to ensure that the fantastic economic achievements of the Howard-Costello government not only go to those who live in affluent circumstances in the metropolitan area
but also go to those least advantaged in the community, many of them Indigenous. I am convinced that Centrelink understand the circumstances of Indigenous Australians and will work very closely with them to ensure they share in the economic benefits that this government has sought to deliver.

Managed Investment Schemes

Senator O’BRIEN (2.47 pm)—My question is to Senator Abetz, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Does the minister recall evidence from the Department of Agriculture, Fisheries and Forestry at Senate estimates that they had provided no advice to Minister McGauran on the impact on industry of the government’s decision to end tax incentives for non-forestry managed investment schemes in July this year? Can the minister explain why the department failed to provide advice or undertake any research whatsoever on this decision given its potentially catastrophic impact on jobs and investment in rural and regional Australia? How could the agriculture minister have been so lazy and complacent as to not demand advice about the impact of this decision on such a significant component of agriculture in rural and regional Australia?

Senator ABETZ—It would seem that Senator O’Brien has tried to regroup after his humiliating efforts during Senate estimates. What he was told during Senate estimates needs to be repeated in this chamber because, quite clearly, I do not think he got the full picture. First of all, it was not the government’s decision in relation to the managed investment schemes. The Australian Taxation Office determined that they would not be providing product rulings for the future and gave appropriate notice of that. As a result, the government, in considering it, determined that it was—and I think the language I am about to use is correct—‘not disposed to intervene’. I understand that further discussions and considerations will be had by the government, as we as a government always do—we monitor these things; we consider these things.

In relation to the other aspect of the question, as to whether Minister McGauran sought advice, can I indicate that, like all members on this side of the chamber, we interact with members of the community and diverse interest groups on a very regular basis. So Minister McGauran availed himself of the information that comes from investors, from the managed investment scheme promoters and those that run them, from contractors and also from the family farmers and the National Farmers Federation, who hold a differing view to, let’s say, the Tasmanian farmers and the Western Australian farmers.

So, clearly, what we have here is a situation where there is a divergence of opinion within the community at large. We as a government have determined a particular course of action, and there is nothing untoward in any way about the suggestions being made by Senator O’Brien in relation to the sources from which Minister McGauran sought to inform himself. It is quite appropriate. Senator O’Brien was told the sources from which Minister McGauran informed himself, and the government’s decision is the one that has been announced.

Senator O’BRIEN—Mr President, I ask a supplementary question. I thank the minister for confirming that this is in fact a government decision. Can the minister explain the department’s failure to provide advice to its minister? Can it be that they knew that their minister was happy to see non-forestry managed investment schemes closed down? Is the minister able to explain how Minister McGauran could have allowed his personal prejudices to blind him to the impact of the government’s decision on thousands of jobs
in regional and rural Australia? If the minister was happy to seek information from agricultural organisations, again, why didn’t he bother to get advice from his own department, the department which advises him on so many things?

Senator ABETZ—The first part of Senator O’Brien’s question should be ruled out, as it is clearly hypothetical. The second part is unbecoming of Senator O’Brien, using terminology such as ‘personal prejudices’. We have a minister for agriculture who has a very keen interest in looking after the interests of the agricultural sector and the farmers of this country. Despite all the inappropriate terminology that the senator has sought to mix into his question, there is in fact nothing new in the question.

Broadband

Senator EGGLESTON (2.53 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister inform the Senate how the government is ensuring access to fast broadband for all Australians? Is the minister aware of any alternative policies?

Senator COONAN—Thank you to Senator Eggleston for his question and for his longstanding interest in the issue of broadband, especially for some of the very far-flung areas he represents in Western Australia. Broadband is critical infrastructure that supports economic growth across business, education, health and entertainment and enhances the way we communicate with each other through all areas of life.

Australia has an exponential record in broadband uptake. In just five years we have gone from a situation where 96 per cent of Australians accessed the internet through dial-up services to the position today where 3.9 million Australians are connected to broadband. We have almost done the job of connecting Australians across this vast continent. More than half of all internet users and nearly three-quarters of all business users have broadband. What matters now is the development of a scaleable, quality broadband service allowing consumers to choose the speeds which best suit their needs. We have committed more than $600 million through the Broadband Connect infrastructure program to building the necessary broadband infrastructure that will give Australia a truly scaleable, next-generation broadband network. It meets the needs and demands for ever-increasing bandwidth.

Last week I was pleased to see a consortium of telecommunication providers known as the G9 announce a commercial proposal to roll out a fibre-optic network to up to three million premises in the mainland capital cities. This consortium has said that it will submit a special access undertaking to the Australian Competition and Consumer Commission in May. An open access network will ensure competition for customers and businesses, will ensure that prices will be kept low and of course will ensure more innovation in this fast-changing sector. The initiative as proposed would greatly enhance the choices open to Australian consumers, and I think it is a very welcome move on the landscape.

I am asked if I am aware of any alternative policies. Despite all Mr Rudd’s posturing and prancing up and down and announcing vast amounts of money over which he has absolutely no control, we have not seen how much he thinks it will cost Labor to come anywhere near the government’s achievements and future plans for broadband. We know that Labor tried a year or so ago to jump on Telstra’s bandwagon and their proposal then to install fibre to the node, a proposal that Telstra walked away from, blowing a $4 billion black hole in Labor’s idea. Years before, we know that Labor
could only really support dial-up, and another $5 billion was blown on a national blow-out that would not be worth the cheque that it was written on today.

Not only has Labor a secret plan to roll back all the consumer safeguards in telecommunications; it is failing to come up with the hard policy and financial commitment to ensure adequate broadband. We need broadband infrastructure in this country which is scaleable, and only this government is doing the hard work required to provide it.

**Broadband**

**Senator WEBBER** (2.57 pm)—Given the minister’s answer to the last question, my question is also to Senator Coonan, the Minister for Communications, Information Technology and the Arts.

**Senator Abetz**—You couldn’t change it?

**Senator WEBBER**—I can change lots of things, Senator Abetz. Given the minister’s answer, I refer her to the Broadband Australia Campaign brochure recently sent to Telstra’s 1.6 million shareholders. Is the minister aware that the brochure claims that Australia is ‘17th of 30 developed countries in broadband penetration’, ‘25th in the world in available internet bandwidth’ and ‘15th in the world in networked readiness’? Is the minister also aware that this brochure states: ‘If government and regulators don’t allow the next wave of internet investment, Australia will be left behind ... as our global competitors work even smarter and faster.’

Why has the minister allowed Australia to fall behind the rest of the world in broadband? Will the minister now make the regulatory changes necessary to facilitate the investment in broadband that Australia needs?

**Senator COONAN**—Thank you to Senator Webber for that question. I might rhetorically ask: why wasn’t Senator Webber fast enough on her feet to be able to change her question? What we see here is that the Labor Party has now confirmed what we have suspected since October last year; the Labor Party will back a campaign to roll back telecommunications regulation and to put consumers of this country at risk of losing these protections that for so long they have relied on, such as untimed local calls. We know that the Labor Party and of course Telstra now want to abolish important consumer safeguards. I know it sounds a bit hard to believe; many Australians will be saying: ‘Surely this is not really what Labor is proposing. Labor would surely not be foolish enough to destroy competition.’

**Senator Conroy**—Mr President, I rise on a point of order going to relevance. Obviously the minister has not been able to find her new brief yet to answer the question. This is not about the regulations to do with consumer protection; this question says: why has the minister allowed Australia to fall behind the rest of the world in broadband? I ask you to draw the minister to the question.

**The PRESIDENT**—Senator Conroy, the minister has over three minutes to complete her answer. I remind her of the question and I call Senator Coonan.

**Senator COONAN**—I know that Senator Conroy feels very embarrassed about the fact that the Labor Party are backing Telstra’s campaign to roll back regulation—and he is trying to rescue Senator Webber—but the point is that it is hardly surprising, when you look at the brochure that is attributed to Telstra, that the most dominant and the most profitable telecommunications company in Australia is asking for a winding back of regulation to entrench that position. That is not surprising. It is not surprising that Telstra, in looking after its own commercial interests, would want to roll back anything that stands in the way of it rolling over all its competitors. That is not surprising, but I am
very shocked that the Labor Party would jump on this bandwagon and abandon consumers so wantonly.

The important thing is that this government look after the national interest. We understand that telecommunications providers want to look after their commercial interests and that commercial interests are basically driven by self-interest. There is nothing wrong with that; there is nothing wrong with business looking after its shareholders. But self-interest, of course, is not the way to go when you are looking after the national interest and the interests of all consumers. I think it shows Labor’s attitude to the vulnerability consumers will have if all competition regulation is rolled back. It shows they are clearly not ready for government.

Let me just give you a preview of what it would mean if Telstra’s campaign actually got up and if Labor’s support for them came to fruition. It would mean a widespread exit of competitors from the industry. It would mean a sharp and sustained increase in broadband and telephone call prices because there would only be one flavour and that would be Telstra—you could not have any choice you wanted. A return to the days when there was only one choice of provider would surely mean that there would be no incentive to roll out new services, and it would certainly mean that consumers would have very little choice. It would mean a substantial reduction in investment in both new infrastructure and new services. It would mean no more consumer rights to a phone service. And of course it would mean major breaches of Australia’s international trade obligations if we were to roll back that competition regulation. This government will not be dictated to by any company. We will continue to act in the national interest and not in the commercial interests of one company.

Senator WEBBER—I ask a supplementary question, Mr President. Is the minister aware that neither the Telstra nor the G9 fibre to the node broadband investment proposals can occur without regulatory reform? Given this, does the minister accept that her stubborn refusal to consider reform of telecommunications regulations until 2009 is holding Australia back?

Senator COONAN—To start with, Senator Webber is dead wrong. This government continue to look at the regulatory settings and to monitor them on an ongoing basis. We certainly have reviewed the arrangements on many occasions in the lead-up to the sale of Telstra and will continue to monitor and make adjustments where it is appropriate to do so. What is important in this debate is that Australians have services that they can afford and that the services are comparable right across the country. It is important that the voters of this country try to understand that Labor will roll back consumer safeguards and will roll back the competition that provides these services right across the country, irrespective of where they live.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Climate Change

Senator WONG (South Australia) (3.05 pm)—I move:

That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked Senators Wong and Sterle today relating to climate change.

Today we saw quite extensive reporting in the media, including on the front page of a number of Australian papers, of the Energy Supply Association of Australia, the ESAA—which represents electricity and gas
businesses, which contribute more than $14 billion to the Australian economy—calling on the Howard government to back a national emissions trading scheme. So the energy suppliers themselves are calling on the Howard government to back an emissions trading scheme. We asked Senator Minchin about this and a couple of other matters today. We asked him about the fact that even industry is calling for the government to set clear policy settings to drive more sustainable outcomes and to drive a reduction in greenhouse gas emissions. Let’s just get this in context: not only have we had in recent times a range of major businesses calling for the government to take leadership on this issue—and I include, for example, the Insurance Australia Group, BP, Origin Energy, Visy and Westpac—but also we now have the industry which produces energy, the Energy Supply Association, which represents electricity and gas businesses, saying, ‘We need to look at an emissions trading scheme and we need to do it soon.’

What do we have with this government? We have a government of climate change sceptics, a government that is not prepared to show national leadership on this issue. And how did Senator Minchin deal with that in question time today? He tried to suggest that actually the Energy Supply Association was motivated—I think he said he detected this motivation—by a desire to ensure that other sectors of the economy receive similar scrutiny for their greenhouse gas emissions. It was really a pathetic answer, to try and suggest that their motives in calling for what is a substantial policy initiative were driven only by a concern about other sectors. That may well be an issue but that is no answer given the fact that you have significant parts of Australian business, leading Australian business operators, calling for the government to show leadership on this issue and calling for an emissions trading scheme. And what do we have? Frankly, we have climate change sceptics—climate change troglodytes—on the other side of the chamber refusing to do anything.

People should understand that the Howard government is well behind Australian business on this issue. I want to quote briefly some of the comments of Mr Brad Page, who is the Energy Supply Association of Australia’s chief executive:

“We’ve recognised for some time that climate change is a big issue,” Mr Page said.

“Investment decisions about base load generation are going to be needed in the next few years if we’re to meet the expected growth in demand out to 2030 … So our position on emissions trading is about recognising that if politicians conclude we’ve got to move to a low emissions economy, we can’t do it overnight.”

So we have business taking a very practical and pragmatic approach to this, recognising that there is likely to be in the future an increased pressure on business for a reduction in emissions. In fact, they are recognising that there already is that internationally, in terms of our competitor economies and also in terms of investors and the community. The only people who have not woken up to the need for this are the members of the Howard government.

Today Senator Minchin went back to the hoary old chestnut. He went back to that old line: ‘We’re not going to do this; we’re not going to go down the national emissions trading scheme route until the rest of the world signs some.’ In other words, despite the calls by business for certainty and clear signals, the Howard government’s position is ‘let’s sit on our hands’. We know that the government is running a couple of different messages here. Perhaps it is because Senator Minchin’s position actually differs from that of some of his colleagues. We know he is a climate change sceptic. I want to remind the chamber that the possibility of the introduc-
tion of a domestic emissions trading scheme ahead of any global scheme was in fact raised in an issues paper produced by the task force on emissions trading commissioned by the Prime Minister. While we know there are differences of opinion within the government, the key issue here, and people should clearly understand this, is that leading Australian businesses—many in the financial sector and in the insurance sector, because they understand the risk, and in the energy sector; today it was the Energy Supply Association, which includes gas and electricity generators—are well ahead of the government on this issue. (Time expired)

Senator LIGHTFOOT (Western Australia) (3.10 pm)—What surprises me about the argument that the opposition mounts over the criticism that it offers of the government for not rapidly ratifying the Kyoto convention is the obvious omission of the considerable unemployment that ratifying the Kyoto convention would have brought upon the workers in this country. I think it is just another case of the Prime Minister taking up what has been the usual role of the Australian Labor Party in past decades and becoming the champion of working-class people.

The government certainly believe that the emission of carbon is a significant contributor to global warming. But, as the Prime Minister has said, we are not so much sceptics as realists. The reality of it, if you have a program that wants to stop the mining of coal in Australia, is that we are the biggest exporters in the world of both thermal and metallurgical coal. They are of the highest possible standards that you would find anywhere on earth. They contribute enormously to the coffers of Australia that not only allow for what we believe is full employment but also allow for an extraordinarily high standard of living.

The coal does not come from Western Australia, as do a lot of our exports goods that contribute to this unbelievable standard of living that we in Australia sometimes take for granted. In fact, the coal comes from the more populous states of New South Wales and Queensland. Victoria has brown coal, which is seen as the bogeyman of all electricity generation. Victoria, under a Labor government—as all the states and territories are—is the major contributor of CO₂ and other nasty gases in Australia.

The government believes that, if you are going to replace something as fundamentally important as coal to the Australian economy, you must have a plan in place. The coalition government’s plan is that uranium could play a major role. I have visited several power plants throughout the world. I do not mean that I have just gone up to the gate and had a look; I have been into the reactors themselves, in countries such as the United Kingdom, Taiwan, Argentina and the United States. I have been into the power station at Calvert Cliffs, for instance, in the United States. Calvert Cliffs has two 1,000-megawatt uranium derived power stations. The production at Calvert Cliffs is on the edge of Chesapeake Bay, which is arguably one of the most environmentally sensitive areas of the United States. It produces electricity at about 3½c per kilowatt hour in United States currency. It is near Washington, District of Columbia—not the state—and Maryland and other populous states of America, but people see nothing wrong with that. The farmlands go right up to the concrete wall of the outer perimeter of the power station. If you are going to deny the production of uranium, which is cleaner, greener, safer and economically more viable than any other form of power generation, as well as ask not to have CO₂ emissions from coal-fired power stations, you are leading Australia down a disastrous economic path.
I do not know what is wrong with the opposition sometimes, but I lose faith in ever having a real alternative, viable government, not that I ever want one but it would be nice to know that in the case of some of the sorts of political catastrophes that are going on at the moment—with the state government in the west and with the state government in New South Wales and with the state government of Queensland, and no doubt the others will pick this up—there is a viable government to replace these people at least at a federal level. But there is not. You cannot possibly have a government that caves in to the green movement; we all know that they are left-wing existentialists. You cannot have that without alternative, viable people at the helm of this nation. We are the ones that will do it. (Time expired)

Senator MOORE (Queensland) (3.15 pm)—In response to a question today, the minister, Senator Minchin, said that his government was not going to ‘rush down a path’ in response to climate change. No, Minister, there is no way that anyone in this country could ever claim that the government was going to rush down any path in response to the incredibly important issue of climate change. In terms of process, what people in the community have been saying is: ‘What is the government doing?’

When we ask straightforward questions about what is actually happening in the government’s planning, we are given a list of publications that go back several years—and, indeed, there have been publications on various issues to do with climate change and our future. We are told, consistently, that the government did set up the first Greenhouse Office over 10 years ago, and we acknowledge that. There has never been, from this side of the chamber, any rejection of those statements from the government. However, we—and not just us but also the community—are demanding and expecting more.

We heard from Senator Wong, in one of her questions today, about the processes being put forward by businesses across Australia. These are not the people that the government usually dismisses lightly and labels. We heard in the recent contribution from Senator Lightfoot the tired old arguments, the labelling of people who have genuine concerns about the environment and have been pursuing these issues for many years. Once again, it is really easy to just whack a label on them and dismiss them, to call them ‘lefties’ and say they are people who have not got a realistic approach to the world.

Given that that is the background to the government’s arguments, it must be a little confronting for a government that has dismissed the arguments about the need for immediate and strong action on climate change to be confronted by such an amazing group of leftie radicals as the Business Council of Australia and the large businesses at the Global Roundtable on Climate Change, including General Electric, Ford, Toyota, Goldman Sachs and Wal-Mart! They are significant organisations and they are saying that there is an expectation of and a need for action.

We had, towards the end of last year, a gathering of faith groups—people who usually gather to talk about their natural concerns about their own lives and the future of our community. One of the priorities for this gathering of faith groups was to say that there needed to be an identification and acknowledgement of, and a unified plan to look at, the impact of climate change in our community. That is not too demanding. That is not asking for too much. And it certainly is not asking for someone to rush down a path. However, when there are other groups that come forward—as we have heard today from Senator Wong—to talk about environmental demands, what happens is that the government tries to attribute motivation. They look
at the statements that are being made and, instead of looking at what the demands are—which are that there needs to be action taken—they attribute motivation. Well, I think, Minister, the motivation is concern and a need for a future.

During the recent Senate estimates processes, considerable numbers of questions were asked of various departments about what processes had been undertaken specifically on economic modelling of the impacts of climate change. I think there has been much more awareness, both at home and internationally, since the release of that significant report in the UK. But, nonetheless, we asked quite specific questions of the government and their public sector workers about what economic modelling had been done. I would have thought that there would have been a simple answer, ‘Yes, this has been done,’ or ‘No, it hasn’t.’ But after sustained questioning, it became clear that there has not been any formal economic modelling by this government about the impact of climate change. There has been the production of documents; there have been reviews; there have been reports. Senator Minchin mentioned a number of those in his response to questions without notice today.

But the specific question is: what has this government done, through its economic facilities—through the Treasury, through the department of finance—on the economic costs and impact of climate change? That, to me, is something that all Australians need to know. It is something that cannot be dismissed lightly. People cannot be labelled just for wanting to know what economic position has been taken. Instead of hearing that all-too-easy abuse and rejection of people who have alternative views, we want to know what is happening. Creating structures is not taking action. Writing papers is not taking action. And if we are all going to be sitting here waiting for the report on 31 May—

(Time expired)

Senator CHAPMAN (South Australia) (3.20 pm)—The Labor Party in this debate are referring to Senator Minchin’s answers to questions without notice today on climate change. We just heard a comment to the effect that Senator Minchin had responded to one of the questions by saying ‘we are not going to rush down a path’ with regard to climate change and emissions trading. That is a very correct response from the minister because this is an issue that requires very careful consideration and a considered policy response. After all, in recent times, with regard to emissions trading, we have seen the value of carbon credits in Europe fall by some 75 per cent, with, obviously, financial and economic consequences attaching to that—the danger of financial uncertainty. So, if we are going to introduce a dramatically different system, a new system, to deal with this issue, we need to be able to ensure that it is going to be a stable system, that it is a practical system that will work and that it will be sustainable in the long term. So it does need very careful consideration.

In that context, the government has provided billions of dollars of funding in recent times for its Low Emissions Technology Demonstration Fund. Those funds have been made available to a number of organisations to enable them to conduct research and development with regard to emissions trading. There are the coal sequestration projects—several of those are receiving funding. Solar Systems has received funding to establish a major solar energy project in Victoria. So the government is taking very positive initiatives in this regard.

The comment reported today by the Energy Supply Association of Australia with regard to an emissions trading scheme is one more contribution to the debate. The state-
ment of the ESAA highlighted the complexities involved in designing and implementing an emissions trading system—again, an issue that demonstrates the need for very careful consideration before we move forward on this. Last week we had the report from the National Generators Forum which highlighted the hypocrisy of the Labor Party on this issue. It highlighted the fact that, under the Rudd-Garrett plan for deep emissions cuts, the future use of nuclear power would be inevitable. Without nuclear energy and nuclear generated electricity there will be massive and unsustainable increases in energy prices for all Australians. Australians are very sensitive to increases in energy prices. Even though they are, as is the government, concerned about the future of our environment, they have a strong and legitimate concern about the future cost of their energy. Unless we are prepared to adopt the nuclear option as part of emissions cuts, then energy prices will increase unsustainably. The National Generators Forum report showed that there will be billions and billions of dollars in costs in requiring the full range of low emissions technologies to be applied. As I have already mentioned, nuclear energy will be an important part of minimising or avoiding those costs.

Even with nuclear power and clean coal technology, under Labor’s scheme electricity prices are projected to double. I am sure the community would be very sensitive to that projected increase in energy prices, including the price of household electricity and the electricity used by industry and business. It would be an unsustainable increase in energy costs certainly in the short term, and even in the long term it would severely damage the competitiveness of Australian industry. We already know in our current circumstances that energy prices are going to rise, but the result of Labor’s policy, especially with their ratification of Kyoto and their refusal to consider the nuclear option, will be energy price increases, a detrimental impact on industry and, importantly, a detrimental impact on jobs. Australian people and Australian workers in particular are rightly concerned about their future employment prospects. They do not want jobs destroyed as a result of government policy.

We have no explanation from the Labor Party as to how they are going to achieve their promised 60 per cent cut in greenhouse emissions. They pretend they can wipe the slate clean and achieve these emissions without any pain but, as I have already said, it will in fact involve significant increases in energy prices, significant loss of industry competitiveness in this country and significant cuts in employment opportunities. We need some policy hard work to be done by Labor on this, which they have not done. (Time expired)

Senator POLLEY (Tasmania) (3.25 pm)—I rise to take note of answers given by the Minister for Finance and Administration and Leader of the Government in the Senate, Senator Minchin, on the issue of emissions trading in Australia. The answers given by the senator indicate just how out of touch this government is. I think the contribution that has been made by two of the senators from the other side makes that very clear to us on this side.

Another year and nothing has changed with this government. The Prime Minister and his key ministers remain sceptical about climate change and in the process are neglecting to take action. By the time they wake up and see the damage that has already been done it may well be too late. While the Howard government have in the past repeatedly ignored the warnings of scientists on climate change, they are now ignoring international business warnings on the effect climate change will have on our economy. The
Global Roundtable on Climate Change has called on all governments to accept the science that climate change is real and set strong targets for greenhouse pollution reductions. This recommendation includes encouraging energy efficiency and carbon trading.

The global roundtable of business is not small fish in the business world. It includes companies like General Electric, Ford, Toyota and Wal-Mart. These companies, which are household names, have joined the growing list of those concerned that the cost of inaction on climate change will far outweigh the price of acting now. Australian businesses are already worse off as a result of the Howard government’s continued failure on climate change. Australia’s economy is on the line here. Australian jobs will be lost if action is not taken now.

Yet it still seems that the Howard government is oblivious to the effects of climate change. Despite delivering 11 federal budgets, the Treasurer has never mentioned climate change. That is 11 years in a row without a single mention of what could be the greatest challenge ever to face mankind—although, after comments Mr Costello recently made in the Age newspaper, it now appears that he is leading the Howard government in displaying at least some level of commonsense. He has said that he is now prepared to accept that the science is correct. He concedes that human activity is responsible for carbon emissions that are a direct factor in the changing environment. Even with this revelation, it appears that the difference of opinion within the government continues, with the Minister for Finance and Administration telling the media that he is still sceptical about climate change and opposed to emissions trading. For a minister in a key portfolio such as finance to openly display his cynicism is sure to have an effect on whether the Howard government makes any attempt to meet its responsibility to look at a carbon price.

While the Howard government continue their squabbling over climate change, debating no doubt whether the scientific proof fits with their agendas for Australia, business is suffering. Australian jobs are already being forced offshore—my home state knows that only too well with the recent closure of Blundstones—because businesses are functioning without access to the multibillion dollar carbon trading market, without access to new markets through the clean development mechanism and without the prospect of planning for a shift to a low carbon economy.

The Prime Minister has paraded his usual rhetoric on climate change and carbon trading. He says his government will not be panicked into making a decision that impacts on the economy. I do not think that taking action after 11 long years is showing any sign of panic. While the Prime Minister takes his time, the economy is already hurting and the Howard government will find that it is a long way behind public opinion and business on the issue of climate change. Australians know that climate change is an issue that must be tackled now, and a major step towards that is establishing an emissions trading scheme. With the current government unwilling to take the action so urgently required on climate change to ensure Australia’s future prosperity, Australians will also realise that the only way they will see the kind of action that is needed to tackle this issue is with a change of government to a Rudd-led Labor government.

But it is not only on the issue of carbon trading that the Howard government is failing Australians and the environment. In other corners of the globe governments are embracing the prospect of wind power, and in 2006 the industry experienced yet another
record year, with expansion at 32 per cent. In Australia it is a different story, with $13 billion of stalled projects across the country. The Howard government’s refusal to commit to a carbon trading scheme is leaving our electricity producers unwilling to commit to clean coal technology or able to provide extra capacity for our major residential corridors along Australia’s coastline.

Question agreed to.

Smartcard

Senator STOTT DESPOJA (South Australia) (3.30 pm)—I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Ian Campbell) to a question without notice asked by Senator Troeth today relating to a proposed access card.

Senator Ian Campbell was given a Dorothy Dixer today by one of his own, in relation to a press release by the Australian Democrats that I put out on behalf of the party in relation to the government’s so-called smartcard or access card. I think I have got him rattled. Not only did he waste a Dorothy Dixer on this particular press release but also the government—or the Minister for Human Services, in this case—seemed to suggest that I wanted to deny people in emergency situations access to emergency assistance or medical help if they did not have the card. I am not quite sure what he was getting at, but I will make it very clear for the benefit of the government and those people working on the card and indeed the minister responsible for introducing this card—one of the most significant privacy intrusions into the lives of Australians ever and an intrusion being done with an alacrity that is of great concern: we only have to look at the amount of time that the legislation is going to be subject to scrutiny through the Senate committee process and through the Senate chamber itself; we are expecting those bills to be analysed, amended and passed by the end of March.

I want to make very clear my concerns. As members may know, last week the Access Card Consumer and Privacy Task Force released one of their discussion papers. It dealt with the issue of emergency circumstances and medical information. In my press release I wanted to know whether or not people who did not have an identity card—that is, people who did not have the so-called access card—would receive guarantees that they would get the same treatment. What about those people who were not carrying a card on them if they were in that particular emergency situation?

But the broader issue and the real issue of concern to those of us who have strong civil libertarian principles or who just plain care about their personal information was the issue about who has access to that information. Is it the case that every medical practitioner or emergency service worker in that circumstance would have access to that person’s personal details, their sensitive health and other information as contained in that card and on that card? Is it the case that those medical officials or those emergency staff and personnel would have access in the provision of that medical treatment? We just need some assurances as to how this card is going to be used. Beyond the surface of this card is going to lie a honey pot of every Australian’s private and sensitive information, including delicate health information.

The Minister for Human Services referred to other information that is being loaded onto this card. It is precisely the vagueness from the minister and other members of government as to what this other information is that gets us so concerned. What is it that is actually going to be contained as part of this other information on the card? The minister referred to blood type and other emergency health information, but he stopped short of
outlining specifics to the Senate—for example, plans by the government to include details such as haemophilia or other illnesses. What illnesses are acceptable to put onto the card in a voluntary or other capacity? What guarantee will people have, if they do note this information voluntarily, that this information will be protected? What immunity or indemnity or other circumstances will be granted to emergency workers, for example, in the same way as the legislation provides for immunity and indemnity for some of the agencies and personnel who have accessed or are authorised to access this card?

There is a lot of information that needs to be gone through, and I am sure that it will be, through the Senate committee process, in the very short period of time left. But, when it comes to the minister’s response today to the question asked by Senator Troeth and the implication that somehow the Democrats wish to deny people emergency or medical treatment, that is a load of rot. What the Democrats would like to know is: what guarantees, what safeguards, what certainty, will members of the public have that their information is safe? What information will be accessible to those particular emergency workers and personnel? The serious inadequacy in relation to detail has been acknowledged by Professor Allan Fels, who is in charge of the government’s task force. There are still many questions to be answered.

(Time expired)

Question agreed to.

PETITIONS

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

Mary River: Proposed Dams
To the Honourable 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 1,741 citizens)

Child Abuse
To the Honourable President and Members of the Senate In Parliament Assembled:
This petition of certain citizens of Australia draws to the attention of the Senate, the lack of a specific offence covering the transmission of child pornography and child abuse material via mail within Australia.

Your petitioners therefore ask the Senate to make laws that:

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

by Senator Hogg (from 12 citizens)

Petitions received.

NOTICES

Presentation

Senator WATSON (Tasmania) (3.36 pm)—Following the receipt of satisfactory responses, on behalf of the Standing Committee on Regulations and Ordinances, I give notice that at the giving of notices on the next day of sitting, I shall withdraw eight notices of disallowance standing in my name, as follows:
Business of the Senate notices of motion nos 1, 2, 3, 5, 6 and 7 for 6 sitting days after today for the disallowance of the following instruments:


Approved Form for Application for Initial Approval as a Rehabilitation Program Provider, made under paragraph 34C(1)(a) and subsection 34S(1) of the Safety, Rehabilitation and Compensation Act 1988.

Approved Form for Application for Renewal of Approval as a Rehabilitation Program Provider, made under paragraph 34K(1)(a) and subsection 34S(1) of the Safety, Rehabilitation and Compensation Act 1988.

Direction Relating to Foreign Currency Transactions and to North Korea, made under regulation 5 of the Banking (Foreign Exchange) Regulations 1959.

Prescribed Courses for Applicants for Registration as a Migration Agent, made under paragraph 5(1)(a) of the Migration Agents Regulations 1998.

Variation of Criteria for Approval or Renewal of Approval of Rehabilitation Program Providers, made under section 34D of the Safety, Rehabilitation and Compensation Act 1988.

Senator WATSON—I seek leave to incorporate in Hansard the committee’s correspondence concerning these instruments.

Leave granted.

The correspondence read as follows—

Approved Code of Practice for Manual Handling (Maritime Industry)
19 October 2006
The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Suite MG48
Parliament House
CANBERRA ACT 2600

Dear Minister

The Committee notes that section 2.28 of this Code requires records to be kept concerning the implementation of the National Standard for Manual Handling. The section does not indicate the form in which such records should be kept, nor the duration for which such records should be kept. The Committee therefore seeks your advice as to whether such information should be added to the section.

The Committee would appreciate your advice on the above matter as soon as possible, but before 24 November 2006, to enable it to finalise its consideration of this Code. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman
18 December 2006

Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator
Thank you for your letter of 19 October 2006 concerning provisions in the Code of Practice for Manual Handling (Maritime Industry) (the code). Specifically, you asked about requirements under section 2.28 of the code which relate to record keeping.

It is intended that the code—including section 2.28—should be read in conjunction with section 11 of the Occupational Health and Safety (Maritime Industry) Act 1993. This provides that an operator has a duty of care to maintain appropr
ade information and records relating to their employees' health and safety.

Section 2.28 envisages that appropriateness will vary according to the particular maritime activities engaged in and circumstances of the business concerned. It consequently does not specify either a form or a minimum timeframe for the keeping of these records. However, it should be noted that these records must be accessible to employees' representatives on an ongoing basis to allow for their review and evaluation. I therefore do not consider it appropriate to prescribe this requirement in the code.

I trust this information addresses the issues raised in your letter.

Yours sincerely

Kevin Andrews
Minister for Employment and Workplace Relations

Approved Form for Application for Initial Approval as a Rehabilitation Program Provider
Approved Form for Application for Renewal of Approval as a Rehabilitation Program Provider
Variation of Criteria for Approval or Renewal of Approval of Rehabilitation Program Providers
9 November 2006
The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Suite MG48
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the following instruments made under the Safety, Rehabilitation and Compensation Act 1988.

Approved Form for Application for Initial Approval as a Rehabilitation Program Provider
Approved Form for Application for Renewal of Approval as a Rehabilitation Program Provider
Variation of Criteria for Approval or Renewal of Approval of Rehabilitation Program Providers

The Committee raises the following matters after considering each instrument.

First, each of these instruments requires an applicant to provide information about certain types of legal actions against the applicant, its principals or employees. In each case, the relevant clauses specify that civil actions (eg for negligence) older than six years from the date of application, or bankruptcy declarations older than seven years, need not be declared. By comparison, professional misconduct or criminal proceedings, and breaches of antidiscrimination or privacy legislation do not have any time limit specified. The Committee would therefore appreciate your advice as to why time limits are not specified for the latter types of action.

Secondly, section 17 of the Legislative Instruments Act 2003 directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken particularly where a proposed instrument is likely to have an effect on business. Section 18 of the Act provides that in some circumstances consultation may be unnecessary or inappropriate. The definition of 'explanatory statement' in section 4 of the Act requires an explanatory statement to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken. The Explanatory Statements that accompany these instruments make no reference to consultation. The Committee therefore seeks your advice on whether consultation was undertaken and, if so, the nature of that consultation. The Committee also seeks an assurance that future Explanatory Statements will provide information on consultation as required by the Legislative Instruments Act.

The Committee would appreciate your advice on the above matters as soon as possible, but before 24 November 2006, to enable it to finalise its consideration of these instruments. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson
Chairman
Monday, 26 February 2007

18 December 2006
Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600
Dear Senator
Thank you for your letter of 9 November 2006 concerning matters raised by the Committee in regards to instruments made under the Safety, Rehabilitation and Compensation Act 1988.
The first issue raised concerns about why time limits were not being specified for certain types of legal actions against applicants, particularly those referring to professional misconduct or criminal proceedings, and breaches of antidiscrimination or privacy legislation. I am advised that statutory time limits are not required for these types of legal actions in their primary legislation. Any matters that might be raised under these criteria would allow Comcare to take these into consideration when assessing applicants against the criteria for their initial approval or renewal of approval (which occurs every three years).
The second issue concerned appropriate consultation not appearing in the explanatory statements. While Comcare is aware of its obligations, it was an oversight not to include such details in the explanatory statements, for which it apologises. Consultation via written correspondence was indeed undertaken with the approved rehabilitation providers, their association body - the Australian Rehabilitation Provider Association - and rehabilitation authorities in the Commonwealth over the course of July to October 2006.
Thank you for taking the time to write on these important matters.
Yours sincerely
Kevin Andrews
Minister for Employment and Workplace Relations

Direction Relating to Foreign Currency Transactions and to North Korea
12 October 2006
The Hon Peter Costello MP
Treasurer
Suite MG.47
Parliament House
CANBERRA ACT 2600
Dear Treasurer
I refer to the Direction Relating to Foreign Currency Transactions and to North Korea made under regulation 5 of the Banking (Foreign Exchange) Regulations 1959. This instrument prohibits foreign currency transactions involving certain entities and one individual associated with the Democratic People’s Republic of Korea.
The Committee notes that the prohibition applies, amongst other things, to any transaction that relates to property, securities or funds owned or controlled indirectly by those entities or that individual, and to any transaction that relates to payments indirectly to or for the benefit of those listed persons. It is possible that a person might engage in such a transaction without knowing of the indirect relationship with one of the listed persons. The Committee would therefore appreciate your advice as to whether this Direction is intended to apply in such a circumstance.
The Committee would appreciate your advice on the above matter as soon as possible, but before 17 November 2006, to enable it to finalise its consideration of this Direction. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.
Yours sincerely
John Watson
Chairman
19 January 2007
Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
Room SG49
Parliament House
Dear Senator Watson

Thank you for your letter of 12 October 2006 to the Treasurer relating to the Standing Committee on Regulations and Ordinances’ consideration of the Direction Relating to Foreign Currency Transactions and to North Korea under the Banking (Foreign Exchange) Regulations 1959 (the Direction). In particular, you sought advice about whether the Direction is intended to apply in circumstances where a person engages in a transaction with a party who, unknowingly to them, is indirectly related to those listed in the Direction.

The intention of the Direction is to capture and prohibit all foreign currency transactions involving the transfer of funds or payments to, by the order of, or on behalf of entities or individuals listed under the Direction without the prior approval of the Reserve Bank of Australia (RBA). It is expected that any person dealing in foreign currency would take all reasonable steps to identify the parties with whom they are dealing and be aware of the Direction.

However, offences under the Banking (Foreign Exchange) Regulations 1959 are subject to the Commonwealth Criminal Code Act 1995 (Criminal Code) and are not ones of strict liability. As such, the effect of the Criminal Code is that a person must have known or recklessly disregarded the identity of the person taking the benefit of the dealing in order for an offence to occur.

Information regarding the financial sanctions is distributed widely with the RBA lodging the legislative instruments, each with the list of sanctions-designated individuals or entities attached, with the Federal Register of Legislative Instruments and arranging for their inclusion in the Australian Government Gazette.

Following this, the RBA notifies the financial sector regulators, including the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Australian Transaction Reports and Analysis Centre and the Australian Securities Exchange, in writing of the financial sanctions. These institutions alert their stakeholders, which include banks, building societies and credit unions and foreign exchange dealers, to the restrictions so that monitoring can occur.

The RBA also issues a media release advising of the implementation of financial sanctions, which includes the list of individuals or entities with which dealings are prohibited.

I trust this information will be of assistance to you.

Yours sincerely
Peter Dutton
Acting Treasurer

Prescribed Courses for Applicants for Registration as a Migration Agent
9 November 2006
The Hon Andrew Robb AO MP
Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
Room RG81
Parliament House

Dear Parliamentary Secretary

I refer to the Prescribed Courses for Applicants for Registration as a Migration Agent made under paragraph 5(1)(a) of the Migration Agents Regulations 1998. The Committee notes that this instrument, commencing on 1 October 2006, provides that a prescribed course of study is either a Graduate Certificate course at certain higher education institutions or a formal course of study or self-directed study completed before 15 July 2006.

According to the Explanatory Statement the effect of the instrument is that persons who have not completed a formal course of study or self-directed study before 15 July 2006 must complete the Graduate Certificate course in order to become registered migration agents. This appears to operate to the disadvantage of persons who have completed a formal course of study or self-directed study between 15 July and 30 September 2006, by compelling them to complete the Graduate Certificate course. It is not clear if this is the intention of the instrument. If so, the Committee would appreciate an explanation as to why per-
sons who are affected in this way should be com-
pelled to complete the additional course of study.
The Committee would appreciate your advice on
the above matter as soon as possible, but before
24 November 2006, to enable it to finalise its
consideration of this instrument. Correspondence
should be directed to the Chairman, Senate Stand-
ing Committee on Regulations and Ordinances,
Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman
5 December 2006
Senator John Watson
Chairman
Senate Standing Committee on Regulations and
Ordinances
Parliament House
CANBERRA ACT 2600
Dear Senator Watson
Thank you for your letter of 9 November 2006
concerning the Explanatory Statement for the
Prescribed Courses for Applicants for Registra-
tion as a Migration Agent and your concern that it
may disadvantage persons completing a formal
course of study between 15 July and 30 Septem-
ber 2006.

On 4 May 2006 the Migration Agents Registra-
tion Authority (MARA) announced that the Mi-
g ration Advice Professional Knowledge Entrance
Examination (MAPKEE) would be replaced with
the Graduate Certificate in Australian Migration
Law and Practice. The final MAPKEE was held
in Sydney, Melbourne, Brisbane, Adelaide, Perth
and London on 15 July 2006. As preparation for
the MAPKEE, applicants undertook either formal
or self directed study. Delivery of the new Gradu-
ate Certificate, both face-to-face and online,
commenced at the Australian National University,
Griffith University, Murdoch University and Vic-
toria University in July this year.

As the final MAPKEE was held on 15 July 2006,
no individuals should be disadvantaged by the
new Instrument. This is because individuals
would have undertaken the MAPKEE on or prior
to the 15 July 2006, or enrolled for the new
Graduate Certificate. Upon completion of the new
prescribed course and examination, intending
agents have 12 months to apply to register with
the MARA.

Please note that whilst persons who hold current
legal practising certificates are not required to
undertake the Graduate Certificate, they are re-
quired to satisfy yearly Continuing Professional
Development to maintain their registration.

I appreciate you bringing this matter to my atten-
tion.

Yours sincerely
Andrew Robb
Parliamentary Secretary to the
Minister for Immigration and Multicultural Af-
fairs

Social Security (Asset-test Exempt Income
Stream (Market-linked) – Payment Factors)
(FACS) Principles 2005
Social Security (Partially Asset-test Exempt In-
come Stream – Exemption) (FACS) Principles
2005
9 November 2006
The Hon Mal Brough MP
Minister for Families, Community Services and
Indigenous Affairs
Suite MG60
Parliament House
CANBERRA ACT 2600
Dear Minister
I refer to the following instruments made under
the Social Security Act 1991:
Social Security (Asset-test Exempt Income
Stream (Market-linked) – Payment Factors)
(FACS) Principles 2005
Social Security (Partially Asset-test Exempt In-
come Stream – Exemption) (FACS) Principles
2005
These two instruments were both made on 22
December 2005, and registered on 13 October
2006. The Explanatory Statements provide no
explanation for the delay in registering these in-
struments. The Committee would therefore ap-
preciate your advice as to why registration was delayed by ten months. The Committee would also appreciate your assurance that no person, other than the Commonwealth, has been disadvantaged by this delay in registration.

The Committee would appreciate your advice on the above matter as soon as possible, but before 24 November 2006, to enable it to finalise its consideration of these Principles. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman
30 November 2006
Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 600
Dear Senator Watson
You have requested advice on the reason for the delay in registration of the following instruments, and assurance that no person, other than the Commonwealth, has been disadvantaged as a result of that delay. These instruments were both made on 22 December 2005, and registered on 13 October 2006.

- Social Security (Asset-test Exempt Income Stream (Market-linked) - Payment Factors) (FACS) Principles 2005

The effect of these instruments is to allow:
- the continuation of a 100 per cent exemption from the assets test where a lifetime or life expectancy income stream is created on or after 20 September 2004 from the commutation and rollover of an asset test exempt lifetime or life expectancy income stream purchased before that date;
- the use of payment factors to determine the total amount of the payments to be made under a market-linked income stream for a financial year.

My department delayed registration of the instruments, to explore with other departments responsible for social security legislation, a consistent approach to changing the legislation. However, following discussions with those departments, it was decided to register the instruments without further delay to allow customers to take advantage of the beneficial effect of the instruments.

While my department cannot rule out the possibility, I am advised that it is not aware of any people who have been disadvantaged by the delay in registering the instruments.

Yours sincerely
Mal Brough
Minister for Families, Community Services and Indigenous Affairs
7 December 2006
The Hon Mal Brough MP
Minister for Families, Community Services and Indigenous Affairs
Suite MG60
Parliament House
CANBERRA ACT 2600
Dear Minister
Thank you for your letter of 30 November 2006 responding to the Committee’s concerns with the delay in registering two Social Security Principles made in 2005 that provided for exemptions and payment factors for the asset-test exempt income stream.

The Committee notes that the reason for the delay was the desire to ensure that a consistent approach to changing the legislation was adopted with other departments responsible for social security legislation. We appreciate that consistency across legislation is important when legislation is managed across a number of agencies. However, we are still concerned about the possible impact of the delay on any individuals affected by this legislation.
In your response you advise that the department is ‘not aware’ of any people who have been disadvantaged by this delay. From your advice it is not clear what steps have been taken to ascertain whether disadvantage has occurred. While appreciating that the number of people involved might make it a difficult task, it would be helpful to know how the department determined its awareness. Also, given the acknowledgment that it may be a possibility, we would appreciate your advice about how the department proposes to deal with any instances of disadvantage that do come to light.

In the meantime, we have given a notice of motion to disallow these Principles to allow time to further consider the delay in registering these instruments.

The Committee would appreciate your advice on the above matters as soon as possible, but before 2 February 2007, to enable it to finalise its consideration of these Principles. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson
Chairman

22 January 2007

Senator Watson

Thank you for your letter of 7 December 2006 requesting further details regarding the delay in registration of the following instruments:

- Social Security (Asset-test Exempt Income Stream (Market-linked) - Payment Factors) (FACS) Principles 2005

Officers in my department are in regular contact with Centrelink regarding the administration of the income streams rules and have made specific inquiries in regard to whether any customers have been disadvantaged by the delay in implementing these Principles. To date, we have received no notification that any customers have been disadvantaged by this delay. If my officers did become aware of any particular case where there was potential disadvantage to a customer, we would make every attempt to investigate whether the customer’s situation can be addressed.

I would note that, in particular, the first of the above Principles is beneficial to customers as it stipulates that, under certain conditions, where asset-test exempt (ATE) income streams were purchased before 20 September 2004 and then rolled over to purchase a new non-commutable lifetime or life expectancy income stream, the new income stream should retain the 100 per cent exemption from the assets test that was accorded the original income stream. Accordingly, any disallowance of the instruments could potentially disadvantage those customers who have purchased a new income stream from the proceeds of a previously commuted ATE income stream, and who would otherwise qualify for retention of the 100 per cent assets test exemption.

Yours sincerely

Mal Brough
Minister for Families, Community Services and Indigenous Affairs

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.36 pm)—I give notice that, on the next day of sitting, I shall move:

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

- ACIS Administration Amendment (Unearned Credit Liability) Bill 2007
- Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007
- Broadcasting Legislation Amendment Bill 2007
Family Law (Divorce Fees Validation) Bill 2007
Migration Amendment (Maritime Crew) Bill 2007
Superannuation Legislation Amendment (Simplification) Bill 2007
Income Tax Amendment Bill 2007
Income Tax (Former Complying Superannuation Funds) Amendment Bill 2007
Income Tax (Former Non-resident Superannuation Funds) Amendment Bill 2007
Income Tax Rates Amendment (Superannuation) Bill 2007.

(2) That, after the motion for the second reading of the Superannuation Legislation Amendment (Simplification) Bill 2007 and four related bills has been moved, they may be taken together for their remaining stages with the Tax Laws Amendment (Simplified Superannuation) Bill 2006 and five related bills.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

ACIS Administration Amendment (Unearned Credit Liability) Bill 2007

Purpose of the Bill
The bill amends the ACIS Administration Act 1999 (the Act) to enable the proper administration of the ACIS Scheme.

Reasons for Urgency
The ACIS Administration Act 1999 provides transitional assistance to encourage competitive investment and innovation in the Australian automotive industry. The assistance is provided to eligible recipients by way of duty credits. Duty credits are issued quarterly on the receipt of a claim from recipients. To facilitate the early issue of credits, claims are not validated at the time of issue, but subsequently through an audit process. Should it be found through audit that credits have been issued in respect of ineligible items, an Unearned Credit Liability (UCL) is issued to recover the credits which were incorrectly claimed. Section 94 of the Act provides the legislative basis for the recovery of such credits by the issue of a UCL. A recent ruling by the Administrative Appeals Tribunal has called into question the ability of Section 94 to be relied upon to recover such credits. It suggests that the Commonwealth cannot rely on these provisions to recover credits unless there was an arithmetical error involved in the calculation of credits issued. This ruling means that the Commonwealth could, in the future, be issuing credits to participants who have no entitlement to those credits, but there would be no ability to recover those credits.

The alternative would be for the Commonwealth to assure itself, through an audit process PRIOR to the issue of credits, that all credits were due to the recipient. Such a process would involve lengthy delays in the issue of credits, perhaps exceeding 12 months, given the complexities of the audit process and the number of recipients. Such delays could have serious consequences for the automotive industry and in particular the automotive supply chain, given that up to $500 million in credits per annum is provided through the ACIS Scheme. The loss of cash flow may mean businesses in the supply chain would suffer severe financial hardship and may fail. In a worst case scenario there may be sufficient failures to make the viability of the entire automotive sector problematic.

The proposed amendment would make it clear that the Commonwealth does have the ability to recoup credits which have been issued but to which the recipient was not entitled and would thus enable the ACIS Scheme to continue to provide credits to recipients in a timely manner. The urgency of the amendment relates to the need to clarify the Commonwealth’s ability to issue and recoup credits in time to continue the issue of credits to the automotive industry without disruption.
Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007

**Purpose of the Bill**
The “first tranche” Anti-Money Laundering and Counter-Terrorism Financing Bill (AML/CTF Bill) was passed in the 2006 Spring sittings of parliament. The AML/CTF Bill repealed and replaced much of the Financial Transaction Reports Act 1988 and better implemented parts of the revised (June 2003) Forty Recommendations of the OECD-based Financial Action Task Force on Money Laundering (FATF) and several of FATF’s Special Recommendations on Terrorist Financing.

The purpose of this bill is to make amendments to the legislation to ensure that it meets its stated intent.

**Reasons for Urgency**
It is essential that the amendments be introduced and passed in the 2007 Autumn sittings to maintain the integrity of the legislation package and to satisfy Australia’s international obligations (arising out of Australia’s membership of FATF) to upgrade anti-money laundering and counter-terrorism financing measures.

Broadcasting Legislation Amendment Bill (No. 1) 2002

**Purpose of the Bill**
The bill amends section 212 of the Broadcasting Services Act 1992 (the BSA) to ensure that persons who retransmit content provided by National Indigenous TV Limited (NITV Ltd) for transmission by Imparja Television on its channel 31 narrowcast service are exempted from the regulatory requirements of the BSA. The bill also amends the statutory licence scheme in Part VC of the Copyright Act 1968 to apply it to NITV Ltd content.

NITV Ltd has recently been established to aggregate and distribute Indigenous television content.

**Reasons for Urgency**
NITV Ltd expects the first of its programming to go to air in May 2007. The proposed amendments will need to be in place by that time to ensure that services that do no more than retransmit NITV Ltd programming do not contravene the regulatory requirements of the BSA or infringe copyright in the underlying broadcast material.

Family Law (Divorce Fees Validation) Bill 2007

**Purpose of the Bill**
In July 2005, the filing fee in the Federal Magistrates Court (FMC) for divorce applications under the Family Law Act was increased. The equivalent fee in the Family Court of Western Australia (FCWA) would normally have been increased to match the FMC fee. However, due to an oversight, this did not occur. The FCWA assumed the necessary amendment had been made to the Family Law Regulations 1984 (the Regulations) and began charging the increased fee without legal authority. An amendment to the Regulations (effective 9 October 2006) has since authorised the FCWA to charge a fee equivalent to that in the FMC.

The bill authorises the charging of the higher fee by the FCWA for the period 1 July 2005 to 9 October 2006. This is appropriate given that the higher fee was paid in other states and territories in this period.

**Reasons for Urgency**
It is important to validate the charging of the higher fee as soon as possible. Once attention is drawn to the lack of authority for the charging of the higher fee, there is potential for those who have paid the higher fee to seek to recover the difference between the higher fee and the authorised fee. Introduction and passage of the bill in the one sitting will reduce, as far as possible, the potential for unnecessary litigation concerning recovery of the unauthorised amount.

Migration Amendment (Maritime Crew) Bill 2007

**Purpose of the Bill**
The bill amends the Migration Act 1958 to provide that all foreign crew of non-military ships, including non-military ships being imported, must hold a Maritime Crew Visa while in Australia.

**Reasons for Urgency**
As an outcome of the Maritime Security Review, in November 2005 the government decided that the new maritime crew visa regime is to commence on 1 July 2007.
This is a $100 million government initiative to improve Australia’s border integrity involving the Department of Immigration and Citizenship (DIAC), the Australian Customs Service and the Australian Security Intelligence Organisation. The amendments seek to replace the Special Purpose Visa regime which currently applies to foreign crew of non-military ships upon entry to Australia. Currently foreign crew make no formal application for a visa before entering Australia and are granted a visa by operation of law when they enter Australia by virtue of their status as crew. The amendments will provide for a formal application process so that each foreign crew member may be subjected to an appropriate level of security checking before a maritime crew visa is granted. The introduction of the new visa process requires the building of the computerised systems governing the entry of foreign crew both in DIAC and in Customs who act as the agents of DIAC at the border, an appropriate level of consultation with shipping industry representatives, and in-depth training of all officials involved in the new application process including cross agency training of Customs and representatives of the shipping industry involved in Australia. Much of this requires considerable lead time to achieve. In addition, the new visa regime will have a critical dependency on a reasonably detailed regulatory framework to be developed following the passage of the primary legislation. Without this, the new process cannot be made to function at all.

Superannuation Legislation Amendment (Simplification) Bill 2007
Income Tax Amendment Bill 2007
Income Tax (Former Complying Superannuation Funds) Amendment Bill 2007
Income Tax (Former Non-resident Superannuation Funds) Amendment Bill 2007
Income Tax Rates Amendment (Superannuation) Bill 2007

Purpose of the Bills
The bills amend the taxation laws as part of the package of reforms to Australia’s superannuation system.

Reasons for Urgency
The measure is a high priority for the government. The bills need to be introduced to enable concurrent debate and passage with the Tax Laws Amendment (Simplified Superannuation) Bill 2006 which was introduced into Parliament on 7 December 2006.

Senator Milne to move on the next day of sitting:
That the Senate—
(a) notes:
(i) growing international concern about nuclear proliferation and recent speculation about a possible United States of America (US) or Israeli attack on Iranian nuclear facilities,
(ii) Australia is a member of the Nuclear Suppliers Group (NSG) which makes its decisions by consensus,
(iii) the US-India nuclear cooperation deal would breach the guidelines of the NSG that restricts trade with non-nuclear-weapon states that do not accept full-scope International Atomic Energy Agency safeguards,
(iv) exemptions from NSG guidelines would erode the credibility of the NSG’s effort to restrict nuclear trade to those states that meet global nuclear non-proliferation and disarmament standards, and
(v) the next NSG meeting is in April 2007 and the US is expected to seek agreement to allow the US-India nuclear cooperation deal to proceed; and
(b) calls on the Government to preserve the integrity of the Nuclear Non-Proliferation Treaty by blocking the US-India deal at the NSG meeting in April 2007 and ruling out the supply of uranium to India.

Senator Fielding to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to protect Jetstar from foreign ownership and ensure jobs and operations stay in Aus-
tralia, and for related purposes. *Qantas Sale (Keep Jetstar Australian) Amendment Bill 2007.*

**Senator Milne** to move on the next day of sitting:

That the Senate—

(a) welcomes the call from the electricity sector for a greenhouse gas emissions trading scheme to promote investor confidence;

(b) notes that:

(i) the purpose of an emissions trading scheme is to create an economically efficient mechanism to reduce greenhouse gas emissions, and

(ii) notes that international emissions trading is a key mechanism of the Kyoto Protocol;

(c) rejects the McKibbin-Wilcoxen proposal because it fails to cap greenhouse gas emissions and creates an unacceptable risk that long-term emission permits will be over-allocated; and

(d) calls on the Government to announce the rules of an emissions trading scheme by 2008, for commencement in 2010.

**Senator Bartlett** to move on the next day of sitting:

That the following matter be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 9 May 2007:

All aspects of the Federal Government’s 10 point National Plan for Water Security, including:

(a) whether it will return sufficient water to the Murray-Darling Basin to meet the environmental needs of the Murray-Darling Basin catchment; and

(b) what mechanisms are in place to ensure farmers and the environment obtain maximum value from the funds expended.

**Senator Eggleston** to move on the next day of sitting:

That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts Committee be extended as follows:

(a) Australia’s national parks—to 29 March 2007; and

(b) Australia’s Indigenous visual arts and craft sector—to 12 June 2007.

**Senator Johnston** to move on the next day of sitting:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Committee on Australia’s public diplomacy be extended to 12 June 2007.

**Senator Ferguson** to move on the next day of sitting:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold public meetings during the sittings of the Senate on Wednesday, 28 February 2007, and Wednesday, 21 March 2007, to take evidence for the committee’s inquiry into Australia’s trade with Mexico and the region.

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (3.38 pm)—I, and also on behalf of Senators Ferris and Moore, give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that

(i) National Ovarian Cancer Awareness Week runs from Sunday, 25 February to Sunday, 4 March 2007,

(ii) more than 1 000 women get ovarian cancer every year,

(iii) between 1991 and 2001 there was a 23 per cent increase in the number of new cases of ovarian cancer and other cancers of the female genital organs, and

(iv) the relative 5 year survival rate for ovarian cancer is less than half that for breast cancer;

(b) draws attention to the Community Affairs Committee report *Breaking the silence: A national voice for gynaecological cancers* which was tabled in the Senate on 19 October 2006; and
calls on the Government to implement the recommendations in the report.

Senator Watson to move on the next day of sitting:
That the Joint Committee of Public Accounts and Audit be authorised to hold public meetings during the sittings of the Senate as follows:

(a) on Wednesday, 28 February 2007, from 11.30 am to 1 pm, to take evidence for the committee’s review of Auditor-General’s reports; and

(b) on Thursday, 1 March and 29 March 2007, from 10.30 am to 1 pm, and Wednesday, 28 March 2007, from 11.15 am to 1.30 pm, to take evidence for the committee’s inquiry into financial reporting and equipment acquisition at the Department of Defence and the Defence Materiel Organisation.

Senator Humphries to move on the next day of sitting:
That the Community Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 March 2007, from 3.30 pm, to take evidence for the committee’s inquiry into the provisions of the Aged Care Amendment (Security and Protection) Bill 2007.

Senator Payne to move on the next day of sitting:
That the Legal and Constitutional Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 March 2007, from 4.30 pm, to take evidence for the committee’s inquiry into the provisions of the AusCheck Bill 2006.

Senator O’Brien to move on the next day of sitting:
That the following matter be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by the first sitting day in June 2007:

An examination of the effect on regional and rural Australia of the Government’s February 2007 decision to phase-out Non-Forestry Managed Investment Schemes, including:

(a) the effect on jobs and investment in rural and regional Australia;
(b) the identity of agricultural industries which will be most affected;
(c) the regional and rural communities which will be most affected;
(d) the effect on exports; and
(e) the merits of maintaining Non-Forestry Managed Investment Schemes and alternatives to the Government’s decision.

Senator Murray to move on 1 March:
That the following matters be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 14 August 2007:

(a) a review of Commonwealth statutory exemptions provided to religious or other organisations, or individual members thereof, on the grounds of religion, belief or conscience;
(b) whether such Commonwealth statutory exemptions should be maintained, withdrawn or restricted, including in specific instances where they are abused or are made no longer appropriate by the conduct of individuals or organisations conflicting with the justification being provided for the exemption;
(c) whether any religious organisation, as a result of its beliefs, prevents an adequate and productive education of minors or young persons, including at the tertiary level, contrary to the public interest;
(d) whether statutory or administrative changes in respect of Commonwealth law or practice are necessary; and
(e) any other relevant matters.

Senator Nettle to move on the next day of sitting:
That the Senate—

(a) notes:

(i) the growing tension between the United States of America (US) and Iran, including the military build-up in the Persian Gulf,
(ii) the indication by US Vice President Dick Cheney, while in Sydney from 22 February to 25 February 2007, that a military strike on Iran is an option, and

(iii) that US intelligence bases in Australia are likely to be used in any military strike on Iran; and

(b) calls on the Government to:

(i) support a diplomatic resolution to the crisis, and

(ii) rule out Australian support for a military strike on Iran.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the comments on 26 February 2007 by former Family Court Chief Justice Alastair Nicholson that the Prime Minister, the Minister for Foreign Affairs and the Attorney-General could be charged with war crimes for insisting Mr David Hicks face trial before a United States of America military commission,

(ii) the Federal Court case examining the Government’s breach of its protective duty to Australian citizen Mr Hicks, and

(iii) that Mr Hicks has been detained for 1909 days; and

(b) calls on the Government to fulfil its duty of care and return Mr Hicks to Australia.

Senator Stephens to move on the next day of sitting:

(a) notes:

(i) the plight of Mr Salah Uddin Shoaib Choudhury, a Bangladeshi journalist who is on trial for sedition, an offence punishable by death, because as editor of an English-language newspaper he has been critical of Islamic extremism and has expressed his belief in interfaith dialogue, particularly between Christians, Muslims and Jews, and

(ii) that Mr Choudhury was detained in Dhaka Central Jail in November 2003 for passport violation, was charged with sedition, interrogated and was held in prison for 17 months without legal recourse until April 2005 when he was released on bail after intervention by the United States Department of State,

(iii) that on 6 July 2006 Mr Choudhury’s newspaper offices were bombed by an Islamic extremist organisation after the newspaper published articles in support of the Ahmadiyya Muslim minority,

(iv) that on 18 September 2006 a Bangladeshi judge ruled that Mr Choudhury would stand trial for sedition and that his trial commenced, only to be suspended when a state of emergency was declared in Bangladesh on 11 January 2007 and a caretaker government was installed by the military on 22 January 2007,

(v) that Mr Choudhury’s trial has been suspended while the new government is established, and

(vi) that the previous government admitted that there was no basis for the charges against Mr Choudhury and the Public Prosecutor testified that there was no evidence against him; and

(b) calls on the Government of Bangladesh to:

(i) drop all charges against Mr Choudhury,

(ii) ensure his confiscated possessions are returned, and

(iii) investigate those responsible for his harassment and intimidation because of his call for interfaith tolerance.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Meeting

Senator PARRY (Tasmania) (3.40 pm)—by leave—At the request of the Chair of the Senate Standing Committee on Foreign Af-
fairs, Defence and Trade, Senator Johnston, I move:

That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate today, from 5 pm, to take evidence for the committee’s inquiry into the implementation of reforms to Australia’s military justice system.

Question agreed to.

Community Affairs Committee

Extension of Time

Senator PARRY (Tasmania) (3.41 pm)—by leave—At the request of the Chair of the Community Affairs Committee, Senator Humphries, I move:

That the presentation of the report of the Community Affairs Committee on the provisions of the Private Health Insurance Bill 2006 and 6 related bills be extended to 28 February 2007.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the reference of a matter to the Community Affairs Committee, postponed till 1 March 2007.

General business notice of motion no. 680 standing in the name of Senator Nettle for today, proposing the introduction of the Food Safety (Trans Fats) Bill 2007, postponed till 20 March 2007.

General business notice of motion no. 703 standing in the name of Senator Siewert for today, proposing an order for the production of documents by the Minister representing the Minister for the Environment and Water Resources, postponed till 27 February 2007.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.42 pm)—by leave—I move:

That general business notice of motion no. 704 standing in my name for today, relating to uranium and nuclear weapons proliferation, be postponed till the next day of sitting.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport Committee

Reference

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (3.42 pm)—I, and also on behalf of Senators Joyce and Trood, move:

That the following matter be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report:

The examination of all reasonable options, including increased dam capacity, for additional water supplies for South East Queensland, including:

(a) the merits of all options, including the Queensland Government’s proposed Traveston Crossing Dam as well as raising the Borumba Dam; and

(b) the social, environmental, economic and engineering impacts of the various proposals.

Senator BARTLETT (Queensland) (3.43 pm)—by leave—I move:

Paragraph (a), after “Traveston Crossing Dam”, insert “and Wyaralong Dam”.

Question negatived.

Original question agreed to.

MR DAVID HICKS

Senator SIEWERT (Western Australia) (3.44 pm)—At the request of Senator Nettle, I move:

That the Senate—

(a) notes the failure of the Government to ensure that Mr David Hicks will receive a
fair trial after he has been held in detention for 1 908 days; and

(b) calls on the Government to ensure Mr Hicks receives a fair trial.

Question negatived.

SMARTCARD

Senator STOTT DESPOJA (South Australia) (3.45 pm)—I move:

That the Senate calls on the Government to release publicly the full KPMG report and privacy impact assessment into the Government’s proposed access card.

Question put.

The Senate divided. [3.49 pm]

(The President—Senator the Hon. Paul Calvert)

AYES

Allison, L.F.  
Bishop, T.M.  
Brown, C.L.  
Carr, K.J.  
Crossin, P.M.  
Fielding, S.  
Hogg, J.J.  
Hutchins, S.P.  
Ludwig, J.W.  
Marshall, G.  
McLucas, J.E.  
Moore, C.  
O’Brien, K.W-K.K.  
Ray, R.F.  
Siewert, R.  
Sterle, G.  
Webber, R.  
Wortley, D.

Noes.........  

Majority.......  

AYES

Bartlett, A.J.J.  
Brown, B.J.  
Campbell, G. *  
Conroy, S.M.  
Evans, C.V.  
Forshaw, M.G.  
Hurley, A.  
Kirk, L.  
Lundy, K.A.  
McEwen, A.  
Milne, C.  
Murray, A.J.M.  
Polley, H.  
Sherry, N.J.  
Stephens, U.  
Stott Despoja, N.  
Wong, P.

PAIRS

Joyce, B.  
Coonan, H.L.  
Nettle, K.  
Faulkner, J.P.  

* denotes teller

Question negatived.

ANVIL HILL COALMINE

Senator MILNE (Tasmania) (3.52 pm)—At the request of Senator Nettle, I move:

That the Senate—

(a) notes:

(i) that Australia’s coal exports will cause as much greenhouse gas emissions as are produced in Australia each year, and

(ii) that coal from the proposed Anvil Hill coal mine in New South Wales will cause more greenhouse gas emissions than the 4 million vehicles on New South Wales roads; and

(b) calls on the Government not to approve the development of the Anvil Hill coal mine.

Question put.

The Senate divided. [3.54 pm]

(The President—Senator the Hon. Paul Calvert)

AYES

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

Noes.........  

Majority.......  

AYES

Adams, J.  
Bernardi, C.  
Brandis, G.H.  
Campbell, I.G.  
Colbeck, R.  
Ellison, C.M.  
Ferris, J.M.  
Fifield, M.P.  
Humphries, G.  
Kemp, C.R.  
Macdonald, I.  
Mason, B.J.  
Minchin, N.H.  
Parry, S. *  
Payne, M.A.  
Santoro, S.  
Troeth, J.M.  
Vanstone, A.E.

PAIRS

Joyce, B.  
Coonan, H.L.  
Nettle, K.  
Faulkner, J.P.  

* denotes teller
AYES
Adams, J.  Allison, L.F.  
Barnett, G.  Bartlett, A.J.J.  
Bernardi, C.  Bishop, T.M.  
Boswell, R.I.D.  Brandis, G.H.  
Calvert, P.H.  Campbell, G.  
Carr, K.J.  Chapman, H.G.P.  
Colbeck, R.  Conroy, S.M.  
Crossin, P.M.  Eggleston, A.  
Ellison, C.M.  Ferguson, A.B.  
Ferris, J.M.  Fielding, S.  
Fierravanti-Wells, C.  Fifield, M.P.  
Forshaw, M.G.  Hogg, J.J.  
Humphries, G.  Hurley, A.  
Johnston, D.  Kemp, C.R.  
Kirk, L.  Lightfoot, P.R.  
Ludwig, J.W.  Lundy, K.A.  
Macdonald, J.A.L.  Marshall, G.  
Mason, B.J.  McEwen, A.  
McGauran, J.J.J.  McLacquarrie, J.E.  
Moore, C.  Murray, A.J.M.  
Nash, F.  Parry, S. *  
Patterson, K.C.  Payne, M.A.  
Ronaldson, M.  Scullion, N.G.  
Sherry, N.J.  Stephens, U.  
Sterle, G.  Stott Despoja, N.  
Troeth, J.M.  Trood, R.B.  
Vanstone, A.E.  Watson, J.O.W.  
Webber, R.  Wong, P.  
Wortley, D.  

NOES
Brown, B.J.  Milne, C.  
Siewert, R. *  
* denotes teller

Question agreed to.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.58 pm)—On behalf of the Democrats, I seek leave to make a very short statement about the vote on the last motion.

Leave granted.

Senator ALLISON—The Democrats support the first part of this motion. We are very concerned about Australia’s reliance on coal and recognise that we must shift to low- and zero-emission energy production as soon as possible. We are also concerned about the huge impact on greenhouse of coal-fired power. But banning coalmines and coalmining—or even exports for that matter—is no way to achieve greenhouse emissions reductions; it just would not be effective. Victoria, for instance, has 500 years supply of coal. If we stop one mine, it could easily be displaced by other sources. There may well be good reasons to stop the Anvil Hill coalmine, but this should be up to state and federal Environment Protection and Biodiversity Conservation Act processes. We do not have a view about this mine in particular and whether or not that process should result in its not being able to go ahead.

MATTERS OF URGENCY
Asylum Seekers

The DEPUTY PRESIDENT—I inform the Senate that the President has received the following letter, dated 26 February 2007, from Senator Bartlett:

Dear Mr President,

Pursuant to standing order 75, I give notice that today I propose to move:

"That, in the opinion of the Senate, the following is a matter of urgency:
The need for the Australian government to unequivocally guarantee that the latest group of boat people, reportedly consisting of 83 asylum seekers from Sri Lanka and 2 from Indonesia, will immediately be provided with proper independent assistance, have their refugee claims assessed openly and fairly and will not be subjected to removal to another country until those claims have been fully examined.

Yours sincerely,

(Andrew Bartlett)
Democrat Senator for Queensland"

Is the proposal supported?

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

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

Senator BARTLETT (Queensland) (4.00 pm)—I seek leave to slightly modify the terms of the matter of urgency motion in accordance with changes I have given to the various whips.

Leave granted.

Senator BARTLETT—I move the motion as amended:

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

The need for the Australian government to unequivocally guarantee that the latest group of boat people, reportedly including 83 asylum seekers from Sri Lanka, will immediately have access to independent assistance, have their refugee claims assessed openly and fairly and will not be subjected to the risk of refoulement, consistent with our international obligations.

The changes clarify and slightly refine the motion put forward but do not change its substance. This is an urgent matter not just for the asylum seekers who are directly affected; it is also because it is crucial we get this right and send the right signals about what we are doing. The last thing Australia needs is a re-run of the pre-election poison that we had in 2001 regarding the treatment of asylum seekers. This should actually be unremarkable. I hope that the government speakers will indicate their support for it because it is to ensure that these asylum seekers immediately have access to independent assistance, have their refugee claims assessed openly and fairly and not be subjected to the risk of refoulement, consistent with our international obligations.

There has been a lot of talk in the last year or two about a culture change. Indeed a lot of money—millions of dollars—has been put in by this government to effect a culture change in the department of immigration. As I and the Democrats said repeatedly at the time, unless you change the law and the policy of this government, with all of the other things, you are not going to have a genuine culture change. I fear we are witnessing that being demonstrated at the moment, and that will make all of those millions of dollars for the so-called culture change of the immigration department a waste of money.

We are seeing, once again, the government restricting access to information and preventing easy access to the asylum seekers for those who would provide them with advice. We are seeing a dribble of propaganda from the minister and, even more extraordinarily—and which goes further than even what we saw in 2001—we are seeing immediate consultation with other governments and commentary from ambassadors from Sri Lanka, the country that the majority of the asylum seekers are said to have fled from. They are involved, in the loop in some way, with what happens to these people. That is even further down the wrong path than what happened in 2001. Of course, these people’s claims need to be assessed before we can say whether or not they have valid claims of persecution, but there should be no doubt at all that it is a reasonable prospect that these are genuine claims, given that they are reportedly from Sri Lanka and given that quite a number of them are reportedly Tamils.

I draw the Senate’s attention to the position of the UNHCR—that is, the United Nations refugee agency—on the international protection needs of asylum seekers from Sri Lanka which was issued just in December last year. I remind people that this is a country in serious civil war; the ceasefire has broken down. Just last year there were 17
national staff members of the French humanitarian aid organisation, Action contre la Faim, killed in their office. The assessment of the UNHCR, particularly with regard to Tamils from the north and east, where some of these people are reportedly from, is that Tamils in and from these regions are at risk of targeted violations of their human rights from all parties to the armed conflict—from government forces, the Tamil Tigers and paramilitary or armed groups. They can be attacked for being seen to support the government and they can be attacked for being seen to not support the government. It has been shown there is nowhere for them to hide safely anywhere within the country. The UNHCR specifically says:

All asylum claims of Tamils from the North or East should be favourably considered. It says that even where the individual does not fulfil the precise refugee criteria under the 1951 convention a complementary form of protection should be granted in the light of the prevailing situation. It goes on to say:

No Tamil from the North or East should be returned forcibly until there is significant improvement in the security situation in Sri Lanka. That should be the starting point for our government when looking at the situation. They should not immediately be floating talks about sending them across to Indonesia, which is not a signatory to the UN convention. Asylum seekers who were sent to Indonesia five years ago by this government are still there today, languishing in limbo in places like Lombok and Jakarta, being paid for by the Australian taxpayer. That is a breach of our international obligations. We have our government again talking about doing the same thing to people from a country where we know, from the latest evidence from the UNHCR, they are at serious risk. Hundreds of thousands of people have fled. This an urgent problem. (Time expired)

Senator MASON (Queensland) (4.05 pm)—Any suggestion that Australia would agree to an arrangement which would see refugees returned to a country where they face persecution is wrong. Citizens of other countries who are persecuted by their governments should, in an ideal world, always find safe haven. This country has a very proud record of that, particularly since the Second World War. After revolution in places like Hungary and Czechoslovakia, and after the Indochina war, this country took many refugees—I might add, despite Mr Whitlam’s objection to taking Vietnamese refugees. Under Mr Fraser, this country did take them, and it was one of the best things we have ever done as a community.

At present throughout the world there are millions of people who are homeless and many millions of people dislocated by war. There are refugees on nearly every continent. I remember back in the early nineties when I was working with the United Nations on the Thai-Cambodia border I spend much time among them. Many of those refugees wanted to live in Australia—and, indeed, many do.

In this country we take about 13,000 refugees each year from all around the world, and that makes us perhaps one of the most generous receivers of refugees in the world on a per capita basis—about second behind Canada, I think. My friend Senator Bartlett mentioned Nauru and offshore processing. There might be some objection taken about the time it took to process some of those people, but in the end everyone’s applications were processed—the vast majority successfully—and they were dealt with fairly. There has been no objection about the process undertaken in Nauru. But there is a problem when people arrive by boat. Why? Because a business has been spawned: people-smuggling. It is a business that imperils desperate people on the open sea and lines the pockets of money-hungry people smugglers.
People smugglers prey on the poor and the very desperate. They have done it for years and continue to do it. This government is committed to maintaining a strong and determined focus on protecting our borders and ensuring that Immigration, Customs, the Australian Federal Police and the Australian armed forces combine to do just that.

I think it would be useful to go back in history and look at how many individuals arrived by boat in the years prior to Australia’s tough border security policies, in particular on offshore processing. How many people fell prey to people smugglers before the new arrangements—in particular on offshore processing—came into force? It is good to report to the Senate that there has been a dramatic reduction in the number of unauthorised boat arrivals. The people-smuggling business has fallen on very hard times since the Howard government adopted tough policies against unauthorised immigration. The figures speak for themselves. In 1999 there were 3,722 unauthorised arrivals by boat in Australia; in 2000 there were 2,939; and in 2001 there were 3,751. In this regard 2001 is an important year because that is the date at which the Howard government’s offshore processing policy came into force.

What were the effects of these measures? What sort of impact did these policies have on this particular dark form of human trafficking? Until this time, each year there were on average 3,000 to 3,500 people arriving on our doorstep. I remember the debate in the party room, in the parliament and in the public. It was all about how terrible the offshore processing would be—that it would undermine our obligations under refugee conventions and that it would undermine our human rights obligations. There was enormous discontent throughout the community. But what has happened? In 2002—and that was the first calendar year after the Howard government’s measures went into effect—the number of unauthorised arrivals by boat in Australia fell to zero—yes, zero. So we had, on average, over 3,000 in the previous three years—in total about 10,000 unauthorised arrivals. In 2002, the year after the new policy came into effect, there were zero. So no people struggling across the ocean were taken advantage of by people smugglers—no people putting themselves and their families at risk; no people falling prey to people smugglers—unlike the three previous years when 10,000 people did so. In 2002 there were zero. Is that because desperation throughout the world was somehow eclipsed? No. It was simply because this government put on record the fact that it would not allow people smugglers to succeed. It has been one of the most successful border protection policies of this government. It has been a marvellous achievement.

I must say, though, we do not get much credit for it—for the lives that the government saved by people not putting themselves at risk across the open seas; for saving the poor and the desperate from the clutches of people smugglers. We did not receive any gifts from the opposition, the Greens or the Democrats for that. No—we were seen as heartless. And yet, when that policy came in, there were no people placing themselves or their families at risk from people smugglers—not one in 2002. Those lower numbers mean lives were saved, because the people-smuggling criminals care not a whit about the wellbeing of their cargo. Anything that might encourage this form of human trafficking would constitute a subversion of our policy’s purposes and a perversion of its moral intent.

Anyone who is the subject of persecution by their government deserves the protection of other countries. It has been a very proud record of the coalition—and, indeed, in many cases, the Australian Labor Party—of
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protecting those people. I cannot help but think that this country has done so much to protect refugees throughout the world since World War II. As we speak, people are being processed in refugee camps throughout the world and they will be resettled here in Australia. We do not do it because it necessarily serves our national interest in the immediate sense. We do it because it serves humanity’s interest, and it does. That is why we do it. In conclusion, the people smugglers who exploit the hopes and dreams of impoverished people are criminals, pure and simple. It is Australia’s humanitarian responsibility to do what it can to stamp out that trade, and we should do it.

Senator LUDWIG (Queensland) (4.14 pm)—Maybe Senator Mason believes in the speech he just gave, and it may be relevant at some time. Unfortunately, it is not relevant to the urgency motion that is before us today. That urgency motion, provided for under standing order 75, contains three major points:

The need for the Australian government to unequivocally guarantee that the latest group of boat people, reportedly including 83 asylum seekers from Sri Lanka, will immediately have access to independent assistance, have their refugee claims assessed openly and fairly and will not be subjected to the risk of refoulement, consistent with our international obligations.

That is what the debate in the chamber is about. What Senator Mason went to—and I took very careful note of what he said—consisted of reliance on the government’s record. That might be something that Senator Mason wants to trumpet, but the Labor Party does not, because that record harks back to ‘kids overboard’ and the deceit surrounding that. As far as I can see, to date this government has only put out one press statement dealing with this issue, titled ‘Group transferred to Christmas Island’ and released on 24 February 2007.

Senator Mason did not go to that in any detail other than to make the sweeping statement in his opening remarks that he agreed that people should not face persecution and that it is wrong to return people to countries where they would. I agree with that: it is wrong. Then Senator Mason went on to a range of other matters which are not related to the motion although worthy in other debates. It is true that many refugees have settled in Australia and that Australia openly embraces them. The Labor Party agrees with all of those sentiments. It does not agree with offshore processing—that is clear.

There is a problem, though, with Senator Mason’s speech in that he did not go to the issue at hand—I will point out why. Although this motion relates specifically to the group of Sri Lankan asylum seekers that are now on Christmas Island, in the absence of the full details of their circumstances this debate really goes to the principles of how we process claims for asylum. Labor has sought a briefing from the government on the specific circumstances of this group of asylum seekers which will take place later this afternoon. But the Howard government have form in this area. Their form is deception and misinformation. Earlier I mentioned the ‘children overboard’ affair, where the then Minister for Defence produced photographs in the middle of an election campaign, stating that they depicted children who had been thrown into the water by their parents. So, when we examine the issues, we must constantly remind ourselves of just how little credibility the public statements by the government have—that everything they say must be taken with a grain of salt and viewed through that prism.

Labor’s principles in this debate are clear: Labor want to see people smugglers prosecuted to the full extent of the law. So, to the extent that Senator Mason diverged into the
area, we agree. We do not want them to be
given a second shot at smuggling people into
this country and we do not want to see refu-
gees returned to a country where they face
persecution. We agree on that. Most of what
we now know about this matter, though, comes from reports in the media. I was hop-
ing Senator Mason might have been able to
contribute on some of the issues actually
relevant to the debate. But the government
has not, and perhaps the government’s sec-
ond or third speaker in this debate might be
able to contribute some factual details of the
circumstances, or at least provide a little
more than the minister has to date.

As I said, the minister has made some
public statements on the issue; they are far
from complete, and his last formal statement
was the press release of two days ago that I
mentioned earlier. This is what he has told us: 85 people were intercepted by HMAS
Success on 21 February, 83 claiming to be
Sri Lankan and two claiming to be Indone-
sian. We know that the group has been
moved to Christmas Island for health checks
and information gathering. We know that the
government is considering a range of options
for the handling of this group. But there re-
mains plenty that we do not know. Hope-
fully, the remaining government speakers
will not do what Senator Mason did but will
in fact provide some of the answers. We can-
not know what options the government is
considering. We can only speculate about
what the claims of these asylum seekers ac-
tually are. So it would be helpful if the gov-
ernment could provide information on the
options it is considering and the claims of the
group.

At present there do remain conflicting ac-
counts about the details and circumstances
surrounding this group of asylum seekers,
and Labor wants the government to clear the
air. You have the opportunity to provide
some of those answers today. You can lay all
the facts of these issues on the table here and
in this afternoon’s briefing. Labor will be
seeking a complete chronology of the events,
such as the interdiction, the origin of the
ship, the current circumstances on the proc-
essing and the current state of negotia-
tions. The government must fill in the blanks on
those questions as well as the many others
that surround this group of asylum seekers.

Let me reinforce the principles which un-
derpin Labor’s approach. We do not want to
give people smugglers a second shot. Labor
want to see people smugglers prosecuted to
the full extent of law. The government must
make sure that its policy does not see people
smugglers set free to breach our borders
again. At the same time, we must make sure
that we meet all of our international com-
mitments in this area. In particular, Labor do
not want to see refugees returned to countries
where they face persecution. Labor want to
see effective international cooperation to
fight people-smuggling and strong penalties
for criminals who engage in this despicable
action.

It can only be Mr Kevin Andrews and Mr
Downer who would allow the debate to date
to continue without the full facts. There is an
onus on the government to provide the cir-
cumstances that surround this issue, because
otherwise you end up with various reports in
various papers about what the circumstances
are, which does not help the debate here. It
certainly does not help the people who are
being processed, and it does not help this
government’s prosecution of the issue.

It has been reported that Sri Lanka’s Ambas-
sador to Indonesia said Australian and
Indonesian officials had told him the asylum
seekers would be sent to Jakarta and then
returned home. He expected the men to ar-
rive in Sri Lanka within days. Australia and
Indonesia had said they would help with the
repatriation, he said. In their statement, of
course, Mr Andrews and Mr Downer said the government would not allow the refugees to be returned to a country where they faced persecution. It went on to say that, while the government is considering its options, clearly no action would be taken which would breach our international obligations.

But this type of speculation continues. It is not the media that are speculating; it is Mr Downer and Mr Andrews who are allowing the speculation to continue. They can bring it to a conclusion quite easily and provide the information as to what the circumstances are. Therefore, we can have a situation where we get proper and appropriate media comment and reporting of the issue. Instead, to date, we have heard from the government a potted history and a slightly one-sided view of the history of people-smuggling, and offshore processing more particularly. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.24 pm)—The Greens support this motion. I express at the outset the enormous anxiety that I have for the 85 people who are now on Christmas Island, and in particular the 83 Sri Lankans. In the three minutes I have, let me refer to the recommendations on this matter in the briefing document of the United Nations High Commissioner for Refugees:

... UNHCR recommends that all asylum claims of individuals from Sri Lanka be examined carefully under fair and efficient refugee status determination procedures.

All asylum claims of Tamils from the North or East should be favourably considered. In relation to those individuals who are found to be targeted by the State, LTTE—that is, the Tamil forces—or other non-state agents, they should be recognized as refugees under the criteria of the 1951 Convention, unless the individual comes within the exclusion criteria of the 1951 Convention.

The following is addressed to states, not parties, to the 1951 Convention—that is, Indonesia and Nauru:

Where states are not parties to the 1951 Convention and do not have refugee status determination systems, individuals originating from Sri Lanka and who are in need of international protection, as indicated above, either because of a wellfounded fear of persecution in the meaning of Article I(A)2 of the 1951 Convention, or because of a situation of generalized violence with no internal flight alternative, should be protected against forcible return, and be permitted lawful stay as well as possibilities to exercise their basic rights under relevant national laws until the situation in Sri Lanka improves substantially.

How, in the face of that, could we be arranging with the Sri Lankan Ambassador to Indonesia—and I draw the government’s attention to questions I have put on notice about that particular ambassador and his background—for the potentially illegal repatriation of these asylum seekers? It would be an outrageous thing for the government to do. They should be brought within Australia’s immigration laws and given the rights that are available under those immigration laws. Otherwise this country will not only be breaking international law; it will be turning its back on the very basis of United Nations protection for refugees fleeing violent and potentially deadly situations. Are we going to feed these people back into a situation where disappearances and 4,000 deaths have occurred in the last year in a very violent and bloody conflict? (Time expired)

Senator NASH (New South Wales) (4.27 pm)—It is always very difficult when we have situations such as this, where we have these men attempting to get through to Christmas Island. I am sure that many Australians feel very concerned to know that somebody from another country is in such difficulty that they are trying to find a way forward. This happens not only in difficulty; sometimes it is just because they feel the
need to change their geographic location. There are many reasons why this nation has to deal with people who are attempting to arrive illegally by boat.

I refer to one of the previous speakers. I think it was quite right for Senator Mason to outline the government approach to these issues, because it is very important that we take into account and understand why the government approaches these situations as it does. In spite of the fact that Senator Ludwig was at pains to point out that Senator Mason had not directly addressed the question, I think we must look at the overall parameters and the overall environment through which the government approaches these situations.

Those 85 men on board that ship need to be dealt with in the manner that this country sees fit so we ensure the integrity of our borders. I do not think there is anyone around this country who would not want us to find the right balance between doing the right thing by those people on that boat and doing the right thing by the people of this nation. There is an expectation of this government to protect this nation, to ensure this nation is safe and secure and to ensure the integrity of our borders. It is important that we do that. That is our role. As a government, it is our role to ensure the integrity of our borders.

I think it was quite right of Senator Mason to point out the number of arrivals prior to 2001. Not only do I think it was right; it is important to look at that again: almost 10,000 people came to this country by boat in that three-year period from 1999 to 2001, and after the government’s offshore processing laws were in place, as Senator Mason said, that number dropped to zero. That absolute fact supports that what the government are doing is right. We have a humanitarian basis on which to deal with those people who try to get to this country by boat—that they will not be at the mercy of people smugglers. It was the right thing to do. It was the right decision to take. It has given us the right environment in this country to ensure we have that right balance between looking after people who are in genuine need—and this government will never back away from that; we will always assume the responsibility of looking after people in genuine need, and it is very important that we do that—and, by the same token, ensuring the integrity of our borders.

If we look at Labor and what they plan to do, we find their message to the rest of the world would be that Australia’s borders are open, and that we will go back to those days of having 3,792 people in one year, 2,939 the next and 3,751 the next. I do not want to go back to that and I do not think that the majority of Australians do either. We have got it right. We have got the right policies in place, and we can see that we have because they work. While we all feel for those people who believe they need to leave another country for whatever reason—and, as I say, this government will always look after those genuinely in need—this government has a responsibility to the people of this nation to make sure we do not place them at risk. We have to make sure there is a process in place, the right process, to ensure that the people in genuine need are looked after and those who are not have an alternative.

What would we be saying to people smugglers if we went back to the days before 2001 when we did not have the current arrangements in place? We would be saying: ‘It’s open slather. Come on in. Let’s have everybody back. Let’s have thousands of people coming through the doors because that’s okay.’ That is what Labor want to do. They want to open up our borders again. They are not concerned about the integrity we have in place now. That is what we would go back to. I do not believe that is the right thing to do. I do not believe the majority of
Australians think that is the right thing to do. We have got the right process in place and we have to ensure that genuine refugees will be looked after.

For these 85 men who have, through whatever circumstances, taken the decision to try and arrive by boat, a range of options will be looked at. While we are hearing from the other side, ‘We want to know now,’ this happened a few days ago and the government are right to take the time to look at the range of options for these people. We would be irresponsible if we did not do that. We are not standing up here in this place saying to Labor: ‘Yes, of course we will answer your questions straightaway. Absolutely. Here’s all the information. This is what we’re doing.’ That would be irresponsible. The responsible thing for this government to do is to ensure that we look at all the options and that we get the right outcome. It is about a balance, as I said earlier. It is about helping those genuinely in need. We will never back away from that. That is what our policy entails and that is what it takes into account. But it also has to be balanced against what is the best thing for this nation. What is in the national interest? What is the right thing to do? The government will consider the range of options that we need to look at. We will do that thoroughly and exhaustively. We will not be pushed by the other side to run to their agenda and their timetable. We will do the right thing by these men to ensure that they get the best possible outcome.

Senator CROSSIN (Northern Territory) (4.35 pm)—I rise this afternoon to provide a contribution to this debate on the motion that has been moved by Senator Bartlett. I understand that Senator Ludwig, who is our spokesperson on immigration matters in this chamber, very clearly said that the Labor Party have sought a briefing this afternoon on this from the government. While Senator Nash suggests that we have demanded answers to questions and postulates that we want to know now, I heard Senator Ludwig less than half an hour ago very clearly put on the record that the Labor Party have been cautious about this and have waited for an opportunity to get a briefing—which is probably occurring as this debate is happening. We have not in fact rushed to press the government into any statements. In fact, I had Mr Tony Burke in Darwin over the weekend and he was quite careful to not make public statements about this. He wanted to be quite assured that the information we were getting was accurate. He did not push to make public statements that were uninformed or ill informed. I think to portray the Labor Party’s position in any other way is disingenuous here this afternoon.

In talking about the issue of refugees and asylum seekers in this country under the Howard government, we would portray it as being under a cloud of deception and misinformation. That is one thing that has been proven—and is in the history books of this country—no more so than by the events of 2001. We all remember the infamous ‘children overboard’ affair when the defence minister at that time produced photographs in the middle of a federal election campaign and, backed by the Prime Minister, wildly claimed that children had been thrown overboard. It being a couple of days before the election, there was not a lot of time to get to the truth of the matter. But from a Senate inquiry, an honest, open inquiry which kept the government accountable—which we can no longer do anymore, but this was back in those days when the Senate was actually able to have inquiries that called this government to account—we did actually find that it was a campaign meant to deceive the Australian public. At the end of the day that inquiry proved that children were not thrown overboard—that in fact that boat was sinking and
people were getting into the water to save lives: those of adults and kids.

We know that this government has a reputation for providing the general public with misinformation about what happens in the Immigration portfolio. In recent months we have seen the previous minister for immigration demoted because of the handling of a whole range of cases, such as that of Vivian Alvarez Solon. For myself, I chaired a Senate legal and constitutional affairs committee inquiry into the operation of the Migration Act which uncovered many irregularities. We had the Ombudsman’s report that showed us that things were not up to scratch in the immigration department and that the general public of this country ought to be asking some questions about how we treat not only people who are genuinely seeking to migrate but also refugees in particular.

Senator Nash and other previous speakers have talked about the thousands of people who have travelled here by boat. I also want to place on record that we now know, many years later, that quite a large percentage of them have been found to be genuine refugees, so their claim for refugee status was genuine and honest. In the last couple of days we have seen another group of people arrive by boat, some of whom claim to have come from Sri Lanka and a couple of whom claim to have come from Indonesia. This latest incident raises very important questions. What is this government doing to actually stop the people smugglers who make money out of moving these people from one place to another to the extent that we have seen in the last 24 hours? How effective is any agreement that this government has got with Indonesia? How effective is any operation that is in place to ensure that this does not happen when in fact it is still happening? You would have to assume that it is not as effective as this government would like it to be.

Our position is that the people who make money in this way—out of moving, from one country to another, refugees or people who claim to be refugees—ought to be prosecuted and feel the full extent of the law. They are trading in human suffering, something we do not think is acceptable. Not only that but we do not believe they should be allowed to do it a second time around. If what I read in the papers today is correct—that these people actually flew from Sri Lanka to Indonesia and were there for many months before getting aboard a boat—what are we doing with the Indonesian government to assure ourselves that that boat never leaves the land of Indonesia again and never again travels across the sea to get here? You have to ask yourself: if this is happening again, how successful has the policy been in the past and how effective are our strategies to supposedly ensure that this does not happen and, also, how effective is our cooperation in the international sphere?

Another thing that I think we need to be mindful of is this—and, while we make no comment in this chamber about whether or not people are genuine refugees, we do know this: before that assessment has been made and even after it has been made we need to satisfy ourselves as a country that we do not return people to a place where they believe they will face persecution. We are a signatory to the UN convention on refugees. I might add that Indonesia is not, so that poses a severe, real problem for us as to the way in which we should approach refugees and handle refugees on the international scene, as opposed to the way that Indonesia does. We have signed on the dotted line a document that says we respect the rights of people who are genuine refugees, that we will take them into this country and that, for those who have not been proven to be, we will ensure that we will have a return-to-country assessment.
Our analysis of the Migration Act showed very clearly that this is an area in which the department of immigration needs to improve and that this is an area in which there need to be much more comprehensive checks and balances. We do not want to see refugees returned to a country where they may face damage to their lives. When you hear reports of people having been returned to countries and having been killed, imprisoned or persecuted, you understand that the stakes are extremely high. We have signed a United Nations convention that says that we will take that situation very seriously and that we will do our utmost to ensure that any outcomes for refugees are not frightening, that people are in fact safe, that if are they returned to a country they will not be persecuted. If we get it wrong, people are at risk of losing their lives.

I think the message in this debate is the following until we have further information about this group of people, these 85 men, that we are listening to and dealing with: the smugglers need to be dealt with; they need to face the full force of the law; and we need to ensure that any agreement we have with Indonesia is working, as it would seem that somehow there are boats still slipping through the net. We need to ensure that refugees are not returned to a country in which they feel they will be persecuted, for whatever reason. We need to make sure that our assessment of that is thorough and comprehensive. At the end of the day, we are responsible for people’s lives. We have signed up to an international convention that says we will be mindful of that and we will do all that we can to ensure these people remain safe and remain alive. So we need to ensure that refugees are not returned to a country where they face persecution, where their lives are put at risk. If these people turn out not to be genuine refugees then we need to ensure that we are not sending them back to a place where they may well be harmed or imprisoned or where their lives will be put at risk. (Time expired)

Senator FIFIELD (Victoria) (4.45 pm)—You would not know it from the contributions from those opposite, but Australia actually has a very proud reputation for and a proud history of accepting refugees from around the world. We are among the most generous and compassionate nations on earth. In 2005-06 our humanitarian intake was 14,000. This is one of the most generous intakes in the world on a per capita basis. But, even if you put per capita measures aside, Australia is one of the top three nations in absolute terms in relation to its humanitarian intake. We are up there with the US and Canada—nations which are much larger than us. We are one of the top three nations in the world in absolute terms in humanitarian intake.

We are generous, and this is as it should be. We are a prosperous nation; we are a free nation; we should be generous. We have the capacity to take refugees. We also have a moral obligation to do so. And an orderly, fair, equitable and thorough process for assessing claims for asylum, for determining status, is not inconsistent with compassion. In fact, an orderly assessment process is an expression of that compassion.

There are thousands—tens of thousands—of people around the world who would like to move to Australia. For some it is because of a desire for a better economic environment. For others, it is because they are in genuine fear of persecution in their home countries. For others, it is a combination of these reasons. None of these are invalid or wrong or inappropriate reasons to want to seek to come to Australia. We can hardly denounce anyone for wanting to move to what we all believe is the greatest country on earth. We all find it entirely understandable
that people want to come to Australia. But to
give advantage to those who have the means
or the opportunity to gain access to the Aus-
tralian migration zone is perverse. To give a
particular advantage to those who arrive in
an unauthorised fashion is to be unfair to
those around the world in refugee camps or
who apply through Australia’s posts and mis-
sions. To give earlier access to immigration
processes to those who arrive illegally is ac-
tually to demonstrate a lack of compassion
for those who apply in more regular ways.
To give earlier access to immigration proc-
cesses to those who arrive illegally is to re-
ward and encourage people smugglers and to
put the lives of people at risk.

At this stage, the identities and nationali-
ties of the 85 men intercepted on 20 Febru-
ary have not been positively determined.
Eighty-three have apparently identified
themselves as Sri Lankan nationals and two
as Indonesian nationals. What we have been
told is that the boat was first detected by an
Orion P3 aircraft on 19 February. The vessel
was intercepted, we are told, by HMAS Suc-
cess on 20 February and at that stage the ves-
sel was not operating. The crew from the
Success went onto the vessel and repaired the
gine, and after this the vessel moved off
but then stopped moving again. Crew from
Success again boarded the vessel and ob-
served that further damage had been done to
the engine and to the hull. The full circum-
stances are yet to be determined, but I would
just observe that the vessel was not engaged
in a commercial activity. Damage was done
to the engine and the hull of the vessel,
which is a curious thing to do, whether you
are a passenger or a member of the crew. It
will be interesting to ascertain the full ele-
ments of the journey.

The Age quotes Sri Lankan community
sources as saying the Sri Lankans flew from
Sri Lanka to Indonesia. We have heard men-
tion of Vietnamese boat people. I stand to be
corrected, but I do not recall the people flee-
ing Vietnam jumping on a plane, flying
somewhere else to another country then get-
ing on a boat and coming to Australia. They
came direct. These people in question here
today, according to media speculation, flew
to Indonesia. If these people in question did
fly, it indicates that Australia was not their
first available overseas safe haven.

Australia does have international obliga-
tions, which it meets, and a duty of care to
people in distress. But it also has a moral
obligation to ensure that people are not ad-
vantaged who seek to enter Australia in an
unauthorised manner. The government is
meeting and will meet its obligations in rela-
tion to these people. The group of 85 people
will be accommodated temporarily on
Christmas Island, where health checks will
be done and information gathered. We will
honour our international obligations and
there is absolutely no suggestion on the part
of the government that these people, if they
are indeed found to be refugees, will be re-
turned to an environment where they could
be in danger. That is not something that the
Australian government has countenanced or
would do.

There is one thing we know: although, at
the time of the 2001 election, Labor said
there was not a cigarette paper’s difference
between their policy on border protection
and our own, Labor now have an entirely
different policy, and we know that if Labor
were in office they would give the green
light to people smugglers. We do operate a
very compassionate and fair immigration
system.

Senator KIRK (South Australia) (4.51
pm)—I rise to speak in favour of the motion
put by Senator Bartlett. We are all aware that
the motion has arisen out of the recent cir-
cumstances of the 85 Sri Lankan asylum
seekers who arrived just off Christmas Is-

CHAMBER
land, I think on Saturday. I understand that 83 of them are Sri Lankan asylum seekers and that there are two who are believed to be Indonesian nationals. The difficulty we have here today is that we do not have full details of the circumstances of these individuals. I understand that we, the Labor opposition, have sought a briefing from the government on the specific circumstances of this group of asylum seekers and that this is going to take place later this afternoon; but, as it stands, there is an absence of information that would enable us to fully get our heads around what has occurred. For my part, I am relying on media reports that I have gathered on this matter over the last few days, and it is on that basis that I address my remarks to the chamber today, but it is important to realise that until we are made fully aware of the circumstances—exactly who these people are, where they are from and their individual circumstances—the extent of our knowledge of these individuals is that all of them are adult men.

We are pretty much relying on what has been made available by the government and put into the public domain. When this happens it makes many of us, including me, somewhat nervous because we know that this government has what can only be described as ‘form’ in this area. When the issues of refugees and asylum seekers have been publicly debated, more often than not we have seen nothing from the government but deception and misinformation. It is for this reason that I am hesitant to make remarks until we are made fully aware of the facts—and often the facts are very difficult to garner when we are talking about asylum seeker matters vis-a-vis the Howard government.

All of us would remember the shameful ‘children overboard’ affair when the then Minister for Defence produced photographs in the middle of an election campaign and stated that they depicted children who had been thrown into the water by their parents. At the time many people believed that had occurred, but it was subsequently shown, as a consequence of the long and comprehensive Senate inquiry into the matter, not to have happened. So you can see why one is always somewhat suspicious of information that comes from the Howard government when the subject matter is asylum seekers and refugees. We have to examine these issues as they arise and remind ourselves that there is often little credibility in the public statements that flow from this government in relation to these matters. It is probably best to err on the side of caution and take what is said with a grain of salt rather than relying on the statements that are made.

There are some matters that Labor is very clear on when it comes to asylum seekers, and particularly those who have been trafficked by people smugglers. Labor, contrary to what Senator Fifield said, is adamant that people smugglers be prosecuted to the full extent of the law. Those people who take advantage of asylum seekers in order to make a profit, whom we know as people smugglers, really are disgraceful individuals and Labor is absolutely clear that it will not give these people a second chance to smuggle people into this country. We are absolutely clear that these people must be punished and prevented from acting in the same way again. The other thing we are absolutely clear about is that we will not see refugees returned to a country where they face persecution. As you know, this is clearly contrary to the refugee convention. (Time expired)

Senator BARTLETT (Queensland) (4.56 pm)—To summarise, we have heard lots of nice-sounding statements from everybody that under no circumstances would they ever allow somebody to be sent back to somewhere where they face persecution. Most of the Liberal Party speakers, quite rightly,
proudly clasped to their bosom the record of the Fraser government and the way they treated asylum seekers who came here. They then proceeded to completely trash the whole approach the Fraser government took and said that anybody who took that approach would be compromising the integrity of our borders, opening the floodgates and giving comfort to people smugglers. They cannot have it both ways. Do they think the Fraser government did the right thing or not? How can they possibly keep saying, ‘We have a proud record, look at what Fraser did,’ and then defend the current policy which is the absolute antithesis of what Malcolm Fraser did and which, as you all know, he is fiercely critical of?

I do not particularly blame the government speakers, because they are being fed totally dishonest propaganda from the office of the Minister for Immigration and Citizenship and his department. Senator Mason said there has been no objection to how people were processed on Nauru. That is ludicrous. There have been extraordinarily severe objections. It is because of those objections that legislation last year which sought to expand the Pacific solution was rejected by the Senate. There is ample evidence that we have sent people back to face persecution and that we have breached these conventions. That is why the Australian Democrats are so concerned that we again have public musings from government ministers. We have the immigration minister and the Minister for Foreign Affairs umming and aching: ‘We might send them to Nauru; we might send them to Indonesia; we’re seeking assurances that they won’t send them back.’ Why are we doing that? Why are we subcontracting something as fundamental as checking people’s claims about persecution—people who are fleeing a civil war? India has 100,000 refugees from Sri Lanka. We get 83 and suddenly we think that our borders are being compromised. It is ludicrous. (Time expired)

Question put:
That the motion (Senator Bartlett’s) be agreed to.

The Senate divided. [5.03 pm]
(The President—Senator the Hon. Paul Calvert)

<table>
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<tr>
<th>Ayes</th>
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**AYES**

- Allison, L.F.
- Bishop, T.M.
- Brown, C.L.
- Conroy, S.M.
- Faulkner, J.P.
- Hogg, J.J.
- Hutchins, S.P.
- Ludewig, J.W.
- Marshall, G.
- McLuscas, J.E.
- Moore, C.
- Polley, H.
- Sherry, N.J.
- Stephens, U.
- Stott Despoja, N.
- Wong, P.
- Bartlett, A.J.J.
- Brown, B.J.
- Campbell, G.
- Crossin, P.M.
- Forshaw, M.G.
- Hurley, A.
- Kirk, L.
- Lundy, K.A.
- McEwen, A.
- Milne, C.
- Murray, A.J.M.
- 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.
- Ferris, J.M.
- Fierravanti-Wells, C.
- Humphries, G.
- Joyce, B.
- Lightfoot, P.R.
- Macdonald, J.A.L.
- McGauran, J.J.J.
- Parry, S.
- Payne, M.A.
- Santoro, S.
- Troeth, J.M.
- Vanstone, A.E.
- Adams, J.
- Bernardi, C.
- Brandis, G.H.
- Campbell, I.G.
- Colbeck, R.
- Ferguson, A.B.
- Fielding, S.
- Fifield, M.P.
- Johnston, D.
- Kemp, C.R.
- Macdonald, I.
- Mason, B.J.
- Nash, F.
- Patterson, K.C.
- Ronaldson, M.
- Scullion, N.G.
- Trood, R.B.
- Watson, J.O.W.
**COMMITTEES**

**Rural and Regional Affairs and Transport Committee**

**Extension of Time**

Senator PARRY (Tasmania) (5.06 pm)—by leave—At the request of the Chair of the Senate Standing Committee on Rural and Regional Affairs and Transport, Senator Heffernan, I move:

That the presentation of reports of the Rural and Regional Affairs and Transport Committee be extended as follows:

(a) provisions of the Airspace Bill 2006 and a related bill, and the provisions of the Airports Amendment Bill 2006 to 28 February 2007; and

(b) provisions of the Murray-Darling Basin Amendment Bill 2006 to 2 March 2007.

Question agreed to.

**DOCUMENTS**

**Tabling**

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Pursuant to standing orders 38 and 166, I present documents listed below which were presented to the Deputy President and a Temporary Chairman of Committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

**SAFETY, REHABILITATION AND COMPENSATION AND OTHER LEGISLATION AMENDMENT BILL 2006**

Report of Employment, Workplace Relations and Education Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.07 pm)—I present the report of the Senate Standing Committee on Employment, Workplace Relations and Education on the Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Amendment Bill (No. 2) 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA'S SKILLS NEEDS) AMENDMENT BILL (No. 2) 2006**

Report of Employment, Workplace Relations and Education Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.07 pm)—I present the report of the Senate Standing Committee on Employment, Workplace Relations and Education on the Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND VOCATIONAL REHABILITATION SERVICES) BILL 2006**

Report of Employment, Workplace Relations and Education Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.07 pm)—I present
the report of the Senate Standing Committee on Employment, Workplace Relations and Education on the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

ELECTORAL AND REFERENDUM LEGISLATION AMENDMENT BILL 2006

Report of Finance and Public Administration Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.07 pm)—I present the report of the Senate Standing Committee on Finance and Public Administration on the Electoral and Referendum Legislation Amendment Bill 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

MIGRATION AMENDMENT (REVIEW PROVISIONS) BILL 2006

Report of Legal and Constitutional Affairs Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.07 pm)—I present the report of the Senate Standing Committee on Legal and Constitutional Affairs on the Migration Amendment (Review Provisions) Bill 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

CORPORATIONS AMENDMENT (TAKEOVERS) BILL 2006

Report of Corporations and Financial Services Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.08 pm)—I present the report of the Parliamentary Joint Committee on Corporations and Financial Services Corporations Amendment (Takeovers) Bill 2006 [Exposure Draft], together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

NATIVE TITLE AMENDMENT BILL 2006

Report of Legal and Constitutional Affairs Committee

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.08 pm)—I present the report of the Senate Standing Committee on Legal and Constitutional Affairs on the Native Title Amendment Bill 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

BUDGET PBS

The ACTING DEPUTY PRESIDENT (Senator Marshall) (5.08 pm)—I table a estimates of proposed additional expenditure for 2006-07 of the Industry, Tourism and Resources portfolio—correction.

Government Documents


Responses to Senate Resolutions

The ACTING DEPUTY PRESIDENT (Senator Marshall)—I present a response from the Western Australian Minister for Child Protection, Communities, Seniors and Volunteering and Peel, Mr Templeman, to a resolution of the Senate of 13 September 2006 concerning Foster Care Week.

BUDGET

Portfolio Additional Estimates Statements

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.08 pm)—I table a corrigendum to the 2006-07 portfolio
addition statements for the Attorney-General’s portfolio.

COMMITEES

Community Affairs Committee
Additional Information
Senator PATTERSON (Victoria) (5.08 pm)—On behalf of the Chair of the Community Affairs Committee, Senator Humphries, I present additional information received by the committee on its inquiry into gynaecological cancer in Australia.

Economics Committee
Additional Information
Senator PATTERSON (Victoria) (5.09 pm)—On behalf of the Chair of the Economics Committee, Senator Ronaldson, I present additional information received by the committee on its inquiry into the provisions of the Tax Laws Amendment (Simplified Superannuation) Bill 2006 and related bills.

Intelligence and Security Committee
Report
Senator PATTERSON (Victoria) (5.09 pm)—On behalf of the Parliamentary Joint Committee on Intelligence and Security, I present the report of the committee, Review of the relisting of Abu Sayyaf Group (ASG), Jamiat ul-Ansar (JuA), Armed Islamic Group (GIA) and the Salafist Group for Call and Combat (GSPC), and I seek leave to move a motion in relation to the report.

Leave granted.

Senator PATTERSON—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—
The Committee first considered the listing of these organisations in 2004. This is a review of the second re-listing of these organisations.

During a private hearing held in relation to this review, the Committee discussed the process of choosing between those organisations which are selected for proscription and those which are not. This process has been touched upon in previous reviews but the Committee continues to be unconvinced as to the robustness of the process. While some organisations which now seem to be concentrating their activities in their own countries and demonstrate no links to Australia, Australians or Australian interests are proscribed, others which have membership and links to Australia, have not been proscribed.

The Committee was advised by ASIO that many of the organisations currently proscribed in Australia belong to a Jihadist network which is global and thus, while there may not be current evidence of connections to Australia, the organisations can work into Australia through networks which can lead to people being brought into Australia. The Committee was assured that other more prominent groups have not been ignored and they are being kept under constant review.

At the private hearing the Committee specifically sought information about the activities of the groups under review since the last re-listing of the organisations. The Committee was told that where there is a lack of available new evidence regarding each or any of the organisations, this does not necessarily mean that the organisation is not still active and dangerous. A lack of evident activity may mean that the organisation is preparing for a future act of terrorism. The Committee accepts that this may be the case, but it believes that it is by examination of new information that it can best decide if a re-listing is warranted and thus the Committee continues to urge the Attorney-General and ASIO to provide it with as much relevant up-to-date information as possible when seeking to re-list a terrorist organisation.

In view of the limited amount of information about recent activities of the groups under review, the question of the adequacy of using only information from open sources to assess listings and re-listings of groups was discussed at the private hearing. The Committee found that in at least one of ASIO’s statements of reasons, the evidence for re-listing from open sources was not sufficient to provide a basis for re-listing the organisation and,
therefore, the conclusion must be drawn that ASIO had made an independent assessment, using information that may not be open source.

ASIO advised the Committee that it uses a number of sources of publicly available information on terrorist groups but often the information from those sources is not up-to-date when compared to what ASIO has learned about the group through intelligence. Thus, ASIO’s statements of reasons use open-source material backed up by intelligence.

It was Parliament which originally decided that only open source material would be used when assessing the listing of a terrorist organisation and that security matters would not be discussed in a disallowance motion. This was not at the request of ASIO and the process has always relied to some extent on ASIO backing-up open source evidence with its intelligence when it decides to list or re-list a group.

Using the statements of reasons and other publicly available information, the Committee measured the four groups, to the extent possible, against ASIO’s stated evaluation process. The Committee found evidence that at least one of the organisations has become much less active in the last two years. However, the Committee will err on the side of caution with respect to these re-listings and will not recommend to the Parliament that any of these regulations be disallowed even though the evidence for re-listing one or more of the groups could be deemed to be inadequate for the Committee to judge the case for proscription with confidence.

Regarding consultations with the community, the Committee noted that, except for the Attorney-General’s Department’s media release on the making of the regulation on 3 November 2006, no actions were taken to inform the community of the re-listings. The Committee reiterates its previous concerns that lack of adequate community consultation means that the community is not properly informed of its obligations with regard to the re-listed organisations.

In conclusion, I would like to thank the members of the Committee who continue to undertake their duties in a bipartisan fashion and who recognise the need to put the national interest and effective Parliamentary scrutiny of highly sensitive matters before any partisan political interests. The work of the Committee continually presents the members with the challenge of reconciling the demands of national security with Parliamentary and public scrutiny.

I recommend the report to the House.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Departmental and Agency Contracts

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended.

Departmental and agency contracts for 2006—
Letters of advice—
Attorney-General’s portfolio agencies.
Finance and Administration portfolio agencies.

AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA’S SKILLS NEEDS) AMENDMENT BILL (No. 2) 2006

First Reading

Bill received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Community Services) (5.11 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Community Services) (5.11 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—
This bill demonstrates the continued success of the Australian Technical Colleges (ATCs) programme and reflects the better than expected progress that has been achieved to date in implementing this Howard Government initiative.

24 of the 25 ATCs have now been announced and 20 of these have already signed funding agreements with the Australian Government ensuring funding for their establishment and operations up until the end of 2009. At least 21 colleges will be in operation during 2007 with a forecast 2000 students. This initiative has been implemented well ahead of the schedule announced at the 2004 election.

ATCs have clearly been embraced by the communities, employers and industry in the regions in which they are being established. Other communities also want an ATC. ATCs provide opportunities for young people in regions throughout Australia to commence a trade qualification whilst completing their senior secondary studies. They will ensure that over the longer term, industry will have access to a supply of highly qualified workers who will be trained according to local industry requirements.

This bill will increase the total funding for the ATC initiative from $343.6 million to $456.2 million or an increase of $112.6 million over the period from 2006 to 2009.

The additional funding will provide a capacity for ATCs to provide high levels of support to both students and the employers who engage students as Australian School-based Apprentices.

The additional funding will also address a range of other factors:

- Strong industry and community support for the ATC programme has meant more colleges than originally anticipated opening by 2007. This has resulted in additional costs over the five year period.
- A key feature of the ATC programme is flexibility and each college has been encouraged to pursue a model that best meets the needs of the region in which it is established. This flexibility has resulted in the operational costs necessary to get each college up and running being higher than expected. These costs vary from college to college because every operational model is different.
  - Of the 24 announced ATCs, the industry led Boards of these colleges have recommended in more cases than originally anticipated, that a newly established school will be the most effective delivery model to meet their regional needs. This has had a significant impact on the cost of the programme through increased operational costs.
  - Several colleges have also identified the need for multiple campuses to ensure appropriate coverage of the region and an example of this includes the Hunter ATC which will have campuses in Newcastle, Maitland and Singleton. We are doing more than ever originally planned for.
  - The ATCs need to ensure students are trained using the latest tools and equipment with a focus on enterprise, employability, business and information technology skills to ensure they are as work-ready as possible. While all ATCs have been encouraged to work closely with existing training providers, including TAFE, to utilise existing infrastructure in their region, the ATCs have in many cases been required to contribute funding for this infrastructure to be refurbished or upgraded.

Passage of this bill will ensure the steady progress of the Australian Technical Colleges initiative which will enable 7500 young Australians per year to undertake high quality education and training, relevant to a trade career.

The Australian Government is committed to raising the profile of vocational and technical education. Attracting young people to the trades is vital for Australia’s future and is an important step in addressing the skills shortages that we are experiencing across a number of industries.
The Australian Technical Colleges initiative offers a new approach to achieving this, and forms an important part of the Australian Government’s strategy for tackling skill shortages.

The Australian Technical Colleges will promote trade qualifications as a highly valued alternative to a university degree and will develop a reputation that will show students and parents that vocational education and training provides access to careers that are secure, lucrative and rewarding.

The Australian Technical Colleges initiative is just one of a range of vocational and technical education initiatives that the Australian Government is delivering during 2006 to 2009.

In fact, this Government’s investment over that period will total more than $11.3 billion, the biggest commitment to vocational and technical education by any government in Australia’s history.

I commend this bill to the Senate.

Debate (on motion by Senator Scullion) adjourned.

ACIS ADMINISTRATION AMENDMENT (UNEARNED CREDIT LIABILITY) BILL 2007
AGED CARE AMENDMENT (SECURITY AND PROTECTION) BILL 2007
FAMILY LAW (DIVORCE FEES VALIDATION) BILL 2007
SUPERANNUATION LEGISLATION AMENDMENT (SIMPLIFICATION) BILL 2007
INCOME TAX AMENDMENT BILL 2007
INCOME TAX (FORMER COMPLYING SUPERANNUATION FUNDS) AMENDMENT BILL 2007
INCOME TAX (FORMER NON-RESIDENT SUPERANNUATION FUNDS) AMENDMENT BILL 2007
INCOME TAX RATES AMENDMENT (SUPERANNUATION) BILL 2007

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Community Services) (5.12 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have three of the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Community Services) (5.13 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

The Australian automotive industry is recognised worldwide for its innovation, its quality standards and its expertise in design and engineering. The Government provides significant support to the industry through the Automotive Competitiveness and Investment Scheme (ACIS). ACIS is a transitional assistance scheme which encourages the industry to become internationally competitive through investing in its own future at a time of phased tariff reductions. Through these arrangements, the Government has provided the automotive industry with a “Decade of Certainty”.

The participants in ACIS number about 250 and they include the four motor vehicle producers, automotive component producers, automotive toolmakers and automotive service providers. ACIS delivers assistance to participants through...
the issuing of duty credits and it will provide over $4 billion in assistance during the period from 2006 to 2015.

Assistance is provided up front – that is, duty credits are issued on receipt of a quarterly claim by a registered ACIS participant. A subsequent audit process ensures that claims are legitimate and that they relate to eligible expenditure. If items of ineligible expenditure or other errors are identified an Unearned Credit Liability (UCL) is issued to the participant and this is offset against their future ACIS credits.

A recent decision of the Administrative Appeals Tribunal has important implications for the Commonwealth’s ability to issue UCLs under the ACIS Act, other than in very limited circumstances. That decision has raised the prospect that claims of participants may have to be fully assessed as to their eligibility prior to any credits being issued. It would be unacceptable from a financial management perspective for the Commonwealth to be issuing credits unless it is certain that it has the ability to recoup any credits issued to which a participant is subsequently found not to be entitled.

The up front assessment of all claims would result in lengthy delays in the issuing of duty credits – delays which could impose significant financial hardship on members of the automotive industry. The industry has long accepted that the approach of issuing credits up front then issuing UCLs should ineligible expenditure be identified, is the best way for them to receive credits in a timely manner and the Commonwealth is keen to ensure that approach can continue.

This Bill will confirm the Commonwealth’s ability to issue UCLs. It will ensure that the industry can continue to receive credits as soon as practicable after they submit their quarterly returns and it will ensure that the ACIS scheme can continue to be administered in the manner agreed by all parties when it was established.

In summary, the amendments I am introducing today are designed solely to restore to the Commonwealth the power to administer the ACIS scheme in a manner that best meets the needs of the Australian automotive industry.
good balance between the needs of both residents and industry.

As the Minister has said on many occasions, the vast majority of aged care providers give excellent care, and most aged care workers regard their duty of care to our vulnerable, frail and older Australians as sacrosanct.

But the Government must have the capacity to deal with those rare but distressing incidents of alleged sexual and physical abuse in residential aged care that came to light earlier last year. Like the Minister and all caring Australians, I was shocked by these incidents.

As a new Minister, Minister Santoro acted as quickly as possible to improve the system and make it more effective in combating physical and sexual abuse.

Today, the Government honours the Minister's commitment to older Australians and their families by introducing legislation which achieves three main purposes:

• it establishes a scheme for compulsory reporting of abuse;
• it includes protection for people who make disclosures about abuse; and
• it establishes a new and independent Aged Care Commissioner. This is one component of several very broad reforms that enhance the Department's capacity to respond to complaints about aged care services.

Each of these initiatives is proposed to take effect from 1 April 2007. I would like to take a little more time to describe these reforms in more detail.

**Compulsory reporting**

First, the scheme for compulsory reporting of abuse.

When the issue of physical and sexual abuse became a public issue last year, the major stakeholders within the aged care sector, namely the residents and their families, urged the introduction of a formal system of compulsory reporting as an obvious response to the issue.

Minister Santoro listened very carefully and consulted widely, and today the Bill that I am introducing establishes a requirement for approved providers to report allegations or suspicions of unlawful sexual contact, or unreasonable use of force, on a resident in a residential aged care service.

The report must be made to both the police and to the Department of Health and Ageing. It must also be made as soon as possible, and not later than 24 hours after, the allegation or suspicion comes to the attention of the approved provider.

While it was the Minister's original intention that all allegations of abuse be reported, the Minister for Ageing, Senator the Hon Santo Santoro received strong representations from the sector in relation to the very sensitive issue of assaults carried out by residents suffering from dementia or other forms of mental impairment. In these limited circumstances, the Government is therefore proposing that there be a discretion not to report.

In such a case, the focus should be on ensuring that there is in place an appropriate behaviour management plan to ensure both the safety of that resident and their fellow residents.

While the discretion not to report to police and the Department will exist in these very limited circumstances, it is important to note that this is no way obviates the need for all approved providers to, at all times, provide a safe and secure environment for residents and to take appropriate action if critical incidents occur.

Under the changes, approved providers will also be required to ensure that there are internal processes in place for the reporting, by staff, of all incidents involving alleged sexual or serious physical assault.

Staff members will be able to report to the approved provider or the approved provider's key personnel or other authorised people. The Bill also enables staff members to report directly to the police or the Department. This may occur where, for example, a staff member does not feel comfortable reporting alleged incidents to the home.

Failure to have the necessary systems and protocols in place, and failure to report incidents, will indicate regulatory non-compliance, leading to the possible imposition of sanctions.
Protection for those who report

The Bill underpins these new compulsory reporting arrangements with protection for people who report abuse.

It is obvious to me that people will be more likely to report incidents of assault where they do not fear reprisal from their employer, or indeed other staff. Protections will therefore be introduced as part of the compulsory reporting requirements.

Approved providers will be required to have policies and procedures in place to ensure that the identity of staff who report is protected and that they are not unfairly treated as a result of making a report.

The legislation expressly provides that staff members who make disclosures about assaults, must have their identities protected and must not be victimised. The legislation also protects disclosers from civil and criminal liability in relation to the disclosure and, amongst other things, enables a Court to order that an employee be reinstated or paid compensation if their employment is terminated because of the fact that they made a protected disclosure.

Aged Care Commissioner

The third main purpose of the Aged Care Amendment (Security and Protection) Bill 2007 is to establish a new and independent Aged Care Commissioner, replacing the existing Commissioner for Complaints.

In his consultations with residents, their families, approved providers, aged care staff, and the previous Commissioner, Mr Rob Knowles, it became clear to Minister Santoro that the existing scope for investigation and action by the Commissioner for Complaints is too limited.

The Minister is therefore implementing broad reforms not only in relation to the role of the Commissioner, but also to the whole way that complaints are handled.

For example, a new Office of Aged Care Quality and Compliance will be established within the Department of Health and Ageing, that is responsible for investigating any information about possible non-compliance by approved providers.

The new Office will have the power to investigate all complaints and information, have nationally structured intake and prioritisation of all contacts by high-level, specifically-trained staff and have the power to determine whether a breach of the approved provider’s responsibilities has occurred. Where a breach is identified, the Office will have the power to require the approved provider to take appropriate action to remedy the breach.

Importantly, the Office will have the capacity to issue Notices of Required Action to providers who have breached their responsibilities, and take compliance action where the provider fails to remedy the issue.

The Office of Aged Care Quality and Compliance will have greater capacity to take action than the Complaints Resolution Scheme it is replacing. The experience of the latter has provided the Government with much guidance in terms of these reforms.

The new Aged Care Commissioner will play a critical role in these new arrangements. The Commissioner will provide an independent mechanism to hear complaints about action taken by the new Office of Aged Care Quality and Compliance in the investigation of complaints, and also about the conduct of the Aged Care Standards and Accreditation Agency and its assessors.

The Aged Care Commissioner will also have greater capacity to undertake "own motion" reviews.

These reforms significantly enhance the Government’s capacity, and that of providers, to deal with information and complaints about the quality of care and services, including abuse, in aged care services that are directly subsidised by the Federal Government.

They place the Government, providers, residents, families, advocates, indeed the entire community, in a much stronger position to respond to, and deal with, the issues and also to be proactive and effective in identifying areas of risk.

Implementation

As I noted in my introductory remarks, these reforms will, subject to the agreement of Parliament, take effect from 1 April 2007.

Prior to that time the Government will be developing comprehensive Principles which will be
made under the Act, and which will provide extensive detail about each of the elements of the reforms.

The Department will also be issuing approved providers with information and guidelines on the new requirements.

It is imperative that we get these reforms right, and that we continue to listen closely to the views of all stakeholders. The time the Government has taken to develop the reform package, and to talk extensively with all concerned parties, has paid dividends. The Bill before us is well thought out, appropriate, and adapted to the challenges that face us.

It gives even greater confidence to the people of Australia about the already high-quality care that is provided in our aged care homes today.

I commend the Bill.

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FAMILY LAW (DIVORCE FEES VALIDATION) BILL 2007

This Bill amends the Family Law Act 1975 to validate retrospectively the imposition of an unauthorised filing fee for divorce matters in Western Australia.

In July 2005, the filing fee in the Federal Magistrates Court for divorce applications under the Family Law Act was increased from $288 to $334. The fee in the Federal Magistrates Court for divorce applications applies to all divorce applications throughout Australia, except Western Australia. In 1976, under section 41 of the Family Law Act, Western Australia established the only State family court in Australia—the Family Court of Western Australia.

The filing fee for a divorce order in the Family Court of Western Australia is set by regulations made under the Family Law Act. Subregulation 11(1A) of the Family Law Regulations 1984 prescribes the filing fee for a divorce order in the Family Court of Western Australia, whereas the equivalent fee in the Federal Magistrates Court is set by the Federal Magistrates Regulations 2000.

The purpose of the present Bill is to validate the fees which were charged during that period. This is a straightforward, technical amendment to correct an honest mistake, and one which will ensure equality of treatment for all Australians who paid this fee during the period in question.

I commend this Bill.

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SUPERANNUATION LEGISLATION AMENDMENT (SIMPLIFICATION) BILL 2007

This Bill is a related Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The reforms will sweep away the current raft of complex tax arrangements that apply to superannuation, improve incentives to save, increase retirement incomes and strengthen incentives for older Australians to stay in the workforce.
centre of the reforms is making superannuation benefits tax free, if paid from a taxed superannuation fund to someone aged 60 and over.

The superannuation taxation law has also been rewritten from the Income Tax Assessment Act 1936 into the Income Tax Assessment Act 1997 as part of the reforms. The rewrite will streamline the law and provide a clearer picture of the taxation of superannuation savings. It will cut the number of superannuation related pages in the assessment Acts by over a third.

This Bill repeals the old superannuation taxation law, including reasonable benefit limits, and updates cross references to superannuation taxation law contained in other Acts.

Updating cross references to superannuation taxation law contained in other Acts will clarify policy intent in a number of areas going forward. This includes how superannuation will be treated in the event of bankruptcy, for child support purposes and social security purposes.

Amendments in this Bill will also improve arrangements in respect to lost and unclaimed superannuation.

The Australian Government will now take full responsibility for the management of unclaimed superannuation, which means that in future, unclaimed superannuation money will not be paid to the states or territories. This is consistent with the arrangements for lost superannuation and will provide a single access point for individuals searching for lost or unclaimed superannuation and a simpler national claims process going forward. As a result, individuals will be able to seek advice directly from the ATO, instead of having to contact numerous government agencies.

This Bill also makes some minor additions to the Simplified Superannuation law to clarify policy intent and, in some cases, to address industry and community concerns raised.

These amendments include clarification of transitional arrangements for employers and individuals with substituted accounting periods and relaxed arrangements for people contributing amounts related to personal injury or small business capital gains tax concessions up until 30 June 2007. As a package, the Simplified Superannuation Bills represent a substantial investment by the Government in the standard of living of Australians in retirement and the country’s future economic prosperity.

Full details of the measures in this Bill are contained in the explanatory memorandum.

INCOME TAX AMENDMENT BILL 2007
This Bill is a companion Bill to the Superannuation Legislation Amendment (Simplification) Bill 2007 and a related Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the Bill is to make consequential amendments to the Income Tax Act 1986 necessary due to the Simplified Superannuation reforms.

Full details of this Bill are contained in the explanatory memorandum already presented.

INCOME TAX (FORMER COMPLYING SUPERANNUATION FUNDS) AMENDMENT BILL 2007
This Bill is a companion Bill to the Superannuation Legislation Amendment (Simplification) Bill 2007 and a related Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the Bill is to make consequential amendments to the Income Tax (Former Complying Superannuation Funds) Act 1994 necessary due to the Simplified Superannuation reforms.

Full details of this Bill are contained in the explanatory memorandum already presented.

INCOME TAX (FORMER NON-RESIDENT SUPERANNUATION FUNDS) AMENDMENT BILL 2007
This Bill is a companion Bill to the Superannuation Legislation Amendment (Simplification) Bill 2007 and a related Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the Bill is to make consequential amendments to the Income Tax (Former Non-resident Superannuation Funds) Act 1994 necessary due to the Simplified Superannuation reforms.
Full details of this Bill are contained in the explanatory memorandum already presented.

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INCOME TAX RATES AMENDMENT (SUPERANNUATION) BILL 2007

This Bill is a companion Bill to the Superannuation Legislation Amendment (Simplification) Bill 2007 and a related Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the Bill is to make consequential amendments to the Income Tax Rates Act 1986 necessary due to the Simplified Superannuation reforms.

Full details of this Bill are contained in the explanatory memorandum already presented.

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 ACIS Administration Amendment (Unearned Credit Liability) Bill 2007, the Aged Care Amendment (Security and Protection) Bill 2007 and the Family Law (Divorce Fees Validation) Bill 2007 be listed on the Notice Paper as separate orders of the day.

AUSCHECK BILL 2006
MARITIME LEGISLATION AMENDMENT (PREVENTION OF AIR POLLUTION FROM SHIPS) BILL 2006
NATIVE TITLE AMENDMENT BILL 2006
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
TAX LAWS AMENDMENT (SIMPLIFIED SUPERANNUATION) BILL 2006
SUPERANNUATION (EXCESS CONCESSIONAL CONTRIBUTIONS TAX) BILL 2006
SUPERANNUATION (EXCESS NON-CONCESSIONAL CONTRIBUTIONS TAX) BILL 2006
SUPERANNUATION (EXCESS UNTAXED ROLL-OVER AMOUNTS TAX) BILL 2006
SUPERANNUATION (DEPARTING AUSTRALIA SUPERANNUATION PAYMENTS TAX) BILL 2006
SUPERANNUATION (SELF MANAGED SUPERANNUATION FUNDS) SUPERVISORY LEVY AMENDMENT 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
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SUPERANNUATION (EXCESS UNTAXED ROLL-OVER AMOUNTS TAX) BILL 2006
SUPERANNUATION (DEPARTING AUSTRALIA SUPERANNUATION PAYMENTS TAX) BILL 2006
SUPERANNUATION (SELF MANAGED SUPERANNUATION FUNDS) SUPERVISORY LEVY AMENDMENT 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
TAX LAWS AMENDMENT (SIMPLIFIED SUPERANNUATION) BILL 2006
SUPERANNUATION (EXCESS CONCESSIONAL CONTRIBUTIONS TAX) BILL 2006
SUPERANNUATION (EXCESS NON-CONCESSIONAL CONTRIBUTIONS TAX) BILL 2006
SUPERANNUATION (EXCESS UNTAXED ROLL-OVER AMOUNTS TAX) BILL 2006
SUPERANNUATION (DEPARTING AUSTRALIA SUPERANNUATION PAYMENTS TAX) BILL 2006
SUPERANNUATION (SELF MANAGED SUPERANNUATION FUNDS) SUPERVISORY LEVY AMENDMENT BILL 2006

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Community Services) (5.14 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have 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 SCULLION (Northern Territory—Minister for Community Services) (5.16 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSCHECK BILL 2006

Policy setting

Since the events of 11 September 2001, the Australian Government has adopted substantial measures to strengthen aviation security, including hardening cockpit doors, requiring passenger screening for all regular passenger jet flights, upgraded Closed Circuit Television and monitoring capability, and enhanced cargo security clearances and checked baggage screening. We have also taken measures to strengthen maritime security.

The Government is not prepared to rest on its laurels. We are committed to continuing to strengthen transport security.

In 2006, the Government announced new measures to further tighten security at Australia’s air and sea ports. It has agreed to additional expenditure of $4.7 million over four years, including $2.9 million for the establishment of a regime to audit the activities of Aviation Security Identification Card (ASIC) and Maritime Security Identification Card (MSIC) issuing bodies.

Policy objective

Last year the Australian Government agreed to establish a centralised background checking service in the Attorney-General’s Department, as part of a wider initiative to strengthen the ASIC and the MSIC schemes. The Department will coordinate background checks on people who work in the secure areas of air and sea ports, namely those who are required to have an ASIC or a MSIC.

A new division has been established, now known as AusCheck, and it will help the aviation and maritime industries to identify high-risk individuals who should not be granted an ASIC or MSIC. AusCheck will apply a more consistent approach to the statutory requirements set for each scheme and notifying the relevant bodies of the outcome of the background checks. AusCheck will operate on a cost recovery basis.

The Government also decided that AusCheck will use the proposed National Documentation Verification Service to assist in determining the bona fides of applicants. It will also maintain a comprehensive database of all applicants and ASIC and MSIC cardholders. AusCheck will operate in accordance with the provisions of the Privacy Act 1988 and ensure that information in its database is properly protected.

Once fully operational, AusCheck will also be able to manage other background checking schemes and minimise duplication of effort for individuals who need to apply for background checks for different purposes.

The decision to establish AusCheck followed a recommendation of Sir John Wheeler’s Airport Security and Policing Review and is an important part of the Government’s ongoing commitment to improve aviation and maritime security.

AusCheck is scheduled to commence operations on 1 July 2007, which will allow it sufficient time to set up the information and computer technology and business process required, conduct a Privacy Impact Assessment and consult with industry.

Outline of the bill

This bill will provide legislative authority to enable AusCheck to provide centralised background coordination and checking services for the Commonwealth, to manage a variety of schemes and to provide for AusCheck to establish a background checking scheme in its own right.

To ensure that AusCheck can be used to best advantage, and take on future background checking functions, the bill contains a series of generic background coordination and checking powers to
be exercised in accordance with parameters to be defined by regulation for each scheme.

Under this approach the basic elements of Commonwealth background checking provisions will be centralised in this Act. This flexible approach facilitates applying best practice background checking across Commonwealth administration.

The bill also provides for the establishment of a database of people who apply for background checks and of security cardholders, for the transfer of existing records of applicants and card holders to AusCheck and for limits on access to, use of and disclosures from the database.

Providing for the transfer of existing records to AusCheck is necessary to minimise duplication of effort for applicants and to ensure that the database provides a comprehensive picture of the results of background checking prior to AusCheck’s commencement.

**Conclusion**

This bill provides a legislative framework and the regulations made under it will allow for the consolidation of background checking schemes. Initially AusCheck will only coordinate the checking for the ASIC and MSIC schemes. However the core framework will facilitate the possible of extension of AusCheck’s role to other background checking functions.

The creation of AusCheck as the centralised background checking service for the Commonwealth is in keeping with the public’s expectations that adequate security arrangements are in place. AusCheck will in time reduce duplication of effort where individuals require background checks for different purposes; and should in time help develop a more consistent and reliable approach to background checking.

The bill is necessary to provide legislative authority for those processes, to allow for cost recovery and to provide appropriate protections for the information that will be collected and stored by AusCheck.

The bill is another important step in improving air and maritime security specifically and national security generally.

I commend the bill.

The MARITIME LEGISLATION AMENDMENT (PREVENTION OF AIR POLLUTION FROM SHIPS) BILL 2006 amends the Navigation Act 1912 and the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 to implement Annex VI (prevention of air pollution from ships) of the International Convention for the Prevention of Pollution from Ships, commonly known as MARPOL.

The bill also incorporates other miscellaneous amendments that are unrelated to Annex VI. These include changing references to “pilot” in the Navigation Act 1912 to “licensed pilot” and references in the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 to ensure that recent amendments to the Act correctly reflect the recently revised Annex I of MARPOL.

Annex VI was adopted by the International Maritime Organization in September 1997 and came into force internationally on 19 May 2005.

The majority of the bill – Schedule 1 which implements Annex VI – will commence on a date to be proclaimed, this is due to the accession process required for Annex VI through the International Maritime Organization. It is intended that the commencement date will coincide with the date that Annex VI enters into force for Australia.

The bill adds a new Part to Division 12 of the Navigation Act 1912, to provide for periodical survey of Australian registered ships to ensure the ship is constructed in accordance with the Annex VI requirements, and for the issue of an International Air Pollution Prevention Certificate. Foreign-registered vessels are required to have certificates issued by their own flag States when visiting Australian ports. The bill also amends the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 to define the operational measures required in relation to the carriage and use of fuel oil on board ships, including the sulphur content of fuel oil and fuel oil quality requirements.

The proposed amendments set limits on sulphur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances. The Annex also includes a global cap of 4.5 per cent on the sulphur content of fuel oil.
Annex VI contains provisions allowing for special Sulphur Oxide (SOx) Emission Control Areas to be established with more stringent controls on sulphur emissions. In these areas, the sulphur content of fuel oil used onboard ships must not exceed 1.5 per cent. Alternatively, ships must fit an exhaust gas cleaning system or use any other technological method to limit SOx emissions.

Both the Baltic Sea Area and the North Sea are designated as a SOx Emission Control areas.

This bill continues the Government’s efforts to prevent pollution by ships and maintains the close alignment Australia has with the International Maritime Organization’s international Conventions.

NATIVE TITLE AMENDMENT BILL 2006

It is more than twelve years since the commencement of the Native Title Act 1993, which was enacted in response to the landmark High Court decision in Mabo (No 2). It is over eight years since the 1998 amendments to the Act were passed, which included measures identified in response to another significant High Court decision, the Wik judgment. Unlike the 1993 and 1998 legislation processes, the Native Title Amendment Bill 2006 is not being introduced in response to any judicial decision. The key catalyst for the bill is the Government’s commitment to improve the performance of the native title system.

While native title matters are complex, most stakeholders acknowledge the current framework for resolving native title applications remains too costly and time-consuming. It is a matter of clear concern that many Indigenous Australians have not been able to see resolution of their claims within their lifetime, and have therefore been unable to enjoy due recognition of their rights under law. It is in the interests of all Australians, not just parties to claims, that claims are determined more expeditiously.

In September 2005, I announced the Australian Government was undertaking a comprehensive reform process examining all aspects of the native title system. The package of reforms, of which this bill is only part, is designed to ensure the system delivers effective outcomes more expeditiously for all parties, and to encourage agreement-making in preference to litigation. The Government is not seeking to disturb the fundamentally important object of the Native Title Act to recognise and protect native title. The measures in the bill do not seek to wind back or undermine native title rights and focus largely on the framework for determining native title claims.

A second bill to implement outstanding measures from the package of reforms will be introduced into Parliament early next year, and will include minor and technical amendments designed to improve the workability of the Act. Collectively, the legislative changes and other non-legislative reforms will promote performance across the system.

More effective Tribunal mediation

This bill will amend the Native Title Act to implement measures from the Claims Resolution Review, an independent study commissioned by the Government. The Review found institutional reform was needed to facilitate more effective resolution of claims, particularly with respect to the role of the National Native Title Tribunal.

The Review concluded the effectiveness of Tribunal mediation was inhibited by a lack of powers to ensure parties participate productively. The Tribunal will be given powers to direct parties to attend mediation conferences and to compel production of documents. In addition, the Tribunal will be given new review and inquiry functions on matters that go to central issues in native title claims.

Better coordination and communication between the Court and Tribunal

To limit potential for wasted resources and delay, amendments will remove potential duplication between the Court and the Tribunal and improve claims management between those bodies. The legislation will make clear mediation cannot be carried out by both bodies at the same time. The presumption is that all native title claims should be referred promptly to the NNTT for mediation, subject to specific exceptions. There should be no unnecessary delay by the Court referring matters to the NNTT for mediation.

The Tribunal’s role will be further strengthened by giving it a right to appear before the Court,
and by expanding its reporting functions. The Court will be required to consider reports provided by the Tribunal when making orders in relation to relevant matters.

**Behaviour of parties**

Reform to the institutional framework is only part of the solution to achieving more expeditious claims resolution. The bill introduces measures directed at ensuring parties act responsibly.

A provision will be included to make clear all parties and their representatives must mediate in good faith. The Tribunal will be able to report breaches to the Court and – where relevant – to other bodies.

Claimants bear responsibility for ensuring claims, once lodged, are progressed appropriately. The Court’s power to dismiss claims that are unlikely to proceed to determination will be strengthened. Other amendments will assist in limiting the involvement of other parties in proceedings to issues which are directly relevant to their interests.

**Effective and Accountable Native Title Representative Bodies**

Native title representative bodies (NTRBs) are recognised under the Act to assist claimants in preparing and advancing native title applications. The bill introduces measures to ensure these bodies operate with greater effectiveness and accountability.

Under the new provisions there will be enhanced flexibility in the NTRB system including by replacing the current indefinite recognition of NTRBs with fixed terms. The changes also address anomalies and inconsistencies in how changes to NTRB boundaries can be made.

**Flexibility for Prescribed Bodies Corporate**

Consistent with the need for a balanced approach to the reforms, the bill also introduces amendments to the regime for Prescribed Bodies Corporate (PBCs), which are the bodies responsible for managing native title following a determination. The amendments will enable improvements to the PBC regime to accommodate the specific interests of the native title holders.

**Extending respondent funding scheme to cover more agreements**

Consistent with the Government’s strategy of encouraging resolution of native title claims through agreement making, the bill includes a measure to enable financial assistance to be provided in a wider range of circumstances to respondents participating in the right to negotiate process.

**Conclusion**

The reforms in this bill have been the subject of extensive consultation with stakeholders. While it does not seek to disturb the general framework governing native title, and does not undermine the existing balance of rights under the Native Title Act, the measures will provide a platform to enable more efficient and effective outcomes, which is in the interests of all Australians.

I will be continuing to work with all stakeholders to secure the promise which native title can and should offer for a better Australia.

I commend the bill.
It is a matter of pride for the Government that these measures have halted the slide in private health insurance membership that we inherited. From just over 30 per cent seven years ago, private health insurance membership has stabilised around 43 per cent of the Australian population. Private hospital admissions, mostly funded by private health insurance, now account for almost three-fifths of all surgical procedures. Medical practitioners who work in the private sector, again largely funded by private health insurance, earn a return on their efforts that makes them willing to do the sessional work in the public sector on which our public hospitals depend.

But the task of revitalising the private health sector is ongoing. Having consolidated the sector, the next step is to help it adapt to the realities of early 21st century health care: a way of care that doesn’t always centre on being admitted to hospital. Day procedures, outpatient services, hospital in the home, condition management and wellness and prevention are all part of the health care equation in a way that simply wasn’t envisaged when the current regulatory regime was devised over half a century ago. These things are inadequately covered by private health insurance as it’s currently regulated, and this needs changing.

This package of Bills, which will come into effect from 1 April next year, therefore supports the next wave of innovation. It will enact the important reforms to private health insurance I announced on 26 April 2006. These changes will translate into greater competition and improved services for consumers. The changes will also mean much clearer and simpler regulation for health insurers and service providers.

This package will create new opportunities for the private health sector, allowing greater innovation and even greater choice in private health care. When implemented, the legislation will be a win for consumers, a win for private health insurers and a win for service providers – and a win for our public hospital system too.

Before explaining the legislation, I would like to reiterate the Government’s ongoing and very strong commitment to Medicare. This package of Bills will not diminish that commitment. It will not result in a two-tier system. Let me be very clear. There will be no diminution in cover by Medicare as a result of these reforms.

Private Health Insurance Bill 2006

The main Bill, the Private Health Insurance Bill 2006, is a significant piece of legislation. It sets out a comprehensive regulatory framework for the private health insurance sector. This will replace the current regime, which is mainly set out in the National Health Act 1953, the Health Insurance Act 1973, and the Private Health Insurance Incentives Act 1998.

This bill contains important measures for consumers including Broader Health Cover, standard product information, a comparative website for consumers, and changes to Lifetime Health Cover for those with ten years continuous cover.

By far the most significant new measure is the introduction of Broader Health Cover. Hospital cover will expand to cover out of hospital services that substitute for or prevent hospital care. This is a groundbreaking change. Health insurers will now have the choice to offer it to the almost nine million Australians with hospital cover.

We are removing the legislative barrier to health insurers paying benefits for out of hospital medical services. Broader Health Cover will apply to services that can safely be delivered outside a hospital and which substitute for or prevent hospital care. This will potentially include a wide range of services, such as dialysis and chemotherapy, allied health services and domestic nursing assistance.

It also will allow health insurers to work with a wide range of service providers to develop more flexible and innovative products that reflect modern clinical practice and consumer expectations. Health insurers will be able to better assist consumers to manage and prevent acute and chronic conditions. Many people can benefit from tailor programmes that support and sustain healthy lifestyles, and might include services such as personalised health checks, dietary guidance, exercise supervision, and support to quit smoking. Ancillary cover will continue to provide access to the same range of services as at present, when these are not provided as part of such a programme.

Some things will not be covered under Broader Health Cover, including:
• general practice services;
• specialist and physician consultations that attract a Medicare rebate; and
• the costs of normal residential accommodation in aged care facilities.

Consumers can expect products that offer greater convenience and choice, and relevance to their needs all of the time, not just when they need to go to hospital. Broader Health Cover policies will be fully covered by the Government’s private health insurance rebates.

The bill also ensures that the contracts that doctors have with insurers may not limit the clinical freedom of doctors to choose the most appropriate treatment for their patients. This new cover is not a vehicle for American-style managed care.

Effective choice depends on information. Consumers will benefit from new requirements on insurers to produce standard information statements for their products. These information requirements will help consumers to compare health insurance policies and to understand their entitlements under them. This will assist consumers when they are shopping around for cover and, importantly, when they need to use their cover. Combined with the Government’s efforts to ensure informed financial consent so there are no hidden cost surprises when people use their insurance, this is an important step.

With funding announced in this year’s Budget, the Private Health Insurance Ombudsman is developing a website to present this information to further assist consumers with their private health choices.

As the Government announced earlier this year, the ministerial role in reviewing private health insurers’ premium applications is being retained. This is an important consumer protection, as well as safeguarding the Australian people’s investment in the private health insurance rebate. As part of the annual premium application process the Government will give informal advice to the industry on the factors the Minister will take into account in considering proposed premium increases.

The Government previously announced that it would legislate to provide annualised health insurance contracts, so that a member would not face more than one rate adjustment in any one premium year. However, after extensive consultation with industry and employers handling salary deductions for private health insurance, the Government has decided not to proceed with this measure on the grounds of expense and efficiency.

Indeed, the Government is very pleased that the industry has been behaving responsibly and maturely in regards to helping its members through rate changes. We are particularly happy that funds have honoured prepaid contributions applying after a rate change, and in lieu of legislation we expect this responsible self-regulation to continue.

This bill also includes a major change to Lifetime Health Cover. People who have retained their private hospital insurance continuously for more than ten years will no longer be subject to Lifetime Health Cover penalties. This recognises and rewards people who have made the effort to maintain their cover over time, having first joined after the age of 30. They have made the effort and they deserve credit for their commitment and loyalty.

Efficiently-run health funds mean lower overheads and lower pressure on premiums. This bill thus includes significant regulatory reforms. The aim of these changes is to make private health regulation clearer and simpler, to help health insurers to run their businesses more smoothly and to work with service providers to devise new products that better meet consumer needs.

The first such measure changes the focus of regulation from insurers to products. Under the existing arrangements, product regulation is achieved through an arcane set of conditions of registration imposed on insurers. Currently insurers are subject under the National Health Act to no fewer than 48 conditions of registration, and could be deregistered for breaching any of them. This is as clumsy as it is onerous.

This system will be replaced by a transparent set of product standards. At the heart of these standards will be the notion of complying health insurance products. Insurers will have clear obligations relating to community rating, premiums, benefits, waiting periods and portability, and the provision of standard information.
By regulating products not providers we are opening the door more widely to potential new entrants into the private health insurance industry, and for the possibility of existing health insurers to adapt their businesses to current market conditions and consumer demands.

The bill also includes offence provisions for breaching the new product standards, including penalties for insurers that fail to comply with essential information requirements under the Act. The penalties in the bill are the maximum penalties allowable, and it will be open to a court to impose a lesser penalty depending on the magnitude of the offence.

Chief executive officers and directors can be held personally liable only if they do not exercise due diligence in putting in place systems to make sure that insurers comply with the product standards. In addition, however, the normal Corporations Act governance and conduct requirements for directors will continue to apply, as they do to any other company subject to that Act.

The Government’s intent is to align health insurer director and chief executive obligations with general practice. Therefore, the directors of insurers other than just mentioned will not be liable personally for any breach of the new Act by insurers that constitutes an offence. The corporation, not the individual board members and chief executives, will be held accountable instead. Poor governance and decision-making is more properly a matter for members where the fund is a mutual corporation and, in the case of any future for-profit insurers, shareholders.

It should also be noted that the majority of the offence provisions in the bill currently exist in health insurance legislation. The few new offence provisions, while industry-specific, have been framed to maximise consistency with existing Commonwealth law.

The second significant regulatory measure is the clarification of the operating rules relating to health benefits funds. While insurers are required to have health benefits funds under the existing arrangements, there are no clear requirements on the conduct of such funds.

The bill sets out a framework for the establishment, operation, merger and termination of these funds. This will require that the assets of the health benefits fund only be used to meet the liabilities arising from the health insurance business, or any health related business, as well as any management costs. Insurers registered to operate on a for-profit basis may withdraw money for other purposes if the capital adequacy and solvency standards are not breached.

The new health benefits funds provisions will improve prudential oversight and protection of the public interest. They will also make it easier to restructure or amalgamate insurance businesses. And by drawing a clear line between the wider business of the insurer and the business of the fund, the bill will also make it easier for new entrants to access the market.

The bill also clarifies aspects of the role of the Private Health Insurance Administration Council (PHIAC) in supervising insurers and their health benefits funds. The current ability for PHIAC to set capital adequacy and solvency standards will be maintained, together with the ability to direct insurers to take action to meet the standards. The bill will also allow PHIAC to set prudential standards for insurers.

The bill allows for subordinate legislation known as the Private Health Insurance Rules to be made by legislative instruments. The Rules will:

- continue current default benefit arrangements;
- maintain front end deductible limits for hospital products; and
- restrict eligibility for the private health insurance Rebates to people who are eligible for Medicare.

The bill also includes a number of smaller but significant measures that simplify and reduce regulation, including the simplification of the Lifetime Health Cover rules and the rewriting of the rules around waiting periods and portability requirements.

The Government has also made an undertaking to the industry to review the operation of the legislation as industry develops to meet its requirements over the next few years.

The Government is committed to ensuring that consumers can make a genuine choice between
the private and the public sector when it comes to health services.

It is time for the legislation underpinning the private health sector to reflect the current objectives of the Government’s private health policies and allow the private health sector to evolve into the future.

This legislation not only protects consumers’ interests but ensures through clarity of expression and simplification of regulation that private health insurers are free to focus on their core business.

The Government has worked co-operatively and constructively with the private health sector in developing this legislation. I have also given an undertaking that I will consider further comments over the summer recess and that I am prepared to introduce Government amendments to give effect to refinements and suggestions that are consistent with the Government’s policy objectives.

Our aim is to make private health insurance more attractive, affordable and flexible than it has ever been before. If it is to maintain and increase its role complementing the public sector, the whole private health industry – not just health funds, but doctors, hospitals and other providers – must be prepared to adapt and to work together to achieve lasting changes that benefit all Australians.

This bill also provides for outreach services declared under the National Health Act 1953 to be treated as hospital treatment under the proposed new Act until 1 July 2008.

The bill provides a transitional registration regime for organisations registered as insurers under the National Health Act 1953 to be taken as private health insurers under the proposed new Act until 1 July 2008. To ensure consistent standards of good governance the bill will also require all existing health insurance providers to be corporations registered by Australian Securities Investment Commission by 1 April 2008.

The bill also clarifies that a health benefits fund conducted by an insurer registered under the National Health Act 1953 that existed before the commencement of the proposed new Act, including all of its assets and liabilities, is taken to be a health benefits fund under the proposed new Act.
PRIVATE HEALTH INSURANCE (COUNCIL ADMINISTRATION LEVY) AMENDMENT BILL 2006
This bill amends the Private Health Insurance (Council Administration Levy) Act 2003 to update definitions resulting from the replacement of the National Health Act 1953 by the proposed Private Health Insurance Act.

PRIVATE HEALTH INSURANCE (REINSURANCE TRUST FUND LEVY) AMENDMENT BILL 2006
This bill amends the Private Health Insurance (Reinsurance Trust Fund Levy) Act 2003 to update definitions resulting from the replacement of the National Health Act 1953 by the proposed Private Health Insurance Act.

TAX LAWS AMENDMENT (SIMPLIFIED SUPERANNUATION) BILL 2006
When the Treasurer handed down the 2006-07 Budget on 9 May this year, he announced the most significant reforms to the taxation of superannuation in Australia’s history.

The reforms were received positively throughout the community, including by some who are not usually complimentary to the government. Former Labor minister Susan Ryan wrote on 12 May 2006 that:

Costello’s uncharacteristically bold and effective plan to simplify super and reduce its taxes should be commended.

She went on to say:

Maybe faced with the Treasurer’s bold gazumping of Labor’s cherished but slightly shabby super property, the opposition will find the resolve to get another big picture worked out and the wherewithal to let voters know about it.

Garry Weaven, industry fund advocate and former ACTU office-bearer, wrote in June that:

The Government’s recent budget initiatives have proved that the Liberal Party is now the official party for superannuation.

The Institute of Actuaries stated in May that it:

… strongly applauds the Government’s ‘big bang’ approach to the Budget reforms. This approach instantly reduces the complexity caused by ‘grandfathering’ of the previous tax changes … the tax reductions and simplification measures announced in the Budget present a huge step forward in the evolution of Australia’s retirement income regime.

The amendments in this bill implement the government’s superannuation plan. The reforms will sweep away the current raft of complex tax arrangements that apply to superannuation, improve incentives to save, increase retirement incomes, and strengthen incentives for older Australians to stay in the workforce.

Australia’s superannuation system has become increasingly complicated as a result of changes that have occurred over the last two decades. The complexities in the current tax arrangements for superannuation benefits discourage people from saving for retirement. If people cannot easily understand what they will receive from their superannuation, they will have less confidence in the system. This confuses retirement decisions and clouds the incentive to invest in superannuation.

The simplified superannuation reforms will encourage people to take a greater interest in their superannuation and give people greater confidence to make additional savings. The earlier people contribute, the greater the benefits they will be able to reap from the low-tax and long-term investment environment which is available in the superannuation system.

The amendments in this bill are also an important part of the government’s commitment to reduce the complexity of the tax law, regulatory burdens and compliance costs faced by taxpayers. The reforms will cut the number of pages of superannuation law in the income tax assessment acts by over a third.

Under the new rules, in the vast majority of cases, for the 90 per cent of Australians in taxed schemes the tax treatment of their superannuation benefit will be covered in one paragraph of law if they access their superannuation after age 60. That paragraph will be, ‘No tax on lump sums and no tax on pensions.’

The centrepiece of this bill is that Australians aged 60 or over will be able to access their superannuation benefits tax free if they are paid from a
taxed superannuation fund. Retirees will pay no
tax on lump sums and no tax on superannuation
pensions. Reasonable benefit limits will be abol-
ished. Cutting taxes will encourage saving and
improve retirement incomes. A lower rate of tax
and simplified arrangements will also apply to
superannuation benefits paid from an untaxed
fund to people aged 60 and over.

Retirees will pay lower taxes on their work in-
ome income once they start drawing on their superannu-
ation, thereby removing the current disincentive
for older Australians to remain in the workforce.
Improving productivity and sustaining workforce
participation are integral to reducing the fiscal
pressure of Australia’s ageing population.

Further improvements in incentives to save will be
achieved by the halving of the pension assets
test taper rate from $3 to $1.50 per fortnight for
every $1,000 of assets above the relevant thresh-
old. Pensioners currently have to achieve an after-
tax return of 7.8 per cent on their additional sav-
ings; otherwise they lose more age pension than
they generate in income on their savings. The
halving of the taper rate will reduce the break-
even rate of return to 3.9 per cent. Those who will
benefit from the halving of the pension assets test
taper rate include not only recipients of the age
pension, but also disability pensioners, people
receiving the carer payment, Department of Vet-
erans’ Affairs service pensioners and recipients of
the wife pension, widow B pension and bereave-
ment allowance.

The bill introduces simple and streamlined con-
tribution limits to replace age based limits. Con-
cessional contributions made from pre-tax mon-
ey will be limited to $50,000 per person per year.
A transitional limit of $100,000 per person per
year will apply for anyone aged 50 or over up to
the 2011-12 financial year. Employers will be
able to claim a full tax deduction for contributions
to superannuation on behalf of employees under
age 75.

To ensure superannuation tax concessions are
targeted appropriately, a limit of $150,000 per
person per year or $450,000 over a three-year
period will also apply to contributions from post-
tax income. A transitional cap of $1 million on
post-tax contributions will apply between 10 May
2006 and 30 June 2007. These arrangements will
allow people who were planning larger contribu-
tions under the existing rules to continue with
their plans. Contributions will still be subject to
any applicable work test. Proceeds from the set-
tlement of an injury resulting in permanent dis-
ablement will be exempt from the cap on post-tax
contributions.

The bill also strengthens contribution incentives
for the self-employed by bringing them into line
with those for employees. The self-employed will
be allowed to claim a 100 per cent deduction for
all contributions to superannuation, compared to
the 75 per cent deduction they currently receive
for contributions above $5,000, with a maximum
deduction equal to their age based limit. Individu-
als will be able to contribute up to $1 million over
their lifetime from the sale of eligible small busi-
ness assets, over and above the cap on post-tax
contributions. In addition, the government’s
highly successful co-contribution scheme will be
extended to low- and middle-income self-
employed people.

Under the reforms concessions on large employ-
ment termination payments will be limited. Cur-
rently, both superannuation and employment ter-
mination payments are counted together in assess-
ing whether a person exceeds their reasonable
benefit limits. As the reasonable benefit limits are
being removed for superannuation benefits, it is
necessary to apply an upper limit on the amount
of employment termination payments that receive
concessional tax treatment.

In order to ensure the integrity of the generous
taxation concessions given to superannuation, it is
necessary to ensure that tax file numbers are
quoted for as many superannuation accounts as
possible. Increased TFN quotation will also, over
time, lead to better matching of people with their
lost superannuation benefits. Where a tax file
number is not quoted, a higher rate of tax will be
imposed on concessional contributions, in a simi-
lar way to the higher rate of tax imposed on bank
account interest, wages and dividend income
where a tax file number is not quoted. People will
generally have until 30 June 2008 to quote their
tax file number if they have not already done so,
before the higher rate need apply. The additional
tax will be refunded where people subsequently
quote their TFN within four years.
When an individual reaches age 65 and cannot be contacted by their fund, their superannuation benefits become unclaimed money and are paid to the government of the state or territory in which the superannuation fund is based. These moneys are held in trust by the relevant government until claimed by the rightful owner or their estate. This results in a fragmented system for individuals searching for unclaimed superannuation, particularly if they have worked in numerous states or their fund was based in a different state to that in which they were employed. These arrangements are not optimal for older Australians trying to find their superannuation.

The Australian government is significantly enhancing the policy and administrative framework to ensure that individuals receive the full benefit from their superannuation savings. The government has provided a significant increase in resources for the ATO to reduce the amount of money held in lost accounts. This includes rationalising existing processes to identify actual lost members; more comprehensive reporting from funds; an extensive letter campaign to lost members in 2007-08 and 2008-09; establishing a web based tool for locating lost accounts; and, by 2009-10, enabling members to electronically request consolidation of their accounts through the ATO website.

The Australian government will now take full responsibility for the management of unclaimed superannuation, which means that, in future, unclaimed superannuation money will not be paid to the states or territories. This is consistent with the arrangements for lost superannuation and provides a single access point for individuals searching for lost or unclaimed superannuation and a simpler nationalised claims process going forward. As a result, individuals will be able to seek advice directly from the ATO on any superannuation related issue, without having to contact numerous government agencies.

These changes will not affect state and territory government superannuation schemes. The Australian government is investing significant resources in these changes to assist more individuals to access all of their superannuation at retirement.

In addition to implementing the government's reforms, the bill also rewrites the superannuation tax law into the Income Tax Assessment Act 1997 to present a clearer picture of the taxation of superannuation savings across the life of the superannuation investment. Currently, provisions are located in different parts of the old legislation and not in a logical sequence.

Significant improvements have been made to the law which will make it easier to use by taxpayers and practitioners. These include the use of plain English contemporary drafting, guides to sets of rules and the grouping of rules on a case-by-case basis. These improvements will aid in reducing compliance costs and the regulatory burden faced by business and other taxpayers. They also demonstrate the government’s commitment to responding to the report of the Taskforce on Reducing Regulatory Burdens on Business, Rethinking regulation, which recommended that high priority be given to comprehensive simplification of the tax rules for superannuation.

Over 10 million individuals, 1.3 million employers and more than 310,000 superannuation funds are potentially affected by these extensive reforms. This bill represents a substantial investment by the government in the standard of living of Australians in retirement and demonstrates its commitment to addressing the challenges of Australia’s ageing population. The streamlined superannuation system established by this bill is another major step along the path of ensuring Australia maintains a prosperous and stable economy for future generations.

Full details of the measures in this bill are contained in the explanatory memorandum.

SUPERANNUATION (EXCESS CONCESSIONAL CONTRIBUTIONS TAX) BILL 2006

This bill is a companion bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006. The purpose of the bill is to impose excess concessional contributions tax to give effect to the limit on non-concessional contributions to superannuation.
Full details of this bill are contained in the explanatory memorandum already presented.

SUPERANNUATION (EXCESS NON-CONCESSIONAL CONTRIBUTIONS TAX) BILL 2006

This bill is a companion bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the bill is to impose excess non-concessional contributions tax to give effect to the limit on non-concessional contributions to superannuation.

Full details of this bill are contained in the explanatory memorandum already presented.

SUPERANNUATION (EXCESS UNTAXED ROLL-OVER AMOUNTS TAX) BILL 2006

This bill is a companion Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the bill is to impose the top marginal tax rate, plus Medicare levy, on excess lump sum payments made from untaxed schemes—that is, lump sum payments in excess of $1 million. These arrangements ensure comparable treatment of taxed and untaxed schemes, given annual contribution limits apply to taxed schemes.

Full details of this bill are contained in the explanatory memorandum already presented.

SUPERANNUATION (DEPARTING AUSTRALIA SUPERANNUATION PAYMENTS TAX) BILL 2006

This bill is a companion bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the bill is to replace the Income Tax (Superannuation Payments Withholding Tax) Act 2006 to reflect the new components of superannuation benefits created by the Simplified Superannuation Bill. It realigns the tax treatment of Departing Australia Superannuation payments with the new superannuation taxation regime that applies from 1 July 2007.

Full details of this bill are contained in the explanatory memorandum already presented.

SUPERANNUATION (SELF MANAGED SUPERANNUATION FUNDS) SUPERVISORY LEVY AMENDMENT BILL 2006

This bill is a companion Bill to the Tax Laws Amendment (Simplified Superannuation) Bill 2006.

The purpose of the bill is to facilitate the collection of a self-managed superannuation fund’s supervisory levy with its income tax liability, by removing the current specific penalty for late lodgement of a fund’s regulatory return. This will allow the general interest charge to be applied for late lodgement of the return, consistent with income tax arrangements.

Full details of this bill are contained in the explanatory memorandum already presented.

Debate (on motion by Senator Scullion) adjourned.

Ordered that the bills be listed on the Notice Paper as indicated at item 14(c) of today’s Order of Business.

EXPORT FINANCE AND INSURANCE CORPORATION AMENDMENT BILL 2006

Returned from the House of Representatives

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

COMMITTEES

Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mr Laming to the Joint Standing Committee on Treaties in place of Mrs Mirabella, Mr Hardgrave to the Joint Committee on the Broadcasting of Parliamentary Proceedings in place of Mr Lindsay, and Mr Forrest to the Joint Standing Committee on Electoral Matters in place of Mr Lindsay.
Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the bills.

AUSTRALIAN CITIZENSHIP BILL 2006

AUSTRALIAN CITIZENSHIP (TRANSITIONALS AND CONSEQUENTIALS) BILL 2006

In Committee

Consideration resumed.

Senator BARTLETT (Queensland) (5.18 pm)—I think the next thing on the list is an opposition amendment, but I am happy to wax lyrical rather than have a quorum called.

Senator BARTLETT—I indicated before question time that I would not be proceeding with that amendment.

The TEMPORARY CHAIRMAN—In that case, Senator, you are correct: we are now moving to opposition amendment (3).

Senator BARTLETT—I will not speak on the opposition’s behalf. Rather than call a quorum, I will recap on a couple of matters whilst we are waiting for the opposition shadow minister to come into the chamber. This debate has again come on rather more quickly than people might have anticipated. I will take the opportunity to indicate that the Democrats will support opposition amendment (3) when it is moved.

The important issue with regard to this legislation that is worth re-emphasising is that we are putting in place an entire new piece of law. We are not just amending the existing Citizenship Act; we are putting in place a brand-new one. It is worth reminding senators that until, I think, 1948 there was actually no such thing as a formal Australian citizen in law. In my speech in the second reading debate, I recalled going through some papers of my father’s not too long ago and discovering a resume he had written in the late 1940s detailing some of his experiences and qualifications to date. He was born in Sydney, his parents were both born in Sydney and yet on that resume he had put his nationality as British. It came as a bit of a shock to me to discover that my father was theoretically British.

It shows how much the notion of what Australian citizenship has evolved and continues to evolve. It is worth noting that the very notion of being a British subject and what is and is not an alien under the Constitution is something that is still being resolved at law. We have had two different High Court cases just in the last few years which have come down on different sides of the fence.
They were four-three decisions in both cases but took different positions with respect to the status of people who are not Australian citizens but may have been very long-term residents in this country—whether they are or are not an alien and whether they are a noncitizen non-alien and all sorts of things like that.

That can sound like lots of arcane legal argument—and to some extent it is, except for the people who are directly affected by the case at hand—but it is a reminder of how the notion of citizenship is still evolving. It is also a reminder that there is still no precise head of power under the Constitution regarding citizenship. There is a head of power regarding the treatment of aliens, but that is not necessarily the same thing.

I also wanted to draw attention to the fact—and many of these amendments, including the one that is about to be moved, go to some of these issues—that there are people whose parents may have had citizenship but it lapsed for various reasons, particularly people who had no say in the changing status of their citizenship when they were children. These may be people who, as we know, have lived here for decades and often assumed they were Australian citizens and did not realise until it was drawn to their attention—often in less than pleasant circumstances—that they were not citizens. Many of them had been registered on the electoral roll and all sorts of things because they assumed that that they were Australian citizens. The notion that people who are citizens, who have this bit of paper, are somehow full-blown, 100 per cent Aussies and all the rest are somehow not true Australians is a pretty misleading concept.

I also want to emphasise again the expansion of the ability of people to be Australian citizens whilst also being citizens of another country, that is, being a dual citizen. I had this in a second reading amendment and was disappointed that it was not supported by the government. This is what we have seen both in many of the changes that are contained in this legislation and the whole new act that is about to be adopted and indeed in major amendments that were made a few years ago. Indeed, in some cases, we have people who are citizens of more than two countries—of three countries. Some years back it was actually not legal: if you became an Australian citizen, you automatically forfeited your citizenship of another country. That approach has changed and I think it is a very significant approach. It is an important part of expanding the strength of multiculturalism and expanding the benefits that we as Australians can get from the diverse range of backgrounds we have of people who are part of our community and our country.

It is worth remembering that Australia has one of the highest proportions of overseas born people. I think it is almost one-quarter of all Australians are overseas born. When you add on top of that people who have at least one parent who is overseas born, you are getting an extremely significant proportion of the Australian community. Very large numbers of those people will be dual citizens. Previous attempts I have made to ascertain exactly how many Australians are also citizens of another country have come up against a bit of a blank. Nobody actually knows. But, if we have nearly one-quarter of our community overseas born and a significant number on top of that whose parents are overseas born, there is a fair chance that the number of dual citizens we have is actually greater than the 20 per cent that is often used as an estimate. The more we go down this path—and it is a path that I support us going down—the more we are coming up against a major impediment in our Constitution, which is that anybody who is a dual citizen is precluded from running for the federal parlia-
ment. That is something that all parties have said they would support amending. Unfortunately we have not seen it progressed to the stage where they would take action to make it happen.

Senator Bob Brown interjecting—

Senator BARTLETT—I thank you for the reminder, Senator Brown. Senator Brown put forward a private senator’s bill that came to a vote in this chamber. The Democrats have had legislation in the past as well—we may well even have some before the chamber at the moment as part of an omnibus bill—which sought to generate a referendum to make that change. Even though it has been official party policy of the coalition parties to support that change, when that came to a vote in this chamber they did not support it. They voted against it and therefore the bill did not progress. It was actually passed by a majority of the Senate at the time but, because such bills need to have an absolute majority—it does not take into account people who are absent for pairs or other reasons on the day—it did not get past the hurdle.

This bill is an opportunity to strongly emphasise once again that we are going further and further down this path of disqualifying a growing number of Australians from being able to run for parliament because of that barrier in the Constitution. If all of us recognise and support dual citizenship, as we all do under our parties’ policies, and we are all passing more and more laws expanding the number of people who are dual citizens, then it is about time that we initiated a referendum to amend the Constitution. If all parties support that policy, as I think we all do, then it is all the more reason to initiate a referendum to be conducted at the same time as a federal election so we can make that change. It is not only a matter of equality; it is a matter of Australia missing out on the skills that many of those people would bring to our political system. It is not just missing out on the skills they would bring to parliament; they are not even able to be candidates. They are precluded from even contributing as candidates and being part of the debates and engagement with the populace that happens throughout the electoral and democratic process.

There is one point I would like to make before I allow Senator Ludwig to get on with his amendment. It is of a reverse nature. We are emphasising the importance of citizenship, the rights of citizens and the obligations of citizens. One of the key rights you have when you become a citizen is the right to vote. It is probably one of the key incentives that people would think of when they decide to become an Australian citizen. Yet significant inconsistencies in that area are sticking out more and more. The more than we want to emphasise and promote the importance of our obligations and responsibilities as citizens—and that is meant to be a key reason behind the government’s arguments with the citizenship test they are proposing—the more we need to get consistency in how those rights and obligations are implemented. The simple fact is that there is a group of Australians now who have been quite consciously and deliberately disenfranchised, even though they are Australian citizens—that is, prisoners. All prisoners have now been disenfranchised under the Electoral Act.

Another inconsistency that sticks out, and is looking more and more outdated, is the fact there is a significant group within the community who are not Australian citizens but who can still vote, and that is all people who are British subjects who were eligible to be on the roll prior to 1984. I think that is when the Australia Act was implemented—on Australia Day 1984. There was a savings clause, what is often known as a grandfathering provision, which meant that all British subjects—not just British citizens but British
subjects—eligible at that stage to be on the roll. All of those people, if they were eligible at that time, remain eligible now, 23 years later.

There are many thousands of people in that circumstance. I am not seeking to pick on them, to somehow target them or to cast aspersions on them, but the simple fact is there are many thousands of people who are not Australian citizens who have had the right to vote now for over 20 years. At a time when we are reaffirming the importance of Australian citizenship and encouraging people to take up citizenship, we are keeping in place a measure in the Electoral Act that removes incentive for those people to become citizens. I think it is time to once again draw attention to that. I urge the government to amend the Electoral Act or, at the least, to explain what the rationale is for that savings provision to still be operating 23 years later. It would probably have been quicker to call a quorum, but I have all of those things on the record now. I will allow Senator Ludwig to move his amendment.

Senator LUDWIG (Queensland) (5.31 pm)—Thank you, Senator Bartlett. It certainly did give you an opportunity to put all of those things on the record. I move:

(3) Clause 21, page 28 (line 32), after “17”, insert “or 18”.

I will keep it brief. This was a matter to which I referred extensively in my contribution to the second reading debate, when I foreshadowed I would move this amendment. The government is aware of Labor’s concerns. It is a matter which was raised in the House of Representatives as well. The situation facing the Maltese community regarding children whose parents lost their citizenship automatically under the now repealed section 17 of the previous act, which effectively prohibited dual citizenship. However, those who took out citizenship of countries that also prohibited dual citizenship had to formally renounce their citizenship under section 18 of the Citizenship Act. The discrepancy has to be an oversight by the government. Labor strongly urges the government to make a minor amendment to the bill to fix the situation for a small section of the Maltese community that is currently severely disadvantaged by these laws. It is a matter that has been argued strenuously by the Maltese community for some time. They have been quite vocal in what you might call their perseverance in trying to persuade the government to adopt the position they have argued.

They have persuaded Labor that there is a need to alter the legislation to remedy the circumstances their children face. Labor supports their position and urges the government to alter the legislation, and that is what this amendment will do. The government has argued that these children do not have a sufficient connection to Australia. I think, and Labor thinks, that is absurd. The connection is called a mum and a dad. I said that in my speech in the second reading debate and I reiterate it here. It is a simple amendment and it deserves the support of this house.

Senator SCULLION (Northern Territory—Minister for Community Services) (5.34 pm)—The government will not be supporting this amendment. The children’s parents have made a conscious decision to renounce their Australian citizenship. At the time of doing so, they could have had no expectation of being able to resume it without migrating to Australia and applying for citizenship in the same way as any other migrant would. As the senator would well know, the Senate report stated:
... 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.

Significantly, the bill also removes the 25-year age limit for the resumption of citizenship for people who have renounced their Australian citizenship. Former citizens who resume their Australian citizenship can also sponsor non-citizen family members, including their children, for migration to Australia.

We will not be supporting the amendment

Question negatived.

Senator LUDWIG (Queensland) (5.35 pm)—by leave—I move together:

(4) Clause 22, page 30 (line 4), omit “4”, substitute “3”.

(5) Clause 22, page 30 (line 8), omit “4”, substitute “3”.

(6) Clause 22, page 30 (line 15), omit “4”, substitute “3”.

(7) Clause 22, page 31 (line 3), omit “4”, substitute “3”.

I note that there are what seem to be equivalent Australian Greens amendments, but I will leave that for the Australian Greens. Alternatively they may choose not to move them. I have spoken at some length in this chamber in my speech to the second reading debate about how this government has seemingly—you could only say to score cheap political points—flouted the advice of ASIO in departing from the residency requirements of three years that Labor had agreed to. This bill seeks to change the period to four years of residency and the government still have not answered the primary question: where is the advice that four years is the required number? Where is the ASIO advice? Does it in fact exist in the first instance? And is it the best balance between the importance of needing to integrate migrants into our community and needing to ensure that citizenship is not something that is easily achieved or taken up lightly? Why does the government say that four years strikes that balance? Labor urges the government to heed the original advice provided by ASIO by making the residence requirement three years. It is a sensible amendment. I think, and Labor thinks, that it went to four years because of what could only be described as opportunistic political point-scoring by this government on a bill that does not need it.

As I think the Senate committee first said in their explanation of the bill itself, it is a bill that intends to replace the Australian Citizenship Act 1948. It has broad support. Its main proposals include the restructure of citizenship law to make it more coherent, accessible and easy to use. It will also increase access to citizenship by simplifying provisions and changing the laws relating to citizenship by descent and resumption of renounced citizenship. It aims to strengthen the protection of national security by extending residence requirements by 12 months, to three years. Amongst the areas I have mentioned, there are two in which the government has it wrong: resumption of renounced citizenship and the extension of residence requirements by 12 months.

On many of the other provisions the government have it right, and Labor agrees with those positions. What the government are now seeking to do is use what would otherwise be a bill that would be broadly supported to find cheap political points of differentiation. This is but one of them. The government should and can—even as late as
today—say: ‘We think we’re wrong. We don’t have advice. We did seek to make cheap political points on it and we were wrong about that. And, for the sake of ensuring that this bill does get through the Senate with bipartisan support, on this issue we agree with Labor’s amendment.’ That would be the sensible path to take. I am not under any illusion. I do not think the government will do that. They should do it, and perhaps deep in their hearts they too know they should do it. I am a realist: they will not do that. But I have moved the amendment. Having said all of that, it is disappointing to see that the government have used these provisions to again try to score cheap political points.

Senator BARTLETT (Queensland) (5.40 pm)—The Democrats support Labor’s amendment, the effect of which would bring the residence requirement back to three years instead of four years. I place on the record—and this is also for the benefit of you, Temporary Chairman Marshall—that there was a proposed Democrat amendment to oppose clause 22. I now signal that we will not proceed with that. The preferred Democrat view was placed on the record when the government first announced that they were looking to extend the residence requirement from two years to three years. We stated that we were prepared to support that. That is not something completely out of proportion to what has been done in the past or by comparable countries. At that time, I think I said that the rationale given for extending it from two years to three years—that it might somehow assist with security concerns; and there was some debate after the London bombings—was simply ludicrous. Any suggestion that making people reside in Australia for three years instead of two, or four years instead of two, would somehow assist in any security issues regarding terrorism is farcical. Indeed, I would suggest that to some extent it is a bit offensive.

We need to work hard enough as it is to try and ensure that unreasonable prejudices towards migrants are not developed or validated in the community. Any suggestion that somehow there are security concerns with regard to whether or not migrants decide to become citizens just totally distorts where the debate needs to be when we are looking at how we deal with security and terrorism issues. It is a difficult and important debate. I certainly do not suggest that I have all the answers, but I do know that one of the answers is not going down a completely ridiculous and irrelevant dead-end side alley about how long people have to live in a country before they become citizens.

There are some valid debates with regard to integration and those sorts of things. It is useful to have those debates. The more we can have those sorts of debates without having some sort of undercurrent of attempts to look for dog-whistling opportunities and to play on some of the prejudices that exist in the Australian community, as they do in any community around the world, the more constructive the debate would be. Whilst I was prepared to accept that extending the period of residency for citizenship from two years to three years was reasonable enough and acceptable enough, I do not think that extending it for a further year, to four years, is justified. I certainly do not think the case has been made.

As always, the Democrats are prepared to consider the arguments. We are willing to look at the issues, hear people’s views and change our views if the case has been made. No case has been made. It was just straight off the top of the head of the government: ‘Let’s just push this out another year and make it look like we somehow need to make things a bit harder for migrants because they
somehow need to be tested a bit further because there’s some problem.’ I do not think any case was made that there was any problem to start with. Frankly, I do not think there was any case made that there was a problem with two years. Having it bounced from not two to three years but two to four years—without any sort of consultation, any sort of flagging or any sort of case being made about what the problem was—was pathetic, frankly.

It actually offends me to some extent because I do believe citizenship is an important issue and something that does not get the attention it deserves in policy debate and public debate. That off-the-cuff, politically motivated shift in a pretty fundamental area regarding citizenship is too dismissive of an important issue. I agree that we need to more strongly promote the importance and value of Australian citizenship. I believe we need to much more strongly affirm not just the responsibilities but the rights attached to Australian citizenship. In that area, I think we are letting down some of our citizens. If you want to encourage people to become citizens, which I think is the public position of all parties in this chamber, why would you double the length of time people have to live here before they can become citizens if you cannot demonstrate that that is necessary to their effective integration? That has not been demonstrated at all.

My preferred position is that the residency requirement be three years; if that is not adopted, my second preferred position would be for it to stay at two years, which was what my foreshadowed amendment was meant to achieve, although I think it probably went a little wider than that—I think we can cover it with the vote on the amendment that provides for three years. If that is not successful we are stuck with the four years.

I want to point to one another issue I have with this extension to four years and ask a question of Minister Scullion regarding this. It is the first time I have asked him a question, I think, in his new ministerial role. If this bill is passed, section 21 of the new act will say that a person is eligible to become a citizen if the minister is satisfied the person fits a whole range of criteria. The bill provides that the person must either satisfy the residence requirement—which is what we are talking about at the moment, be it four years or three—or, as an alternative, has completed relevant defence service, which is under section 23. I can accept the different qualifications there for either a residence requirement or relevant defence service, but the longer the residence requirement—and now we are stretching it to four years; quite a big disparity—the greater the disparity with the required length of defence service.

As I read it, and the minister can correct me if I am wrong, new section 21 provides that the person can either satisfy the residence requirement, which is to be present in Australia for at least four years including at least one year of permanent residence immediately preceding their application, or complete relevant defence service of at least three months in the permanent forces of the Commonwealth or six months service in the Australian Naval Reserve, Army Reserve or Air Force Reserve.

Frankly, I think it would surprise a lot of Australians that we are advertising to get non-Australians to enlist in our defence forces. That is okay—I presume they get screened and go through all the appropriate criteria. It is a bit anomalous that we are saying, on the one hand, that people have to live here for four years before we can be sure they are real Aussies and not terrorists and that we have to be sure they know everything about Australia but, on the other hand, we will have them straightaway in our perma-
nent defence forces of the Commonwealth. And if they serve just three months they are immediately eligible for citizenship. It seems a bit anomalous to me. I am not saying that people should not be able to do that, but it seems like rather a mixed message.

My question to the minister is: firstly, is it currently the case that we accept people who are not Australian citizens and, indeed, not Australian residents to serve in our Defence Force; secondly, is my reading accurate that, if those people who are not Australian residents serve just three months in the permanent forces of the Commonwealth, it in effect can be a fast track to citizenship? I ask the question because the more we lengthen the residency requirement, in this case to four years, the bigger the anomaly. If it was two years residence or a certain period in the Defence Force, it might not stick out so much. But when you push the residency requirement out to four years, this does appear to be quite an anomaly. I would appreciate an indication of whether, currently, people who are not residents are able to immediately enter the permanent forces of the ADF. If that reading is correct, is three months service in those permanent forces sufficient for them to meet the eligibility test for citizenship?

Senator SCULLION (Northern Territory—Minister for Community Services) (5.50 pm)—I thank the senator for the question. I am informed there is no intention at all to change the provisions with regard to serving time in the Defence Force being sufficient to gain citizenship. I am also informed that, regarding the issue of serving in the Defence Force, whether for three months or any other period, substantially the reason that the Australian government puts so much weight on the eligibility test for serving in the Defence Force is that there are a whole range of criteria that must be met to gain entry to the Australian Defence Force. I do not think it is proper in this place or in these particular circumstances to discuss the criteria necessary to enter the Defence Force, but in effect the answer to your question is that the provisions regarding enlistment in the Defence Force leading to the capacity to apply for citizenship still apply and are unchanged by this bill. However, I should make something clear. I used the term ‘enlistment’. I do not want to mislead the Senate. The provision involves having ‘completed’ a period of time in the Defence Force.

I would like to thank the contribution from the Senate, particularly that from Senator Ludwig. I recognise his acceptance that the bill is substantially a good one. I am disappointed that he cannot agree with the bill completely, and the amendments that are put forward reflect that.

The bill as drafted changes the residence requirements from two years of permanent residence to four years of lawful residence, including at least 12 months as a permanent resident. Absences from Australia of up to 12 months during the four-year period are allowed, for no more than three months in the year before making the application. Up to three years of temporary residence could be counted towards the four years that are required. In addition, the requirements would ensure that the applicants will have spent sufficient time in Australia to develop a sense of what it is to be an Australian and to fully understand the commitment they need to make to become an Australian citizen. The requirements also recognise the changes in the migration program over the years which have resulted in an increasing number of people spending significant periods of time in Australia as temporary residents prior to becoming permanent residents.

Senator BARTLETT (Queensland) (5.53 pm)—I will respond briefly to that and save a bit of time by foreshadowing an amendment that I will move. The argument Senator
Scullion put—and I appreciate he is representing the minister and is not the minister directly responsible—about needing to allow sufficient time for people to get an understanding of what it is to be an Australian and those sorts of things are nice-sounding words and a nice-sounding concept, but what does it mean in practice? We are making laws that people are required to meet.

The issue goes back in part to the point I was making before which, if I understand the minister’s answer to my previous point, he actually confirmed. People will not need to reside here for four years if they have completed just three months service in the permanent forces of the Commonwealth. Spending three months in the permanent forces of the Commonwealth is a fairly intensive activity. It may be that you are not getting a full understanding of all of those other things, whatever they might be—and they are always things we cannot quite nail down—about what it is to be an Australian. Three months is not necessarily a lot of time to do that, particularly if those three months are spent as a permanent member of the ADF. It is a nice rhetorical flourish, but it does not actually make the case for what is wrong with the current period of two years. Why does it need to be doubled to four years?

I emphasise that the change that is made of enabling part of that to be residency on a temporary visa is a welcome change and reflects the significant shift in the nature of our migration program. I wish there were a much greater acceptance and acknowledgement of that shift in public debate around migration issues. The number of people who came here on permanent residency visas in the last year, for example—that is what people normally think of when thinking of migrants and potential future citizens—is far smaller. I think it is about a third or even a quarter of the number of people who come here on temporary residency but residency nonetheless and long-term residency in many cases. Many of those then transition to permanent visas. The bulk of our annual migration program—of residency visas, anyway—issued each year is people on temporary visas. They have long-term temporary residency and residency rights, usually with work rights, Medicare entitlements and the like, although not always.

It is very different from the way the Prime Minister announced the change of the name of the department to the Department of Immigration and Citizenship—the idea of a progression, with people migrating and then becoming citizens. The world does not work in that nice straight-line way anymore. The fact that we have such a large proportion of people on temporary residency visas demonstrates that. The fact that we now have so many people who are dual citizens demonstrates that. The fact that we have hundreds of thousands of Australians living overseas—I think the diaspora is estimated at around a million—also demonstrates that. It is much more dynamic than the linear approach we used to have. That is another reason why a much more substantial case needs to be made.

This also provides me with the opportunity to raise a core problem with the government’s approach, which is reflected in the amendment I will move shortly, of providing certain refugees with only temporary visas. Some people who have been accepted as refugees and given refugee visas in Australia have been given five-year or three-year temporary visas. When that visa has expired they have been entitled only to another temporary visa. We have people who are recognised as refugees and are living in the community but are not entitled to permanent residency. I believe that the time in Australia of all of those people should be counted as if they were permanent residents, as it is only because of the politics surrounding asylum
That also cuts across the argument the government are putting forward. I will touch on that again in slightly more detail when I speak later, but this is a core part of the legislation and it is worth trying to get on the record—at least trying to draw out of the government on the record—what possible rationale they have for what they are doing and what the potential consequences are. Whilst the recognition of temporary residents in Australia goes some way to encouraging citizenship, for all the talk about encouraging citizenship stretching out the time period to four years works against that. Without a case being put, it is hard to see how we could do anything other than support the ALP amendment.

The TEMPORARY CHAIRMAN (Senator Marshall)—The question is that opposition amendments (4) to (7) be agreed to.

Question put.

The committee divided. [6.03 pm]
(The Chairman—Senator JJ Hogg)

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

AYES

Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Campbell, G. *
Crossin, P.M.  Faulkner, J.P.
Fielding, S.  Forshaw, M.G.
Hogg, J.J.  Hurley, A.
Hutchins, S.P.  Kirk, L.
Ludwig, J.W.  Marshall, G.
McEwen, A.  McLucas, J.E.
Milne, C.  Moore, C.
Murray, A.J.M.  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.
Eggleston, A.  Ferguson, A.B.
Ferris, J.M.  Fierravanti-Wells, C.
Fifield, M.P.  Humphries, G.
Johnston, D.  Joyce, B. *
Kemp, C.R.  Lightfoot, P.R.
Macdonald, I.  Macdonald, J.A.L.
Mason, B.J.  McGauran, J.J.J.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Ronaldson, M.  Scullion, N.G.
Troeth, J.M.  Trood, R.B.
Watson, J.O.W.

PAIRS

Carr, K.J.  Heffernan, W.
Lundy, K.A.  Coonan, H.L.
Evans, C.V.  Vanstone, A.E.
Nettle, K.  Santoro, S.
Conroy, S.M.  Minchin, N.H.

* denotes teller

Question negatived.

Senator SIEWERT (Western Australia) (6.08 pm)—by leave—I move Greens amendments (2) to (5) on sheet 5173 together:

(2) Clause 22, page 30 (line 4), omit “4 years”, substitute “2 years”.

(3) Clause 22, page 30 (line 8), omit “4 year”, substitute “2 year”.

(4) Clause 22, page 30 (line 15), omit “4 years”, substitute “2 years”.

(5) Clause 22, page 31 (line 3), omit “4 year”, substitute “2 year”.

This relates to the residence requirement being two years rather than four years. I am not going to bother reiterating the discussion that we just had.

Senator BARTLETT (Queensland) (6.08 pm)—I have already indicated this in my
main comments but, just for the record, the Democrats are supportive of three years but are willing to support these amendments.

Senator LUDWIG (Queensland) (6.09 pm)—It is a relatively short matter in the sense that I will not speak at length. Labor do not support the amendments. We prefer the position that we argued for and divided over.

Question negatived.

Senator BARTLETT (Queensland) (6.09 pm)—I move Democrat amendment (5) on sheet 4868:

(5) Clause 22, page 32 (line 26), at the end of subclause (10), add “and includes a same sex partner”.

This relates to the definition of ‘spouse’. Under the residence requirements of the new act that we have been debating, proposed subsection 22(9) deals with ‘spouse’ and a ministerial discretion. I will read it out for the benefit of the chamber:

Ministerial discretion—spouse, widow or widower of Australian citizen

(9) If the person is the spouse, widow or widower of an Australian citizen at the time the person made the application, the Minister may treat a period as one in which the person was present in Australia as a permanent resident if:

(a) the person was a spouse of that Australian citizen during that period; and
(b) the person was not present in Australia during that period; and
(c) the person was a permanent resident during that period; and
(d) the Minister is satisfied that the person had a close and continuing association with Australia during that period.

For the purposes of that subsection, ‘spouse’ is also defined as ‘de facto spouse’. What that does, as I understand it, is allow the minister to treat the spouse of an Australian citizen who has permanent residency as having been in Australia even though they were not if they are the spouse of an Australian citizen. It is a ministerial discretion that can be applied to spouses, including de facto spouses, of Australian citizens who are permanent residents to enable them to become citizens as well.

We can all detail examples of how that circumstance could happen. I imagine many of us would know examples of that—Australian citizens who are married to people from other countries or who have a de facto partner who is from another country, while the spouse has a permanent residency visa for Australia, quite possibly a spouse visa although not necessarily; it could be any sort of skilled visa, even a refugee protection visa. For various reasons the Australian citizen could be off working somewhere else and their spouse could be with them—quite a common occurrence in the modern world. In those circumstances, if the spouse is interested in becoming an Australian citizen, it is in Australia’s interests for them to be able to do so without waiting out unnecessary extra lengths of time under the residency requirement.

The Democrat amendment is aimed at ensuring that the definition of ‘spouse’ includes not only de facto spouses but also same-sex partners. This is a longstanding campaign of the Democrats to try to reduce discrimination under Australian federal legislation towards people with same-sex partners. For quite some time the Prime Minister and a number of other members of the coalition, both senior and not so senior, have spoken about how they do not support discrimination against people on the basis of the gender of their partner.

A Human Rights and Equal Opportunity Commission inquiry underway at the mo-
ment has been detailing all of the different Commonwealth pieces of law where people are discriminated against on the grounds of their sexuality, one of which is the Migration Act and another of which is the Citizenship Act. The commission has held hearings and taken evidence from people around the country who have given real-life personal examples of how this discrimination impacts upon them.

Let me remind the committee that we are putting in place a whole new citizenship act here. Many times in the past, when the Democrats have moved amendments to ensure people with same-sex partnerships are treated the same way as people with opposite-sex partners, we have had the response, ‘Well, you can’t do it bit by bit; you have to do it as one big piece of legislation and do it all at once otherwise you will just get lots of anomalies.’

Last year, when the Democrats brought on for debate once again our one big bit of legislation that would actually do that, the Sexuality and Gender Identity Discrimination Bill, which has been in this chamber since 1995, we had government senators say, ‘We support this totally.’ I remember a particularly eloquent speech from Senator Brandis. Maybe that is why he ended up being in the ministry, because the Prime Minister was so impressed by his eloquent defence of the need to eliminate discrimination on the grounds of sexuality. He gave an eloquent defence, an eloquent speech—as did a few other Liberal senators—about the importance of this principle. He said that we could not do it all in one big thing like this; what we should do is do it piece by piece.

Now here is the opportunity. And it is not piece by piece; it is not even a tiny little amendment to one little part of the legislation. This is ensuring that we get the Citizenship Act—the brand spanking new, sparkly, squeaky-clean, updated, upmoded, modern Australian Citizenship Act—correct right from the start, right from when it is first in place. We are not just making a small amendment on the side, tacking on a little thing with a bit of sticky tape that will stick out and offend people’s sensibilities because it is not nice and neat enough. This is making sure the new act is spot-on when it comes in.

So I can only assume that the government will not put up the argument that we need to do this all at once, in one big go, and that we cannot possibly do it one act at a time. There is only one way to do it, which is one act at a time. And the human rights commission have been detailing those acts. Whether they have been detailing them or not, it is pretty obvious that that is what we have here: the definition of spouse includes de facto spouse; it does not include same-sex partner.

A particular reason it needs to be done is that we already have anomalies in the immigration act. We have the absurdity of the government themselves making a change to the treatment of spouses under one class of visa. And this was after all those years of saying: ‘No, we couldn’t possibly support an amendment that would generate equality for people with same-sex partners because it would be too messy and you would create anomalies. We need to do it all at once; we need to do it to whole acts, not just in one bit.’ It is after all those years of citing that as a reason to vote against Democrat amendments in this area—even though they supported the principle, totally supported the principle, were proud of the principle! ‘Great principle! Just can’t do it here.’

Yet what we saw from the former minister, Minister Vanstone, was a change to the criteria just for skilled visas. Under skilled migration visas, spouses include same-sex spouses. If you are applying for a skilled visa in Australia and you have got a same-sex
partner, we will recognise that relationship. I supported that because at least it was some recognition of that relationship; it was a move forward. Yet we have an absurdity under our migration law. We are desperate to get people here on skilled visas—and I support our sizeable migration program; I support bringing in people on skilled programs; I support the 457 visa program; I am not criticising all that. But we have this bizarre situation where we are so desperate to get people here on skilled visas that the government have reversed their own longstanding, obstinate refusal to support these sorts of changes and made an administrative decision that same-sex partners count as spouses for skilled visas.

It was very important. We had clear evidence—and I recall former senator Brian Greig from the Democrats raising this in question time as an example—of doctors and nurses, people who we were desperately trying to get here, who would not come here because their partner could not come with them on the same visa. Everybody else’s spouse could come with them; same-sex partners could not. That was changed and that was good. It was self-serving, because we needed the skilled people. But then we had the bizarre situation where people could come here and have their partner recognised on a skilled visa, but they could not come here and have their partner recognised on a spouse visa. That anomaly is sitting there today; that continues, in any of those family categories.

People in same-sex relationships normally have to go through the interdependency visa; that is a roundabout way that has been used. That was a Democrat initiative, going back over 10 years now, to at least provide some mechanism, some way, for the government to allow in same-sex partners without admitting to the reactionary part of their constituency that that was what they were doing.

We already have all these anomalies in the Migration Act, so any argument that this cannot be agreed to because it would create an anomaly is just absurd. But we also have that anomaly where people can come here on a visa—not just on an interdependency visa now but also on a skilled visa—and have their same-sex partner recognised as a spouse. Yet, when people have a same-sex partner who is an Australian citizen, we do not recognise that as a spousal relationship. So I say to the government: by not fixing this up, by not agreeing to this amendment, you will actually create an anomaly that you are halfway to fixing—only halfway to fixing—in the migration area.

This has nothing to do with the gay marriage debate. And I would put on the record that the Prime Minister has made clear, as have most people in the coalition—and Mr Entsch from the electorate of Leichhardt in my own state of Queensland has pushed this to some extent in the coalition—that, whilst the government are about removing discrimination against same-sex couples, they are not about legalising same-sex marriage. It is not about adoption; it is nothing to do with that. It is simply making de facto partnerships, de facto spouses, equivalent, whether they are in same-sex relationships or opposite-sex relationships.

It is a very clear amendment. It is very simple. It removes discrimination. It ensures that our supposedly modern, new, updated Citizenship Act actually is that. It was raised in some submissions in the Senate inquiry over a year ago. So we cannot have the excuse that we did not have any warning about this and that nobody raised it, which is also sometimes used as a reason not to support this. Dare I suggest it is time, on this occasion, for equality to finally be implemented clearly and unequivocally in one Commonwealth act right from its very outset. I would
urge all senators to recognise that and support this amendment.

Senator Ludwig (Queensland) (6.22 pm)—I listened very carefully to Senator Bartlett’s speech on this issue. He has done his homework. I will not speak for those on the other side, but I have used arguments in the past about not agreeing to piecemeal legislation. I have also used the argument that it is outside the terms of the committee’s inquiry. Yes, those are arguments I have put in respect of not only this type of amendment but others of the same order, although not on the same topic. In other words, generally we do not agree with piecemeal amendments and we reserve our position for those areas where amendments put forward fall outside the terms of the committee’s recommendations or the committee’s examination of the bill itself, or where amendments fall outside the bill’s intention—in other words, the object of the bill.

In this instance, Senator Bartlett, you have managed to find an argument that does deserve support. The argument is that this is a new act and redrafting all of those provisions will put it in a logical, sensible position. Therefore, the argument that you raise does find favour with the Labor Party. It is right to argue for it in this instance. It is an argument where you have been able to clearly differentiate between a piecemeal approach and one that creates a coherent whole.

This legislation does require an amendment such as this dealing with same-sex partners. I make the point, perhaps a minor one, that the way you have used the definition section is a little inelegant. For example, if same-sex partners were included in the definition section of the act under a definition of ‘de facto partner’, those same-sex partners would be required to meet a similar standard of proof as heterosexual de facto partners. The only criticism I make is that it could have been better drafted. I understand the intent behind it and I understand the principle you enunciated.

I recognise that it is also time for this government to move on. Senator Bartlett is right: Senator Brandis did provide a very eloquent speech on these issues. I was actually persuaded that he might be changing his view, or the government’s view at least, on this issue. We were subsequently disappointed and I suspect we will be disappointed again. I cannot see the government picking it up. I think they should; I think it is an appropriate amendment to pick up. They should have included it in the original legislation, and I will be interested to hear why the government will not deal with this issue now. I could be surprised, as I suspect Senator Bartlett was surprised—although I hope he was not too surprised—by Labor’s decision to adopt the amendment. It was well argued and it is sensible. The government should agree to it as well, although I recognise that this government is stuck in the past and they will not.

Senator Scullion (Northern Territory—Minister for Community Services) (6.22 pm)—I thank Senator Bartlett and Senator Ludwig for their contributions. The additional comments by the Democrats did not go unnoticed, Senator Bartlett. I am not sure if you are aware but, whilst it was not a specific recommendation of the committee, these bills have been amended to include the provision of a residence discretion that has been made for persons granted a visa as the interdependent partner of an Australian citizen. I refer specifically to clause 22(11), page 32, line 27 of the bill. These amendments were passed by the House of Representatives on 28 November 2006 and that is why the government will not be supporting the Australian Democrats’ amendment.
Senator BARTLETT (Queensland) (6.27 pm)—I was not surprised that Labor supported our amendment; I thought you would—although I was worried there for a second that you might have knocked it down on the grounds of inelegance! The point the Minister for Community Services makes is true: there is recognition in the bill of a partner in an interdependent relationship. However, the point needs to be made that there have been repeated comments by many coalition MPs, not just Mr Entsch but also Mr Howard and others, that people should not be discriminated against because of the gender of their partner—I am paraphrasing but I am certainly not misrepresenting them—but that is what you are doing when you define ‘spouse’ in a way that recognises de facto opposite-sex relationships but does not recognise de facto same-sex relationships. It puts them on a different footing.

The interdependency component in there is welcome. It is similar to the current arrangements in the Migration Act. There is an interdependency visa. That was created many years ago, as I said, specifically as a result of Democrat pressure and action. It was before I was elected to the Senate, so it is going back quite a while. But we still have a scenario where there are limited numbers under the interdependency category. It is, if you like, a second-hand approach to circumventing the requirement to recognise people’s same-sex relationships—not to in any way recognise them in a marriage like sense but recognise them in the same way that de facto relationships have long been recognised under Commonwealth law. An interdependent relationship is not just a same-sex relationship. Indeed, it is good that those wider interdependent relationships are recognised because it shows the immense diversity of relationships. But to continue to put same-sex relationships in that basket and treat them differently from opposite-sex relationships maintains that discrimination.

Sitting suspended from 6.30 pm to 7.30 pm

The TEMPORARY CHAIRMAN (Senator Ferguson)—The committee is considering the Australian Citizenship Bill 2006, as amended. The question is that Democrat amendment (5) on sheet 4868 be agreed to.

Question negatived.

Senator BARTLETT (Queensland) (7.31 pm)—I move Democrat amendment (6) on sheet 4868:

(6) Clause 22, page 33 (after line 11), at the end of the clause, add:

(12) For the purpose of subsection (1), the Minister must, if the person was the holder of a Temporary Protection Visa during that period, treat that period as one in which the person was present in Australia as a permanent resident.

Note: Temporary Protection Visas are provided for under the Migration Regulations 1994.

I have reflected on this already to some extent so I will not go on at great length. Basically the intent of this amendment is to address an issue for those people who have been residing in Australia on temporary protection visas. During their period of residency the minister should treat—that period as if the person were present in Australia as a permanent resident. Senators would know that people on temporary protection visas, by and large, do not leave the country at all whilst they are on the visas. They do not have rights to re-enter the country if they do leave, except by special dispensation, and so the vast majority of them on temporary protection visas spend their entire time living as residents in Australia. There are discretionary components within the legislation which do allow waiver
of the residency requirement under special circumstances, and I recognise that there is a
discretion there, but I think that it would be
better if it were automatic for refugees who
have been here on temporary protection visas
to have that counted as permanent residency.

I accept that under the changes in this leg-
islation there is only a requirement for 12
months permanent residence rather than two
years—the 12 months immediately preced-
ing the day the person made the applica-
tion—but there have to be four years of resi-
dence in total. So people who have been on a
temporary protection visa, once they have a
permanent visa, would only be required to
reside here for a further 12 months. I believe
that it would be appropriate for them not to
need to wait that extra 12 months if they
have already resided here for the four years.

It should also be emphasised, on top of
that, that many people that have had that pe-
riod of extended residency in Australia on
TPVs have also had quite a number of years
prior to that stuck in detention centres. Quite
explicitly in the legislation that does not
count as time spent in Australia. To some
extent that is logical and I accept that. If you
are in Australia as an unlawful noncitizen
according to the act, whether or not you are
in a detention centre or out in the commu-
nity—as I would prefer people to be—then it
is reasonable for that not to count as time
residing in Australia because in the legal
sense of the word you are not a resident. But,
unlike people are given a temporary protection
visa, an acknowledgement that they are a
refugee, then I believe that period should be
counted straightaway as the start of perma-
nent residence for the purposes of becoming
a citizen.

My understanding is that, on average,
people on refugee visas are quicker to take
up citizenship than other migrants, which is
quite a logical situation. Most refugees have,
by definition, experienced a lot of instability
in their lives and have had fairly significant
uprooting of their existence. They are fairly
keen to fully connect with their new country
as quickly as possible and remove any fur-
ther instability from their future. As I am
sure all senators would acknowledge, Austra-
lia has benefited enormously from the con-
tribution of many refugees, whether they
have come through the humanitarian pro-
gram or via boat arrivals. I will not revisit
the debate from earlier today about asylum
seekers arriving by boat, but it is widely ac-
knowledged by all sides of politics that we
have benefited a lot from the contribution of
many people who have arrived by boat and
have been accepted as refugees. There is al-
ways the occasional bad apple, as there is in
the wider migration program and as there is,
of course, amongst the Australian-born sec-
tion of the community. But I am not aware of
any evidence that shows there is any greater
risk from people who have arrived as asylum
seekers or, indeed, that theirs has been a
lesser contribution over time.

The intent of this amendment is to try to
remove what I believe is an unnecessary bar-
ier to these refugees being able to become
citizens as soon as possible after they have
fulfilled the four-year residency requirement
that will now be in place. By any measure,
that is a very long period of time. I believe it
is particularly beneficial, not just for the
refugees but for Australia, for these refugees
to be able to get on with their lives. The
sooner that security and stability is present in
their lives, the more completely they will be
able to fully participate in the Australian
community.

As it is somewhat related, I once again ask
the minister a question relating to clause 22.
As I noted before, under clause 22(1)(b) time
spent in Australia as an unlawful noncitizen
does not count as being part of the four-year
residency requirements. There is an exemp-
tion to that under subclause 4A. For the purposes of subclause (1)(b), the minister may waive that requirement if the person was an unlawful noncitizen because of administrative error. I was wondering whether we could get a clearer detailing of what constitutes ‘administrative error’ with regard to somebody being an unlawful noncitizen. Does that relate to perhaps a Cornelia Rau type circumstance, without wanting to be provocative by using that example—she is someone who was deemed mistakenly to be an unlawful noncitizen—or would it also relate to, for example, people who were in detention having been refused a visa on the grounds of mistaken identity that was then overturned on appeal?

Examples like that have occurred and I have spoken about them in this place before. I really want to get to examples of people who have lost time—quite long periods of time in some cases; a number of years—being kept as unlawful noncitizens due to decisions that were later overturned by government rather than anything they did wrong. In those circumstances, it is only fair and just for those people to be able to count their time. Again, in Australia’s interests, it is better not to have those sorts of reasons in the way of potentially valuable citizens being able to become citizens as soon as practicable.

Senator LUDWIG (Queensland) (7.39 pm)—I will not delay the debate on this longer than I need to. The position outlined by Senator Bartlett does draw the support of the opposition. It is the case that the government has failed in this area. The way the TPV regime currently works is unhelpful. Senator Bartlett’s proposition does allow that period to be treated as a period in which the person was present in Australia as a permanent resident. That is a sensible way of progressing the temporary protection visa holders. The ultimate aim is to ensure that the temporary protection visa holders can satisfy the residence requirements to better allow them to integrate into the community as soon as possible. That seems to be the objective; therefore, it does draw our support.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.40 pm)—With regard to the question from Senator Bartlett, this provision was, I understand, actually carried over. For clarity, I will read into the Hansard section 13, part 4(b)(v) of the Australian Citizenship Act 1948:

... if the Minister considers that an applicant who is a permanent resident was, by reason of an administrative error, not a permanent resident during a period during which the person was present in Australia—treat the period as a period during which the applicant was present in Australia as a permanent resident.

That provision, of course, is as it applies to lawfulness. The notion that an unlawful non-citizen was at any time—in fact, I will sit down before I get myself into more strife. I hope that answers your question.

Question negatived.

Senator BARTLETT (Queensland) (7.41 pm)—I move amendment (10) on sheet 4868:

(10) Clause 54, page 66 (after line 20), at the end of the clause, add;

(2) The regulations must include policy guidelines providing that the application of the ministerial discretions in section 22 in relation to significant hardship or disadvantage and activities beneficial to Australia are to be applied broadly to include:

(a) social and cultural factors; and

(b) economic considerations.

I will be brief. This amendment is to a part at the end of the legislation that deals with regulations. It provides a requirement that the regulations must include policy guidelines providing that the application of the
ministerial discretions in section 22, which is the section we have just been talking about, in relation to significant hardship or disadvantage and activities beneficial to Australia are to be applied broadly to include social and cultural factors and economic considerations. It is really just to try to provide a bit more flesh around the exercise of ministerial discretion in this area.

I have spoken at great length about, and indeed we have had Senate inquiries into, the exercise of ministerial discretion in the Migration Act and some of the problems with regard to the opaque nature of that. This amendment would go part of the way to ensuring that there was just a little more flesh around how ministerial discretion is exercised. It creates clearer guidance for ministers—and I appreciate that sometimes ministers do not like being constrained by regulated guidance; they like to be able to have total freedom to decide—and it is to the benefit of the minister and government of the day in relation to the uncertainty that surrounds the reasons ministerial discretion is used in a range of areas in the Migration Act, and in the Citizenship Act where it applies. That can be problematic in that it is easy for people to draw unhelpful or very negative conclusions about the way the law operates when there is no real clear reason why discretion is exercised in one case and not in another case.

Obviously, some migrant communities come from countries where it is very clear what sorts of factors might help create a more favourable decision—they are not actions that are encouraged in Australia, such as money changing hands and various other inducements to get a better decision. I am not suggesting that happens here; I am suggesting that to reduce the prospects of people suspecting that that is the reason discretions get exercised in particular ways it can be quite helpful to have clearer and to some extent more enforceable guidelines. That is what this amendment goes to.

Senator LUDWIG (Queensland) (7.44 pm)—Labor supports this amendment for the reasons very effectively outlined by Senator Bartlett. It is one of those areas where—I would refer to it as more than opaque, Senator Bartlett—it is impenetrable sometimes how those ministerial decisions are made, particularly in the exercise of section 417 of the Migration Act. Any amendment such that policy guidelines through regulation might help to make that process more transparent will always garner Labor’s support. Exercising ministerial discretion is one area where that particular Senate committee did find that there was a need for greater transparency, as I recollect it. If I am wrong about that then I am sure I will be corrected, but my recollection is that there is a need for greater certainty and transparency in circumstances when the minister exercises a discretion of that nature. Senator Bartlett has sought to put some transparency in that process. I doubt very much that the government will concede to this amendment but it will be interesting to hear their argument as to why they will not.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.46 pm)—There is a very clear reason why we will not be supporting this amendment—that is, that it is unnecessary. Senator Vanstone advised this chamber on 30 November 2006 that the government had accepted the recommendation of the Senate committee report and that policy guidelines would interpret the concept of ‘significant hardship’ broadly, to include social and cultural factors as well as economic considerations.

Senator LUDWIG (Queensland) (7.46 pm)—If that were the case, you would not
see any objection to putting it in the legislation so that it is there for all to see.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.46 pm)—I should not be drawn, but there are obviously matters of policy and there are matters that should be put in the legislation. I think it is broadly within the convention in this place to place this within the policy guidelines.

Question negatived.

Senator BARTLETT (Queensland) (7.47 pm)—I move Democrat amendment (11) on sheet 4868:

(11) Page 66 (after line 20), at the end of Part 3, add:

55 Review

(1) The Minister must cause an independent review of:

(a) the extent to which Australia discharges its obligations to stateless persons; and

(b) the extent to which the Department of Immigration and Citizenship has conferred with the United Nations High Commissioner for Refugees and the Human Rights and Equal Opportunity Commission on Australia’s obligations to stateless persons.

(2) The person who undertakes the review under subsection (1) must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report of the review to be tabled in each House of Parliament within 12 months after the second anniversary of the commencement of this Act.

This amendment is fairly self-evident. It seeks to cause an independent review to be performed regarding the extent to which Australia discharges its obligations to stateless persons and the extent to which the Department of Immigration and Citizenship has conferred with the UNHCR and the Human Rights and Equal Opportunity Commission on Australia’s obligations to stateless persons. From my recollection of the genesis of this amendment, I think the drafting instructions on this went in about 10 or 11 months ago when the Senate committee reported. It was really generated from some of the discussions and submissions around statelessness and our obligations to stateless persons, which I accept is a murky area. Indeed that is part of the reason to suggest this review to make clear the extent of exactly how adequately we are discharging our obligations in that area and whether there are ways we can improve that performance.

Senator LUDWIG (Queensland) (7.48 pm)—Labor supports the Democrat amendment. As Senator Bartlett has correctly pointed out, this is a matter that was recommended by the committee. On that basis, it would be helpful for the Senate to understand the effect on stateless people and to assist the parliament in reviewing the effectiveness of our laws. Therefore, it does gain Labor’s support.

Senator SCULLION (Northern Territory—Minister for Community Services) (7.49 pm)—I understand that this amendment relates to recommendation 11 of the Senate committee’s report, which was partly accepted by the government. This bill has been thoroughly reviewed in the light of the committee recommendations. Submissions have been made to the committee, and the government is completely satisfied that the bill as amended is consistent with Australia’s international obligations regarding statelessness. I understand neither HREOC nor UNHCR have the legislative authority to determine compliance of Australian law with the convention.

Senator BARTLETT (Queensland) (7.49 pm)—My final comment is that it is true that HREOC and UNHCR do not have that power. But HREOC, the Human Rights and
Equal Opportunity Commission, established by an act of this parliament, clearly has a role to provide advice on how Australia meets or otherwise its obligations under international conventions, including ones that touch on stateless people. It deals with this stuff every day in much greater detail than the parliament and, I would suggest, on a day-to-day basis, almost anybody in the department or government as well. The UNHCR, on an international scale, does the same.

One of the reasons these sorts of reviews are valuable is that we are not forced to rely on bland assertions from government that they meet all our obligations. I have heard that repeatedly from representatives of the minister for immigration in this chamber—or indeed from the minister for immigration herself when that was the case—for a number of years now. They blandly assert that Australia meets our international obligations in every way, even in the face of overwhelming, comprehensive, undoubted, incontestable evidence such that anybody with even the remotest comprehension of the English language would know that we are flagrantly breaching our obligations. Nations have a right to do that but the least we should do is admit it.

The government should not be defensive about this; I am not accusing them of doing it. I am suggesting it is an area to look at. My belief is that the intent of the Senate committee’s recommendation was not in any way to suggest the government were failing in this area—unlike Senate committee recommendations in other areas where they quite clearly believe the government have failed to meet their international obligations on refugees and other matters. The intent was to enable a more thorough examination because it is not really clear whether or not we adequately meet our obligations.

The obligations to stateless people and how you best meet those obligations is not an easy area. None of this is easy, as I said earlier, but this is a particularly difficult area. It is not even always clear as to how stateless people are defined, frankly. Reaching agreement as to whether or not someone is stateless is not always easy. It is an area that could do with further work. For once it is an area where not even I am saying that the government is failing to meet its international obligations. As the minister would know, I am quite often alleging that, as I did earlier on today. The benefit of it is that it would enable that to be done.

It can be done in other ways. It is not the end of the world if it does not happen. I am sure HREOC will continue to provide advice anyway. But it was an opportunity, because the issue arose during the course of the inquiry, to reinforce that by and large the Senate committee across the board found it a positive piece of legislation which could be improved upon and it was an opportunity to do so further. Perhaps in wrapping up all of that and the amendments themselves, it is appropriate to acknowledge that, despite the government’s nonacceptance of this particular amendment flowing from the committee inquiry, which I assume will stay the same despite my last contribution, there has been acceptance of a reasonable number of the recommendations from the committee inquiry. That should be acknowledged.

Question negatived.

Bill, as amended, agreed to.

AUSTRALIAN CITIZENSHIP (TRANSITIONALS AND CONSEQUENTIALS) BILL 2007

Bill—by leave—taken as a whole.

Bill agreed to.

Australian Citizenship Bill 2006 reported with amendments; Australian Citizenship (Transitionals and Consequentials) Bill 2006
reported without amendments; report adopted.

Third Reading

Senator SCULLION (Northern Territory—Minister for Community Services) (7.55 pm)—I move:

That these bills be now read a third time.

Senator BARTLETT (Queensland) (7.55 pm)—I appreciate I have spoken a lot in this debate already—

Senator Ludwig—Is that an understatement?

Senator BARTLETT—I am sure you have enjoyed all my contributions, Senator Ludwig.

Senator Ludwig—I have. I have supported much of it.

Senator BARTLETT—I will not delay the Senate unduly, but it is not every day that the parliament passes a brand-new citizenship act, and I think it is worthy of specific note. I urge the community at large as well as all of us here in the parliament to continue to promote debate about the nature of citizenship. It is a continually evolving concept. I do not think it helps terribly much to have debate about the nature of citizenship reduced to facile discussions about whether or not people know when Melbourne Cup day is and those sorts of things. There is still continuing evolution in the nature of the law surrounding citizenship, which this act demonstrates. We have a burgeoning number of people who are dual citizens or more. We still have, as was covered during the debate in this committee stage, quite different pathways for people to become citizens. That is completely understandable and natural. You will have different pathways that people's lives lead them along to get to a point where they can become a citizen. But we need to make sure that there are not incongruities between those pathways. One of the concerns I have with the government’s proposed citizenship test is not so much that there is a test but that we may have different classes of citizens—those who are required to pass a test and those who not only are not required to but may well not even be able to pass those tests in many cases. We need to make sure that the different ways people become Australian citizens do not lead to different rights, different obligations or different impressions and understandings in the Australian community about whether or not some people are more Australian than others.

We also need to make sure that we do not have an excessively jingoistic approach to citizenship such that anyone who is not a citizen but who may have been a resident of Australia for decades is seen as somehow not a real member of the Australian community. There are many different ways people make up and contribute to the fabric of the Australian community and we need to make sure, in debating and refining our concept of citizenship, that they do not, even inadvertently, end up being used as ways to develop prejudice or to discriminate against or push people down into being marginalised members of our society. The nature of migration is changing enormously. The nature of the nation state is continuing to change enormously and we must try to ensure that our public debates, and particularly statements made by leaders in the community, both political and otherwise, reflect that rather than exploit the potential for division.

I would use just one other example to demonstrate this, because I was contacted and had this raised with me by people in the veteran community. I am sure some senators would be aware of examples of dissatisfaction amongst some of the veteran community about people who have served in the armed forces for Australia. I use the example of Mr James Riddle, who I think got some coverage about his circumstance. He was recruited
in the UK to serve for the Australian armed forces in Vietnam. He did three tours of duty in Vietnam but did not take out citizenship for various reasons, has not lived in the country for a while and is now not able to regain residence, let alone citizenship. Most people would think that if you had done three tours of duty serving in the Australian armed forces in Vietnam you would probably have a pretty good right to call yourself Australian.

That is just one example, and always there are going to be anomalies in any law. I am not suggesting that we can come up with the perfect act but, when we have these debates about what it means to be Australian, when we are looking at different ways to define that, it is very easy, if you get too jingoistic about it, to end up demonstrating yourself to be a bit of a hypocrite. And, whilst we all wonder about what are and are not Australian values, I would like to think that avoiding hypocrisy is one Australian value that we try to aspire to.

It is those sorts of issues and circumstances we need to debate. We have a variance in the pathways to citizenship, and now there is a larger gap between the people coming in through the defence services and the people coming through in general residency. We have people who have done significant amounts of defence service in active combat who end up being denied. As I said, I am not suggesting that we can always fix every single case, but we always need to be cognisant of the perceptions of who is and is not Australian and how those perceptions are used in political and public debate and with regard to who does and does not have certain entitlements. The more we can alleviate inconsistency in that area, the more the concept of citizenship will evolve in a constructive way. I think it is about making Australia reach its full potential, and the more we can enmesh the concept of citizenship looking to Australia’s future, seeing ourselves move forward as a nation, the more we can fulfil that potential.

That is what a new citizenship act is about, and I hope that is where the debate leads. In conclusion, I hope that in passing this new act the government fully explains and promotes our new act not just with a nice, jingoistic flag-waving pre-election advertising jingle—I am sure there are plenty of thoughts about that—but more by letting people know about the changes and the opportunities now presented to people who might otherwise have been barred from becoming a citizen. I think that is also an important part of making this new act as effective as possible.

Question agreed to.

Bills read a third time.

COMMITTEES

Electoral Matters Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! The President has received a letter from a party leader seeking variations to the membership of a joint committee.

Senator IAN CAMPBELL (Western Australia—Minister for Human Services) (8.02 pm)—by leave—I move:

That Senators Brandis and Mason be discharged from and Senators Adams and Fierravanti-Wells be appointed to the Joint Standing Committee on Electoral Matters.

Question agreed to.

ELECTORAL AND REFERENDUM LEGISLATION AMENDMENT BILL 2006

Second Reading

Debate resumed from 7 December 2006, on motion by Senator Ellison:

That this bill be now read a second time.
Senator WONG (South Australia) (8.03 pm)—I rise to speak on the Electoral and Referendum Legislation Amendment Bill 2006. I indicate at the outset that Labor supports this bill, which contains measures arising from the recommendations of the Joint Standing Committee on Electoral Matters report on the inquiry into the conduct of the 2004 federal election and matters related to it. I want to make the point that this bill is the second layer of changes that have been introduced by the government with respect to the recommendations of the report. Whilst Labor is happy to support the particular amendments before the chamber, it must be emphasised that the earlier legislation which was passed through this place with the support of the government senators introduced some very regressive measures which altered Australia’s electoral system. Those measures were clearly introduced by the government to try and seek partisan political advantage.

It is worth remembering some of the key aspects of the changes which this government previously pushed through the chamber. First is the early closure of the electoral roll, which will now close for most new enrollees on the day the writs are issued. This will give existing enrollees only three days to correct their details. If this measure had been put in place for the last election, up to 80,000 Australians might have been unable to enrol to vote. Up to 280,000 people in total could have been affected by having a substantial fault on their enrolment. The electoral changes which were pushed through by the Howard government also introduced far greater identity requirements for enrolment, which have the potential to disenfranchise many Australians.

There are new requirements for provisional voters to prove their identity. Voters on election day who are not listed on the electoral roll are currently able to cast a provisional vote. After election day the bonafides of these ballots are investigated by the AEC and, if they should be admitted to the count, they are. The government intends to force those who cast a provisional vote to provide additional proof of identity. We should know that over 180,000 Australians cast provisional votes at the last election. So, the government with its previous amendments pushed through increased restrictions on people’s ability to vote. Certainly the early closure of the rolls, which was pushed through in this place, will potentially disenfranchise a great many young people. Why is the government so intent on putting in place measures which will make it more difficult for many young Australians to cast a vote?

However, as you will recall, on the last occasion that a related bill was before the chamber, that legislation made it far easier to donate large sums of money to a political party without any public scrutiny whatsoever. For example, there was an increase in the declarable limit for disclosure of political donations to $10,000, and there has an increase in tax deductibility for political donations from $100 to $1,500. In other words, the previous approach taken by the government in the 2006 legislation made it harder to vote but easier to donate.

Having said that, the bill before the chamber deals with a range of other issues which Labor does support. It contains amendments for the expansion of postal vote provisions for ADF and AFP personnel, revised arrangements for the delivery of postal voting material, an increase in the number of AEC officers who are eligible to receive postal vote envelopes, the introduction of trials for electronically assisted voting for the visually impaired, and remote electronic voting for ADF personnel deployed overseas. Additionally, the bill proposes to repeal defamation provisions that carry criminal actions and penalties for defamation against electoral candidates.
The committee’s report recommended that the Commonwealth Electoral Act be amended to specifically permit ADF and AFP personnel serving overseas to become general postal voters. These people will automatically be sent ballot papers for each election without first having to lodge a postal vote application, giving them more time to return their postal vote. The act currently provides that an application should be regarded as not having been made if it reaches the AEC officer after 6 pm on the day prior to polling day— a Friday. This bill repeals that provision and substitutes a new provision to provide that the deadline by which postal vote applications must be received in order to be processed is 6 pm on the Thursday—that is, two days before polling day. As I understand it, the intention behind these amendments is to enhance the prospect of postal voters receiving postal voting material in time for completion on or before polling day.

The bill also inserts a new subsection that provides that, for postal voting applications received after the new deadline, the commission is required to make reasonable efforts to contact those applicants to advise them that their applications have not met the deadline and of the need for them to vote by other means. This gives effect to the government’s response to part of recommendation 9 of the committee’s report. The act currently provides that an elector who casts a postal vote shall post or deliver the completed postal voting envelope on which the postal vote certificate is printed to the appropriate DRO. Where it is unlikely that the completed envelope could reach the appropriate DRO within 13 days after polling day, the act currently allows for the envelope to be returned to other AEC officers.

This bill expands the range of officers who can receive completed postal voting envelopes in order to provide postal voters with greater flexibility and options for returning their voting material in time to be included in the scrutiny. The range of officers who will now be able to receive completed postal voting envelopes will include electoral visitors at hospitals and prisons, mobile polling team leaders, and certain office holders and ongoing employees of the AEC’s capital city offices.

The bill also inserts into the act trials of electronic voting methods. It includes the provision for a trial of electronically assisted voting for sight-impaired Australians and a trial of remote electronic voting for Defence personnel serving outside Australia. I understand that electronic voting for sight-impaired people was trialled in six locations at the Victorian state election. Initial advice from the Victorian Electoral Commission was that the trial certainly provided significant advantages for sight-impaired people. However, Labor also understands that the number of people who participated in the trial was less than had been hoped. I understand that my colleague the shadow special minister of state will be obtaining further advice from the VEC about the trial and that a report will be provided to the Victorian parliament.

The trial of remote electronic voting for Defence personnel will be rolled out on Defence’s secure network and will include approximately 1,500 people. The government has indicated it may consider extending the trial, as recommended by the committee, but as yet has made no commitments. Under this proposed trial method there will be a printed record of the vote a person has cast. Once a person has cast an electronically assisted vote, the vote record will be placed in an envelope upon which a completed declaration has been made. Information on the outside of the envelope will enable preliminary scrutiny of the votes to take place. This will not be capable of identifying the elector, con-
sistent with the process adopted for prepoll. The vote record produced at the prepoll vot-
ing office will not be required to be an exact replication of the ballot paper in order to en-
sure the secrecy of the vote is maintained. However, the vote record will and must be cap-
able of producing a document, whether it is a replication of the ballot paper or other-
wise, that accurately reflects the voter’s in-
tention for scrutiny purposes. I indicate that Labor fully supports this initiative and wel-
comes the opportunities that new technolo-
gies provide in assisting people to vote.

Apart from these primary reforms, there are also a number of other minor amend-
ments. These relate to, for example, alterna-
tive documentary evidence which may be supplied by people enrolling from overseas, under sections 94A and 95 of the act. Such persons will now be given the option of sup-
plying either their Australian passport num-
ber or their driver’s licence number as docu-
mentary evidence of their name. Under the bill the commission will also be able to estab-
lish a prepoll voting office when, due to excep-
tional circumstances, it would not be possible to gazette the declaration prior to commencement of the operation of the pre-
poll voting office. This provision will oper-
ate as an exception to the general require-
ment to gazette prepoll voting offices. This will allow prepoll voting offices to be estab-
lished in circumstances where the AEC is re-
quired to quickly ensure that electors are able to cast votes. It will still be required to publish a copy of the declaration in the gaz-
ette as soon as practicable.

As I indicated at the outset, this bill also repeals provisions which make it an offence for a person to make or publish any false and defamatory statement in relation to the per-
sonal character or conduct of a candidate. Such cases of defamation will instead be dealt with in accordance with the civil law of defamation existing in the relevant state or territory jurisdiction. This will bring candi-
date defamation actions in line with existing legislation and common law. This item gives effect to another recommendation of the committee report.

This legislation does have some important reforms designed to enhance the operation of our system to provide people with a greater opportunity to be able to cast a vote. With electronic assistance voting, allowing De-
fence Force personnel to register as general postal voters, and providing different provi-
sions in terms of who can receive postal votes after they have been filled in, there are aspects of this legislation which will provide people with a greater capacity to participate in the democratic process. However, as I said at the outset, this bill stands in direct contrast to the last bill in this area that the Howard government brought forward in response to the joint committee’s recommendations. That bill produced a number of changes that made it harder for some sections of Australian so-
ciety to vote.

One of the main changes, which has been much talked about and to which I referred earlier, in the previous bill was the early clo-
sure of the electoral roll. There is no doubt that closing the roll early may produce an administrative nightmare, with people being incorrectly enrolled. There is also no doubt that it is likely to lead to a large number of people being excluded from being able to cast a valid vote. This has the capacity to impinge upon the operation of Australia’s democracy. As I said earlier, if the changes the government forced through with its pre-
vious bill had been in place during the last election, up to 80,000 Australians might have been unable to enrol to vote and up to 280,000 Australians could have been affected by a substantial fault in their enrolment.

I want to make some comments about the position that the AEC has taken in relation to
the new measures concerning early closure of the rolls. The AEC chose to support these changes, which contrasts with the position that previous electoral commissioners have held over the last decade. In response to the Joint Standing Committee on Electoral Matters inquiry into the 2004 election, the electoral commentator Antony Green stated:

If suddenly the election is called two or three months early, people will not have regularised their enrolment. You will cut young people off, as the numbers show ...

On previous occasions when these sorts of proposals were put forward by this government, they were rejected by the commission. Previous commissioners have indicated that this approach was not a good idea for Australian democracy. Among the concerns expressed by previous commissioners are the concerns that the Labor Party raised in relation to the specific amendments, and many independent experts have voiced similar views. However, the current electoral commissioner has clearly changed his view and has made that clear to the parliament.

Labor remain extremely concerned about the approach the government took in its previous legislation. Figures in the AEC annual report showed that, for the first time in nearly a decade, the total enrolment in the Australian electoral system actually went down. I understand that, at recent Senate estimates, the commission indicated there was some concern about what that meant. Labor are concerned as to how well the commission will be able to administer the electoral roll, given that there is clear evidence of real problems with the current system. The issue remains a great concern and there are still states and territories where roll numbers are declining.

As I indicated earlier, other changes pushed through by the Howard government include much stricter identity requirements for enrolment. The new requirements will make it harder for people to enrol and harder for people to be able to cast a valid vote. We can see that from the requirement for provisional voters to provide identification on election day. This is despite the fact that the government has acknowledged, and ministers have repeatedly acknowledged, that there is not an issue with fraud within the Australian electoral system.

Unlike the previous legislation, the bill before the chamber makes the vote more accessible to a number of Australians. It is unfortunate that it comes on the back of legislation which made the vote less accessible for a number of Australians, particularly those whose enrolment details have changed and young people, who often do not enrol or update their details until an election is called.

This legislation can be described as a small step forward, but it is a small step forward after the massive leap backwards that occurred with the legislation that the government pushed through in 2006. As I said at the outset, Labor are supporting this legislation. We do remain extremely concerned about the way in which the government treated electoral matters in its previous legislation. We have already stated that we believe the government put forward its previous changes with a clear view about how they might benefit it in a partisan sense.

Senator MURRAY (Western Australia) (8.19 pm)—The Electoral and Referendum Legislation Amendment Bill 2006 is the government’s second legislative response to the Joint Standing Committee on Electoral Matters Report of the inquiry into the conduct of the 2004 federal election and matters related thereto, which came out in September 2005. I have some knowledge of this. The committee was established in 1983 and I have been a member continuously for about 11 years, so I am probably coming close to
being the longest continuously serving member of that committee.

This committee really extracted its digit on this inquiry. Previously the committee had considered that a three-year electoral cycle did not necessitate quick reporting, but on this 2004 election report the committee thought there was a need to report quickly to give the government and the Australian Electoral Commission as much time as possible to respond and introduce legislation. It is a signal, really, of a broader problem that we face in the parliament. The committee reported in September 2005: 17 months later we are debating a bill which deals with non-contentious, unanimous recommendations. It does take an awfully long time to get these matters considered and passed by parliament.

However, here we are with this bill before us. This is a far better bill, I might say, than the regressive measures passed last year in the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill. That was simply a very bad bill. I noticed that, although Labor opposed that bill—I will use them as an example—the number of donations declared by the Western Australian Labor Party diminished from 40, 50 or 60 in the six months to report under the old system to about five or six under the new system. What has happened is that this government has ended the disclosure and transparency that we enjoyed under the previous system. I emphasise that that bill was opposed by the Australian Labor Party, the Australian Democrats and the Australian Greens.

The provisions of this particular bill were referred for inquiry to the Senate Standing Committee on Finance and Public Administration, which has provided a unanimous report. The bill seeks to provide a trial of electronically assisted voting for sight-impaired people and a remote electronic voting trial for Australian Defence Force members and Defence civilians serving outside Australia. It allows ADF members and Federal Police personnel outside Australia and eligible overseas voters to apply for registration as postal voters. It provides that the deadline for postal vote applications is to be 6 pm on the Thursday prior to polling day. It amends arrangements for the delivery of postal voting material by the Australian Electoral Commission and expands the range of AEC officers who can receive postal vote envelopes. The bill amends the requirements for the establishment of pre-poll voting centres so that they can be quickly established by the AEC in special circumstances. The bill amends provisions relating to enrolment from outside Australia to allow applicants the option of providing an Australian passport number rather than a current drivers licence number, as under the current proof of identity scheme. The bill repeals the section of the Commonwealth Electoral Act relating to defamation of electoral candidates because defamation is covered in the general law.

That last item is a signal of much that is right with the committee system. A particular individual, Mr W Bowe, made a submission to the committee. He had been subject to litigation under section 350, the defamation section, as a website publisher. He maintained that the legislation was anachronistic in a modern communications environment and recommended it be removed from the Electoral Act. There were others who took an interest in this matter, such as Professor Quiggin, but the fact is that the committee listened to Mr Bowe with great attention. Section 12.44 of the report says:

Senator Andrew Murray also supported the removal of the section, or its amendment to include a clause making it clear that defamatory material had significantly affected the outcome of an election. This might facilitate prosecution of defamatory political comment on the internet through the
Court of Disputed Returns, which handles allegations of corruption of the electoral process.

The committee had to consider this: you either remove the defamation section altogether and give it to the general law, and the general law covers criminal actions and penalties for defamation, or you strengthen it. We decided on the former and the government has agreed with us. That is, if you like, a sign of the committee process working well and unanimously for an outcome.

In contrast to what was ironically framed as the electoral integrity bill, the Australian Democrats welcome this bill. We welcome it because it has the effect of actually enfranchising voters and takes the machinery of the electoral process forward. The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill passed last year had the reverse effect: it disenfranchised voters. Amongst other things, it targeted those who are least able to defend themselves. It took away the democratic right to vote from all those serving a term of imprisonment. My belief is that, if you want to give judges the power to apply jail as a penalty, you can. But to take away one of the rights of a citizen because they have been incarcerated is a double penalty and it is contrary to the Universal Declaration of Human Rights.

However, this new bill establishes a framework for two electronic voting trials at the coming federal election. One will allow for visually impaired people to cast a secret ballot and the second, as I have said, will allow Australian Defence Force personnel and Defence civilians serving overseas to cast an electronic vote. Those trials are a forward step for our democracy. However, the trial will only be available for the visually impaired at 30 locations across the whole of Australia. This does not accord with the standing committee’s recommendation that such centres should be available in each electorate. I accept that this is a trial and, if successful—and I cannot see why it should not be—I hope that the trial will see this process established in all electorates. I trust that it will be resourced sufficiently to achieve that aim, because true equality requires that such a service be made available to other electors in need of such facilities.

The Human Rights and Equal Opportunity Commission stated in its submission to the inquiry on the bill that it supported the bill but would like to see electronic voting made available to other similarly disabled electors, and quite rightly so. In this respect, HREOC referred to the International Covenant on Civil and Political Rights, to which Australia is a signatory. It was pointed out that, apart from the right to vote in genuine periodic elections by secret ballot, the covenant also obliges political parties to adopt measures where required to give effect to these rights without discrimination of any kind. This of course obliges governments as well. Again, I trust that future governments—indeed, I encourage future governments to—will facilitate further the universal right of all our citizens to cast a secret ballot.

The second electronic trial for Australian Defence Force personnel overseas is an excellent move. Those women and men serving overseas, often away from their families,
deserve every possible facility to enable them to cast a vote.

The other technical provisions of the bill relate to deadlines of postal voting applications and the manner in which postal voting materials and votes are managed. It is envisaged that these measures will provide greater flexibility and options for the return of postal votes in time for inclusion in the count.

Also provided, in accordance with proof of identity requirements introduced in June of last year, are amendments that will allow those enrolling to vote from outside Australia to provide an Australian passport number rather than a current drivers licence number.

As the bill reflects unanimous recommendations, we obviously support it. It will have acceptance in the community. On that point, I would like now to urge that the Commonwealth government examine further reforms to the Commonwealth Electoral Act arising from the report of the Joint Standing Committee on Electoral Matters. There are many areas that they can look at, but there is an area I would like to look at arising from my supplementary remarks to the JSCEM report.

It is something I have pushed for many years and I think it will have considerable consequences for our democracy. What prompts me to raise the issue in this way is what has been happening in my home state of Western Australia, now known as ‘Burke’s backyard’. Former Labor Premier Brian Burke has been up to his antics again. One would have hoped that both Mr Burke and Western Australia would have learnt something from the consequences of the WA Inc. saga.

It seems that his lucrative lobbying business has been booming and he and others are now under investigation by the WA Corruption and Crime Commission concerning underhand tactics to get up some controversial development deals for his clients. There are allegations of the handing over of undisclosed funds from developers to bribe government officials. For example, the general manager of property developer Australands’s WA division admitted in evidence that, in concert with Mr Burke, an independent interest group was used as a vehicle for advancing partisan commercial interests. Allegedly, such funds were used to finance the re-election campaign of a pro-development mayor. Mr Burke is also alleged to have been instrumental in securing other development deals that also appear to have campaign funds linked to them for some individuals.

Evidence has been tendered that the principles of cabinet government are under threat through ministers being named as sources of confidential cabinet information for Mr Burke and his clients. Former WA Minister for Small Business Norm Marlborough, apparently under evidence, was exposed as giving regular cabinet updates to his long-standing friend Mr Burke. He was quite rightly sacked by Mr Carpenter, the current Premier, for doing so. That does not seem to have mattered, as Mr Burke still claims to have his plants in cabinet. Another two ministers have been nominated but not named in this process.

The reason I raise this in the context of the electoral bill is that these are the sorts of issues that I raised in my supplementary remarks to the report of the Joint Standing Committee on Electoral Matters on the 2004 federal election. They concern issues of political governance. If the government is going to respond to that report, I think it should have a look at what I had to say, because the problem with the media coverage of the Burke issue right now in WA is that they are awfully excited about the scandal and the revelations, and are enjoying no end the scalps that are found in the process. But when it is all over, we have to remember that firing a few ministers will not solve the problem. We also have to remember that the vast
majority of Labor members and Labor parliamentarians do not support this activity either, and they need to be given a leg-up in solving these problems and ensuring they do not recur. That can only happen legislatively.

I strongly urge that donations from developers, which are much loved by all levels of government, be banned. They threaten the very integrity of our political system. They are the subject of crime and corruption commissions in every state. I recall former Prime Minister Paul Keating just last year calling for their banning. Sadly, it is the case that our democracy will continue to encourage corruption and undue influence for as long as donations like that are permitted. Of course, it is made worse by the passing last year of the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill, whereby secret donations can now be made in multiple tranches provided they are under $10,000. So, roll on donors, your money will buy you access and influence, and there are so many ways you can donate handsomely and anonymously.

If ever the day arises where strings attached to donations are prohibited, as they are in some democracies, it will be a time for us to celebrate an advance in our Australian democracy. The details of my arguments are in my supplementary remarks to the joint standing committee’s report but, essentially, I urge Premier Carpenter to put accountability, integrity and transparency front and centre for the government in Western Australia. I urge him to introduce political governance, which would mean that political parties are at least subject to the public accountability regime that applies to listed corporations and unions. At present they have less transparency than a local sports club.

The following are the minimum standards the media and the public should be demanding from Mr Carpenter. There should be a ban on donations from developers to political parties in local and state government, and of course in federal government. There should be stiff penalties for any donations with strings attached. Professional fundraising should be subject to the same disclosure rules applying to donations. Political parties should disclose who lies behind donations from trusts, foundations or clubs, or return the money. Donations or loans from foreign overseas individuals or overseas entities should be banned. Labor should be given back to the members by applying one vote, one value to the Labor Party to stop union bosses elected by non-Labor members deciding who Labor’s candidates will be. And political parties should produce an annual public report that fully details their financial statements, sources of their income and what it is spent on. A very wide range of individuals and organisations have called for a clampdown or banning of donations from developers. These sorts of donations threaten the integrity of our political system at every level.

My message to the media is that, whilst you and your readers may find the scandal enlightening and the heads that roll may be satisfying, in the end we have to fix the problem. Many, many Labor parliamentarians and many, many Labor members want to see this sort of slur on their party put away and not repeated. The only way to do that is to improve the standards of political governance, and the only way to do that is for Mr Carpenter to act and for the coalition government to act to improve the nature of the accountability mechanisms applying through the Commonwealth Electoral Act, which it has failed to do.

While I welcome this machinery bill, whilst I deplore its predecessor which passed in June 2006, I think the most important issue that we still face is getting political governance in this country up to the same speed
as corporate governance and applying the same standards of accountability to our own political parties that we demand from corporations and unions. We would be much better for it.

Senator WORTLEY (South Australia) (8.38 pm)—I rise to speak on the Electoral and Referendum Legislation Amendment Bill 2006. While Labor supports this particular bill, it would be remiss of me if I failed to point out the government’s protracted history of trying to disenfranchise many Australians when it comes to the electoral roll and related matters. This statement is not made lightly. I refer to the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006 as evidence supporting it—a bill that Labor did not support; another bill that this government used its Senate majority to get through this parliament last year; a bill that introduced some regressive measures which will have a detrimental impact on the Australian electoral system.

However, the bill before us today contains some of the reasonable measures that stem from the report of the Joint Standing Committee on Electoral Matters on its inquiry into the conduct of the 2004 federal election and related matters. The legislation amends the Commonwealth Electoral Act 1918 and the Referendum Act 1984 and follows some reform measures introduced by the government in the controversial electoral and referendum amendment act to which I have already referred.

The bill we have before us today contains provisions that will provide for a trial of electronically assisted voting for sight-impaired people; provide for a trial of remote electronic voting for Australian Defence Force members and Defence civilians serving outside Australia; specifically enable members of the Australian Defence Force and Australian Federal Police personnel serving outside Australia and persons registered as eligible overseas electors to apply for registration as general postal voters; and provide that the deadline for postal vote applications is 6 pm on the Thursday prior to polling day. The Australian Electoral Commission will not be required to post or deliver postal voting material to those electors whose postal vote applications are received after that. The Australian Electoral Commission will be required to make reasonable efforts to contact applicants whose postal vote applications are received after the deadline to advise them of the need to vote by other means.

The bill will also amend arrangements for the delivery of postal voting materials by the AEC, expand the range of AEC officers who can receive completed postal vote envelopes and amend the requirements for the establishment of pre-poll voting centres to enable them to be quickly established by the Australian Electoral Commission in exceptional circumstances. It will amend provisions relating to enrolment from outside Australia to allow applicants the option of providing an Australian passport number, rather than a current drivers licence number, to satisfy the requirements of the proof of identity scheme established by the electoral integrity act. And it will repeal section 350 of the Electoral Act, which relates to defamation of electoral candidates.

While I will not speak today on all of the provisions, I will take the opportunity to speak about the importance of several provisions which form this legislation. In accordance with the recommendations of the Joint Standing Committee on Electoral Matters, the Commonwealth Electoral Act will be amended to specifically permit Australian Defence Force and Australian Federal Police personnel who are serving overseas to become general postal voters. Serving members deployed outside Australia will auto-
matically be sent ballot papers for an election, without having to submit a postal vote application.

In addition, for the sight impaired, the legislation will provide provisions to trial electronic voting. A similar trial was conducted during the Victorian state election and, by all reports—certainly from the Victorian Electoral Commission—it was an overwhelming success. I point out that its success in the 2006 Victorian election was noted as being due to the accuracy of the system; however, I understand that they were disappointed with the number of people who engaged in the trial. This was attributed to a large proportion of sight-impaired people being elderly, and many being apprehensive about embracing the new technology. I understand from the Victorian Electoral Commission that a report due to be tabled in the Victorian parliament in May of this year will give us a formal assessment of how the trial went. It will be interesting to draw comparisons between the data from the Victorian election and the data from the federal election to be held later this year.

It is, however, unfortunate that the positive steps outlined in this bill are significantly overshadowed by the previous bill that made changes to the Electoral Act—legislation that without question has disenfranchised thousands of potential voters, thousands of Australian citizens. The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 was an attack on the democratic process, and the government should stand condemned for it.

The Howard government has a lengthy history of trying to disenfranchise a broad cross-section of the population when it comes to voting. People with limited levels of education, people from a non-English-speaking background, young people and Indigenous Australians have all been the target of this government. That highly contentious piece of legislation will make it harder for people to enrol by making identity checks more complex. It will also make provisional voting far more difficult. This in particular is a controversial move—controversial because at the last federal election approximately 180,000 Australians cast provisional votes. Under the changes, the government is going to force those casting a provisional vote to provide additional proof of identity. They have always had to prove their identity but now they need additional proof. If they cannot do so, their vote will not count—tens of thousands of potential votes that will not count.

In addition, the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 narrowed the time gap for new enrollees wanting to get on the electoral roll. Again, the number of people that this may affect is significant. Eighty thousand people might not have been able to enrol in the last election if these laws had been in place at that time. Those on the roll will be given only three days to correct their details after the writs are issued for the forthcoming election. Indications are that up to 280,000 people could be affected by having a substantial fault in their enrolment.

In October last year, during Senate supplementary estimates, the Australian Electoral Commission admitted that they were very concerned about the fact that the electoral roll had dropped for the first time in a decade. The electoral roll figure at 30 June 2006 was down by 32,000 from the previous year. This was in direct contrast to the previous seven years, where the roll had increased by between 76,000 and 100,000 each year.

These figures are not due to the legislation we saw introduced in June last year. However, they are significant in this debate. If the roll is already in decline and the government
has made it even more difficult to get on the roll, it is difficult to see how the numbers will start to go up to levels that accurately reflect eligibility.

Labor is all for ensuring that the electoral roll is accurate and that it is not abused. It has led the way when it comes to reform in this particular area, to make the electoral process fair and accessible. In the 1980s, Labor was responsible for the establishment of the Joint Select Committee on Electoral Reform, now known as the Joint Standing Committee on Electoral Matters—the very committee that recommended the changes that we are now discussing in the bill before us. As my colleague Senator Ray pointed out during the debate last year, it was Labor who brought in disclosure of donations. It was opposed by those opposite because they did not—and they still do not—want the voting public to know who donates to their campaigns. There are many more examples of Labor enhancing the democratic process with electoral reform which I will not go into today. Suffice it to say that Labor stands as the principal party of positive electoral reform.

Voting is a rite of passage for those in a democratic society. The system and the process that oversees this should be nurtured and be given every opportunity to thrive. Labor welcomes the vast majority of the measures in this bill, the Electoral and Referendum Legislation Amendment Bill 2006. They are positive reforms that arise from the report by the Joint Standing Committee on Electoral Matters.

It is unfortunate that these relatively small changes are standing in the huge shadow cast last year by the changes brought in by the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006—changes that will make it harder to cast a vote, harder to enrol to vote and harder to ensure that a vote is actually counted. The Electoral and Referendum Legislation Bill 2006 before us today makes some steps forward but, sadly, they follow a monumental leap backwards.

Senator CAROL BROWN (Tasmania) (8.48 pm)—I rise to speak briefly on the Electoral and Referendum Legislation Amendment Bill 2006. This bill is the second set of measures put before this chamber which seeks to make changes to the electoral system. The first set of measures introduced were regressive measures that limited the franchise by closing electoral rolls early, making it harder to enrol and raising the financial disclosure limit from $1,500 to $10,000, linked to the CPI. Increasingly, there is the capacity for donations to be made in secret—provisions rammed through parliament for base partisan political gain. This government was intent on and, I believe, accomplished its aim of making it harder to vote and easier to donate.

This bill, however—the Electoral and Referendum Legislation Amendment Bill 2006—introduces provisions which the Labor Party supports. The provisions in the bill arise from the government’s response to the report by the Joint Standing Committee on Electoral Matters on the conduct of the 2004 federal election.

The bill was referred to the Senate Standing Committee on Finance and Public Administration for inquiry and report by 20 February 2007. The committee received three submissions: from the Australian Electoral Commission, basically on the way the provisions will be implemented and operate; from the Human Rights and Equal Opportunity Commission; and from the Department of Defence.

The bill, according to the explanatory memorandum, seeks to do six things. The first is introduce a limited form of electronic voting which will provide for a trial of elec-
tronically assisted voting for sight-impaired people and provide for a trial of remote electronic voting for Australian Defence Force members and Defence civilians serving outside Australia. The second is to make changes to the general postal voter registry. Specifically, it will enable members of the ADF and Australian Federal Police personnel serving outside Australia, and persons registered as eligible overseas electors, to apply for registration as general postal voters. The third is to make various changes to postal votes—specifically, to provide that the deadline for postal vote applications is 6 pm on the Thursday prior to polling day, to amend arrangements for the delivery of postal voting material by the AEC and to expand the range of AEC officers who can receive completed postal vote envelopes. The fourth is to change pre-poll arrangements by amending the requirements for the establishment of pre-poll voting centres to enable them to be quickly established by the AEC in exceptional circumstances. The fifth is to make changes to enrolments from outside Australia by amending provisions relating to enrolments from outside Australia to allow applicants the option of providing an Australian passport number rather than a current drivers licence number. The sixth is to repeal section 350 of the Electoral Act which relates to defamation of electoral candidates.

The submissions received were supportive of the provisions of the bill. The committee’s recommendation was that the Senate pass the bill.

I would like to touch on a number of elements of the bill in greater detail. Firstly, I would like to address the issue of electronic voting. In terms of electronic voting, the HREOC submission urged that:

… the Committee support the passage of the Bill; and support an extension of provision for electronic or electronically assisted voting at the earliest opportunity to include other people unable because of disability to complete a paper ballot independently and secretly.

The Committee took the view that:

… electronic assisted voting should be extended to electors requiring this facility to enable them to exercise the right to a secret ballot, provided trialing of this system proves to be successful.

The AEC outlined the operation of the proposed trials as follows:

The trial for sight-impaired people will require the AEC to develop an electronically assisted voting method that will produce a printed record of each vote cast.

… the electronically assisted voting method is expected to be available at up to 30 locations around Australia. These locations will utilise pre-poll voting centres so that sight-impaired electors would have an extended opportunity to avail themselves of the electronically assisted voting method if they so choose. A sight-impaired elector will be able to cast an electronically assisted vote in the lead up to polling day or on polling day itself.

The trial for particular defence personnel serving outside Australia will require the AEC to develop a remote electronic voting method for that purpose. In order to make use of the remote electronic voting method, eligible ADF members and defence civilians would first be required to be registered with the AEC as Remote Electronic Voters. The AEC will be required by the Bill to produce a printed record of each electronic vote received by the AEC.

I look forward with interest to the results of the electronic voting trials. Any reforms that seek to enable voters to exercise their democratic right to vote in secret and to extend the franchise should be supported, and it is hoped that the trials are successful and can be rolled out extensively so that electronically assisted voting may include other people unable to complete a paper ballot in secret because of disability.

The proposals that I have outlined regarding changes to the general postal voting registry allow ADF and AFP personnel overseas
to enrol to become general postal voters, which simply means that they will automatically be sent ballot papers without first having to request them—a straightforward and sensible amendment. The various changes made with regard to postal voting seek to change the postal vote deadline from the Friday before election day to the Thursday before election day, allowing the AEC more time to ensure that ballot papers reach electors in time for them to complete the papers on or before polling day. The Australian Electoral Commission will not be required to post or deliver postal voting material to those electors whose postal vote applications are received after that time. However, the AEC will be required to make reasonable efforts to contact applicants whose postal vote applications are received after the deadline to advise them of the need to vote by other means.

The amendments also seek to expand the range of AEC officers who can receive postal votes. The range will include electoral visitors at hospitals and prisons, mobile polling team leaders and office holders, and ongoing employees of the AEC. This expansion will provide voters more options and flexibility for returning postal votes.

These amendments are worth while and very welcome. As I said earlier, the trialling of electronic voting is indeed a very exciting initiative. However, this government took a very different position on the first round of measures introduced through the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006, debated in the Senate in June 2006. These changes were widely condemned by the Labor Party, community leaders and independent experts—and rightly so. Those changes, for the first time in Australian electoral history, wound back the franchise and attempted to hide from the public who is donating to political parties. By raising the financial disclosure threshold, you hide the dollars, and transparency is lost. You lose the essential checks and balances on the activities of political parties. It is a shameful measure that has been introduced to fill the coffers of the Liberal and National parties and hide the origin of the donations from public view.

Following the 2005-06 disclosure declarations by political parties, on 2 February 2007 the Herald Sun reported:

Overall direct political donations of $74 million for 2005-06 were well down on the $160 million that flooded the coffers of the major parties in the 2004-05 election year. Well down—a difference of $86 million.

The closure of the rolls sooner after the writs is of great concern. It potentially disenfranchises voters and there is little benefit to be derived from making these changes other than, as I have said, for base political advantage. These changes were introduced despite the potential that existed for them to cause considerable damage to our democracy. We should remind ourselves that, whilst the provisions in this bill are supported and welcomed by the Labor Party, they by no means right the unfairness introduced by the provisions in the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006. I support the bill before the Senate.

Senator LUNDY (Australian Capital Territory) (8.58 pm)—I too would like to comment on the Electoral and Referendum Legislation Amendment Bill 2006. I note that previous speakers have talked about its positive aspects. There are several very positive steps forward, particularly for those who are sight impaired. Technology is a wonderful thing, particularly when it is put to use to enhance people's life experience and ability to participate in our democratic processes and to provide opportunities to improve people's social inclusion. But today I would like to comment on some things we have had
conversations with many members of the Canberra community about. These are the changes proposed in this bill with respect to closing the roll, the greater identity checks and the increased difficulty for people to get on the roll.

I think the real issue that needs to be understood here is that the Howard government has got real form on using laws such as the electoral laws for its own partisan benefit, and many of my colleagues have already made the comment that many of these laws are doing exactly that. We did some research here in the ACT, in my electorate, and found that under these new rules over 10,000 potential electors could have lost their right to vote in the electorates of Canberra and Fraser at the last election. That gives a sense of the magnitude of the change that is taking place. That is how many people needed to change their arrangements, or indeed get on the roll, post the issuing of the writs. I note that there is a three-day leeway, but it is still hard to say whether or not that will be enough time for people to update their addresses. I know that there would be a huge amount of work for the Electoral Commission to undertake and I know also that new enrollees would not be able to do that.

The thing about existing voters updating and changing their details and the increased identification checks that will be required just shows that it is about making it more onerous, particularly for young people. I think that the effort in this regard is to put up a higher barrier for people who are perhaps motivated to vote and to get on the electoral roll but not if the fence is put too high. I think that it is an effort to undermine what is an established principle, one that all but a few coalition people agree with: the principle of compulsory voting. We need to value that system; we do not need to make it harder for people to participate in it.

The other point that I would like to make about this approach is that when it comes to political donations the Labor Party believes that it is incredibly important to have the utmost transparency in the way political donations are made. I have often had this debate on the airwaves locally with my ACT Senate colleague, Senator Gary Humphries. A Liberal senator, Senator Humphries often says that he does not think there should be political donations at all to parties, and we have had a debate about that. My response is that we need to have political donations because that is part of how our system works, but we need to have them in the most open and transparent way possible. So I think that it is quite ironic that we are debating legislation that seeks to make it less transparent, yet my Liberal counterpart is arguing for no political donations at all. I think he has quite a bit to reconcile in his taking that position and his party putting forward this kind of legislation.

In moving about the Canberra community, we have paid particular attention to university campuses and to young people, because they are likely to be the most disenfranchised by the closing off of the roll and the issuing of the writs. At the show just last weekend here in Canberra we saw a number of young people come past the Labor Party stall. We had our enrolment forms there and we advised them that they ought to get on the roll if they are turning 18 because they will not have a chance to once they are prompted by the calling of an election. People are quite shocked when I explain the implications of this and what this government is doing. They feel that it is a trick, that they are being robbed of something potentially without due warning and without due opportunity to get themselves on the roll in the way that generations have before them. I guess that it is a salient reminder to people that you really cannot trust the Howard government.
We are supporting this bill because there is a lot that is good in it. But typically there are a few spiky bits the government insists on putting forward that I think will undermine our democratic processes into the future. This bill will serve as an ongoing reminder particularly to young people, I think, that they are right to be sceptical about the motivation of the Howard government on all matters electoral. They are right to assume in many cases that there is a partisan motivation behind its activities in legislating in this area and that this government will do all it can to be just a little bit tricky, a little bit sly, a little bit manipulative when it comes to enhancing its chances to win the next election.

Labor are not going to stand for that. We will show the government up when it is necessary and when there is something going on that is not fair in Australian society. Whilst ever they have the numbers in this place—and in fact the majority in both houses of parliament—all we have are our words, and the government can do what they like in terms of legislation. So Labor will continue to remind people throughout this election year that they do need to get on the electoral roll before the election is called. They do need to check their enrolment details if they have had a change of address. We know that the system of the Electoral Commission in trying to notify people or check to see whether people are on the roll if they do not get their returns is flawed and that people are being struck off the roll. We know that there are fewer people on the roll than there were previously and that there has been a far greater drop in the number of people enrolled than previously. All of these things point to something a little bit wrong with the system, a system that is specially designed for Australians by the Howard government. Labor will keep on being diligent. We will be reminding people of the antics of the manipulative government and we look forward to the next election when, hopefully, people will not be disenfranchised, because they have got the message that they need to get on the electoral roll early.

Senator HUTCHINS (New South Wales) (9.06 pm)—It is certainly a pleasure to follow Senator Lundy and that very thoughtful contribution to the Electoral and Referendum Legislation Amendment Bill 2006, which we are debating this evening. An interesting aspect of this bill is that provisions in the bill make it easier for people to participate in our democracy. That is quite in contrast to the shenanigans that this government got up to in the bill they put through last year in amendments to the electoral laws that we have operated under for some years. You may recall, Mr Acting President Ferguson, that one of the significant changes that was effected by last year’s bill was that when the election is called you only have that evening to enrol. The other significant change to the previous laws was that you previously had seven days to change your enrolment; under the new laws you only have three. The two significant issues that have come out of those changes are, firstly, if you are a new enrollee you have only until the evening of the day of the election being called to get on the electoral roll; and, secondly, if you are trying to change your enrolment you have only three days whereas previously you had seven.
I do not know what goes through the minds of the members of the government in relation to their concern about these new enrollees. I can only talk from my own experience. I understand that 80,000 people enrol in that week’s grace that they have to enrol. One would think that the government have it in mind that there are all these Labor supporters out there sitting around on some bench or collecting their Centrelink payments or something like that who somehow or another get motivated in that last week before they have to vote to go and put themselves on the roll so they can vote Labor.

I would say that the people who do not have the opportunity to go and get on the roll are independent contractors, tradesmen and people who work in the cities and commute. They are people who might once have been called Howard’s battlers. They are the people who, in my city of Sydney, live on the fringes of the city. They are people who live in seats that are located almost exclusively in an arc from Wyong right around Sydney to Sutherland. I would suggest that those people have not been voting for us since 1993; yet by your actions in the bill that was passed last year those people will become disenfranchised under this legislation. I would think that the people whom we think might vote for us—maybe the unemployed, people who are not working, people who are house-bound and students—have plenty of opportunity to enrol. They can walk down the high street in Penrith any time and get on the electoral roll. It is those people who are working who will not have the opportunity. It may well be that you have outsmarted yourselves and disenfranchised a number of coalition voters. Good luck!

We know that the changes that occurred last year will disenfranchise up to 80,000 people. We know that at least up to one-quarter of a million people change their enrolment. Perhaps the minister, in reply, will clarify this: if people are at one address and they have not re-enrolled at another and they go and vote at the old address, is that improper? Is that illegal? Maybe that could be answered in the minister’s contribution at the end.

I am also very concerned about the need for people to present evidence that they are who they say they are. We have not had that before. In my last contribution in the last session of parliament I mentioned a seminar that I addressed with a director of the Exodus Foundation, Michael Crews. Michael Crews was speaking about the difficulties of the people whom their foundation assists in Ashfield. One thing he mentioned, which was quite astounding to me and I was not aware of it, is that some 100 of their clients—I think that is the term Michael uses for the people who seek their assistance—do not have birth certificates. They do not have birth certificates because they were never registered at birth. The Exodus Foundation is constantly going to Centrelink and other government bodies arguing on behalf of these men and women who have not been registered at birth. They have the difficulty that they are never going have a birth certificate because they do not have one! Where are they in this hodgepodge of changes that have occurred? I am not exactly sure. Hopefully, those men and women have got the assistance they need to be sorted out in that regard. But it is not just those men and women that seek the assistance of organisations like the Exodus Foundation. I am sure there are a number of our Indigenous people who may not have ever been registered at birth because it was not the custom of the tribe or the system in which they were born. So there are difficulties in the legislation.

But what seems to me to be the overriding obsession of the government in the introduction of the bill is the fact that they think the
Labor Party are out there massively trying to rort the electoral system. To my knowledge, in the last two decades, there has been only one inquiry that has mentioned electoral rorting—that is, the Shepherdson inquiry in Queensland. I had the opportunity this afternoon to have a look at the outcome of that inquiry and the people and the issues involved. One would think the obsession of the government is, as I suggested, that there is a Labor rorting unit out there somewhere that operates by going from seat to seat with hundreds, no thousands, of men and women who they falsely enrol. You would think that that is what it is about—not only is it about enrolling for the potential to vote in elections, as the Shepherdson inquiry exposed, but it is about being involved in internal Labor Party ballots.

I went through and counted how many people seemed to be involved in this massive rorting operation that was conducted in Queensland. I do not think there were more than 150 people involved, and they were mainly involved in internal Labor Party ballots. I am suggesting that there is not this great army out there that is trying to rort the electoral system. It just cannot be done and, in fact, the result clearly is that if you are going to have an operation like that, you need a lot of people to shut their mouths. Clearly, the Shepherdson inquiry was as a result of people who did not shut their mouths. As a result of that, I think, one woman went to jail, three MPs resigned, and I cannot recall whether the government lost in that period or was in a lot of trouble for a while, but in the end the electoral processes were sustained. The inquiry pointed the finger at the people who needed to be put on the spot, and the transparency was maintained.

I do not think that the reasons behind the changes to enrolment which occurred last year are at all justifiable. In fact, all I think they are going to end up doing is making sure that 80,000 people do not get to vote, and that up to a quarter of a million people are going to vote in seats they do not live in anymore, so they will not be voting for the person who represents them. I think this is a reflection of the obsession by the government with what is quite an honest and honourable electoral system and the electoral officers who conduct our elections for us.

I am not sure where we will end up with these seemingly constant attacks on the system by the federal government. I wonder whether or not, in their cups, when they really think about the sort of system they would like, they would like to go back to the 19th century when we had a property franchise where only males could vote. I am sure that in their cups in the dining rooms, where they all sit around and think about the conspiracies that we are up to, in the end that is really what they would like: to go back to males only and a property franchise.

Senator STERLE (Western Australia) (9.18 pm)—I rise to speak on the Electoral and Referendum Legislation Amendment Bill 2006. The Labor Party, as has been said in this place already, will support the bill because parts of it do allow a few more people to be able to vote and it does ensure, very importantly, that Australian Defence Force personnel serving overseas and sight-impaired people will find it easier to cast their votes. Giving Australian Defence Force personnel the ability to cast their vote electronically is a terrific idea and it is to be welcomed.

As has been noted elsewhere, the provisions in this package do have some deficiencies but, on balance, the whole package, as has been said previously, does take us forward at least a short distance compared to the draconian disenfranchising measures found in the last tranche of changes to this legislation that were considered in this place.
The provisions around voting for the visually impaired are to be welcomed. I would note, though, that, sadly, these facilities will be limited to only 30 centres. The legislation does not follow the recommendation of the Joint Standing Committee on Electoral Matters that the facilities should be in each and every electorate, not just in 30. These measures are there to help people who are disadvantaged and who have particular problems. They are there to help them to place their vote and, importantly, to get it right, unlike the previous amendments to the act.

Remote communities, including Indigenous communities, need to be assisted, and you do not get more remote than some of the communities I represent in the great state of Western Australia. I am talking about not only remote Indigenous communities but also remote mining communities where workers are often employed on a fly-in fly-out basis. Will their enrolment be up to date? Will they be disenfranchised by the earlier measures taken by the Howard government? The proof will emerge at election time, but already some noted experts on electoral matters have condemned this government for the measures already taken and what they will do to take the franchise away from what they predict will be a very large number of people.

I commend the government for the provisions in relation to Defence personnel and people who are visually impaired, but I wonder why this government is so paranoid about people voting in the first place. Closing the electoral roll for most new enrollees on the day the writs are issued for the election will prevent people from enrolling, and only giving existing voters three days to get their details up to date will knock people off the roll. I would suggest this government is worried that these people will vote Labor, and heaven forbid they vote Labor. Why might they vote Labor if this government gives them the opportunity to vote at all later this year? I can tell honourable senators opposite that there are plenty of reasons and the list gets longer every day. I will start with Iraq. When the Howard government committed troops to the invasion of Iraq, we were all promised that our military commitment would be for a matter of months, not years. I will repeat that for honourable senators opposite: a matter of months not years. How wrong was that?

Recent debate has shown only too clearly how confused the Howard government is in terms of the messages it is now conveying about our commitment to, sadly, that quagmire of five years. While the Prime Minister says that we shall stay until final victory, or words to that effect, the Minister for Defence is saying there can be no victory in Iraq. If it were not so deadly serious for the Iraqi people and coalition troops, it would be funny. Instead, it is an ever-growing tragedy. Rather than making this country safer in terms of the threat presented by international terrorism, the policies pursued by this government and this Prime Minister have done the opposite.

We also have the Vice President of the United States saying that withdrawing Australian troops from Iraq—which, I might add, is Labor’s policy—to better fight the war in terror in our region would not put at risk Australia’s relationship with our most powerful ally. Fancy him saying that—stealing Mr Rudd’s lines. Isn’t that amazing? He has obviously been reading the papers. Well done to Mr Cheney. It is a shame that the Prime Minister has not been reading the same papers. This further undermined the Prime Minister’s argument that redeploying our battle group in Iraq would somehow threaten that important relationship. The Vice President, figuratively speaking, blew the Prime Minister out of the water. It is no wonder this government does not want too many people
on the electoral roll if their intention is to vote against our involvement in the war in Iraq.

Another reason this government has for worrying that there might be a lot of disgruntled voters on the rolls is housing affordability. In the capital city of the state I represent in this chamber, young people are finding it even harder to find the money to afford their own home. We have had four interest rate rises from the Pinocchio nose from Bennelong. You know the little Pinocchio from Bennelong—you have seen the ads. Every time there is an interest rate rise, zoonk, out goes the proboscis another inch. Yes, they are finding it very hard. We have had four interest rate rises since the last election, and yet the Reserve Bank of Australia warned only last week that it would not hesitate to adjust interest rates again, election year or not, and that the direction in which interest rates were likely to go at this stage was up—not down; up again. This is because, as my colleague the member for Lilley, Mr Swan, has said, the Howard government has failed to come to grips with inflation. In fact—honourable senators opposite, through you Mr Acting Deputy President, listen to what I am going to say—only last week we had the Treasurer refusing to deny that he had made statements to the effect that he had made such statements to the effect that it would not be such a bad thing if the economy faltered so that voters become, listen to this, a bit more worried about future.

I would also like to remind honourable senators opposite that on 12 February Glenn Milne, once upon a time one of the government’s more sympathetic journalists, wrote in the Australian:

Peter Costello is telling anyone who will listen, behind the back of his hand, that it might not be such a bad thing if the economy hits a few bumps. In the Treasurer’s eyes such a scenario would put some voter apprehension back into the election mix...

The Treasurer was twice asked directly if he had made any such statements and twice refused to deny making such statements. It is simply extraordinary that the Treasurer of Australia hopes that the Australian economy falters—

Senator Colbeck—I rise on a point of order, Mr Acting Deputy President. It might be pertinent that you draw the honourable senator’s attention to the piece of legislation we are actually debating. The public’s voting intentions might be of interest to him, but we are in fact debating the Electoral and Referendum Legislation Amendment Bill.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—I get the drift of your point of order. Second reading debates have normally been far-reaching. The senator is not out of order, but I would remind him of the subject matter before the chair.

Senator STERLE—Thank you, Mr Acting Deputy President. It is about relevance, but I do appreciate your comments. As I was saying before I was interrupted, it is simply extraordinary that the Treasurer of Australia hopes that the Australian economy falters so as to boost the electoral prospects of the coalition and his own leadership campaign against the Prime Minister and the PM-in-waiting, the member for Wentworth. It is only too obvious that the Treasurer is more interested in his own ambitions than in the health of the Australian economy and the wellbeing of Australian families. I would suggest that he has his eye on the Prime Minister’s job and not on the best interests of the Australian economy.

Another reason this government may not want too many of what they consider the wrong sort of people voting at the upcoming election is the burning issue of climate change. The Prime Minister and his government have been dragged kicking and screaming to the realisation that a large majority of
the Australian public is deeply concerned with the issue of climate change, and this terrible drought is linked to the issue in their minds, even if the Prime Minister cannot bring himself to link the two.

We on this side, though, are deeply engaged with the issue. On the weekend, the Leader of the Opposition released Labor’s national clean coal initiative to reduce greenhouse and, importantly, to secure jobs in the coal industry. As we know, coal is an important part of our economy and Australia is the world’s largest coal exporter. The initiatives include setting up a national clean coal initiative to place Australia’s coal industry and exports on a sure international footing, and establishing a national clean coal fund, working in partnership with the private sector. Federal Labor will also increase funding for the CSIRO by no less than $25 million over four years. This will strengthen its leadership role in the research and development of clean coal technologies. This is about ensuring that we have a strong and long-term coal industry and working in partnership with state governments and the coal sector.

Labor’s national clean coal initiative is an important element in Labor’s comprehensive approach to dealing with the threats and opportunities of climate change. This approach includes immediately ratifying the Kyoto protocol; cutting Australia’s greenhouse pollution by no less than 60 per cent by 2050; setting up a national emission trading scheme; substantially increasing the mandatory renewable energy target; and convening a national climate change summit in Canberra in late March or early April 2007, which if I remember rightly, I am sure the Prime Minister was invited to attend by Mr Rudd.

Federal Labor will be making further announcements on energy renewables and other energy sources in the coming months. We will also be seeking further input from the business and science communities on this very important initiative. This is what Labor will do, and it is no wonder voters are attracted to such policies and initiatives. It is also no wonder that this government is intent on taking the franchise away from people who might be attracted to Labor policies like these, because where is the Howard government on issues like climate change? Behind the play, that is where they are.

Only today we have observations like this one again from Mr Glenn Milne, writing in the Australian newspaper, at page 8. He says that the Business Council of Australia, under Michael Chaney’s leadership:

... was way out in front of the Government on the climate change issue. Howard is still catching up.

No wonder the government is worried, and no wonder they are worried about people who they consider to be the wrong people having a vote come election time. That is because this is a government that, after 11 long years, is becoming increasingly tired, out of puff and out of touch. This is a government whose senior members, no less, are increasingly concerned about their own futures, rather than the future they can help to provide for the people of Australia.

In summing up, this is a government that, despite the Prime Minister’s power walks, is really running out of steam. It is little wonder that, despite the minor positive measures contained in this bill, this government gives every appearance of doing everything it can to make it as hard as possible for people who it considers will vote against it to vote at all.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.31 pm)—I was going to thank honourable senators for their contributions to the bill—

Senator Carr—You still can.
Senator COLBECK— and I will, but I will note that it was extremely disappointing that they did not largely address the legislation that we are debating here today.

Senator Sterle—I didn’t talk about AWAs. I didn’t get around to that.

Senator COLBECK—I am sure that you would have had a crack at anything, Senator Sterle. In fact, Senator Sterle is Labor’s junior attack puppy here in the Senate. He had a very broad-ranging discussion which, as I said, very rarely even reflected on the legislation that we are talking about, which makes some very positive contributions to the Electoral Act. Interestingly, considering the debate that we have heard here this evening, the report was unanimously supported by the Senate Standing Committee on Finance and Public Administration following its recent inquiry. That actually makes the contributions that have been made to this debate somewhat more amusing. I do not think it is really worth chasing all of those comments down, but it really was an object in retrospectivity that Labor was playing through the debate.

This bill is the second part of government’s response to recommendations of the Joint Standing Committee on Electoral Matters in its report on the 2004 federal election. I would like to thank the chairman and members of that committee for the comprehensive inquiry and the report. The measures in this bill build upon the electoral reform measures passed by the parliament in June 2006 and will improve the participation in our democratic process. The major provisions in the bill relate to electronic voting trials, improvements to voting arrangements and proof of identity requirements for Australians enrolling from overseas.

The electronic voting trials are significant, as they will be the first conducted for a federal election. The trial for blind or vision-impaired people has been extremely well received. The trial will allow these people to cast an independent secret ballot for the first time at a federal election. This will be done through the use of electronically assisted voting machines. The trial will be conducted in up to 30 prepoll voting centres across Australia. The Electoral Commission is working very closely with organisations such as Vision Australia to ensure that the locations are known to people with this disability so that the participation in the trial can be maximised. If the trial proves to be successful, the government will consider expanding the number of locations at the 2010 election.

The second trial will allow Australian Defence Force personnel serving outside Australia to cast a vote electronically. This trial will overcome the many difficulties associated with voting options for Defence Force personnel overseas and will allow them to vote in safety. It is estimated that approximately 1,500 Defence Force personnel who were overseas for the 2004 election missed out on having their say. This was about one-third of the Defence Force deployed overseas at that time. This trial will give Defence Force personnel serving overseas that important opportunity to have their say. The AEC is working in close cooperation with the Department of Defence on the technical issues associated with the trial. The government welcomes the defence department’s cooperation on this matter. As my colleague the Special Minister of State indicated during debate in the other place, the government will consider extending electronic voting to other personnel serving outside Australia if this trial is successful.

The government welcomes the support for these trials, and I would like to reassure the Senate that neither of these trials are precursors to electronic voting generally. Defence Force personnel who are overseas will also benefit from provisions in the bill for auto-
matic registration as postal voters. This provision will also apply to Australian Federal Police personnel serving overseas and to eligible overseas voters. It will mean that they will be sent postal-voting material automatically once the election has been announced. Most importantly, they will not have to apply for their postal vote and therefore lose more time in waiting to receive the ballot paper. This will reduce any time delays associated with getting the postal vote out to them and the return of that vote.

Other improvements to postal-voting arrangements will enhance the prospects for people to receive postal-voting material in time to be able to return their postal vote for inclusion in the count. The AEC needs time to get the ballot paper back to people so that they can post it and have it postmarked in time to be an eligible vote. The measures will allow the AEC to assess the most practicable and reasonable means of delivering postal material to electors, taking into account postal delivery schedules and considering means other than postal delivery, including via courier.

The government is also concerned that many people who seek to vote as a postal voter miss out on voting because, while they may have lodged an application on time, the processing of that application, including the return posting of ballot papers, may not occur in time for the vote to be included in the count. Often a voter thinks that their vote has arrived in time when it has not.

This bill provides that the AEC will not be required to send postal voting material where applications are received after 6 pm on the Thursday before polling day. However, in this circumstance the AEC will be required to contact those people whose applications are received after this deadline and advise them of alternate voting options. These options will include casting a prepoll vote on the Friday or making arrangements to attend a polling booth on polling day. The AEC will do all that it can to contact these electors. This provision will ensure that these people have the best possible chance of having their vote counted.

The bill also expands on the list of AEC personnel who will be able to accept postal votes, thus providing greater flexibility and broader 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 people to postal voting issues. As honourable senators will recall, legislation passed in June 2006 introduced proof of identity requirements for enrolment to strengthen the integrity of the electoral process. Regulations giving effect to these requirements are currently before parliament and will commence in April this year. The government has delayed commencement of the new requirements until after the New South Wales election. This follows a request by the New South Wales Premier to avoid confusion about enrolment requirements for state and federal jurisdictions.

This bill also introduces alternate proof of identity documentation that may be provided by Australians enrolling from overseas. These people will be able to provide their Australian passport number as an alternative to their drivers licence number. This is in recognition of the difficulty that they may have in meeting the new proof of identity requirements given their location outside Australia and lack of access to the documentation or the classes of electors required under the new scheme.

Other measures in the bill will allow the AEC to respond quickly to changing or unanticipated circumstances to establish prepoll voting centres without the need for prior gazettal, which could cause a delay in voting.
The offence provisions for defamation of candidates will also be repealed. This will allow defamation cases to be dealt with in accordance with the existing defamation laws in the relevant state or territory jurisdiction. In closing, I reiterate to the Senate that the measures in this bill are important and will provide a greater scope for people to participate in the democratic process, and this is definitely a good thing. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bills passed through its remaining stages without amendment or debate.

AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA’S SKILLS NEEDS) AMENDMENT BILL (No. 2) 2006

Second Reading

Debate resumed.

Senator CARR (Victoria) (9.41 pm)—I wish to speak to the second reading of the Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Amendment Bill (No. 2) 2006. This bill increases by $112.6 million the funding appropriated under section 18(4) of the act. The opposition supports in principle any move to address the Australian skills crisis by providing additional funding for vocational education and training, particularly in the traditional and other priority areas. For the reason of principle alone, Labor will be supporting the bill.

However, despite our commitment in principle to this provision, we have very strong reservations about the Australian technical colleges program and its capacity to address the nation’s severe shortage of skilled labour—a crisis brought about in large part by the Howard government’s 10-year neglect of training and vocational education. Accordingly, I move a second reading amendment highlighting some of our concerns:

At the end of the motion add:

“but the Senate considers that the present Government has been complacent and neglectful about the Australian economy by:

(a) presiding over a skills crisis through its continued failure over more than 10 long years in office to ensure Australians get the training they need to get a skilled job and meet the skills needs of the economy;

(b) failing to make the necessary investments in our schools and TAFE systems to create opportunities for young Australians to access high quality vocational education and training, including at schools;

(c) failing to increase the number of school-based traditional apprentices and provide funding support for schools in taking up the places;

(d) creating expensive, inefficient, stand alone colleges, without cooperation with the States within the existing Vocational Education and Training framework;

(e) riding roughshod over the States and Territories in establishing these Colleges, despite the role the States and Territories play in vocational education and training;

(f) making Australian industry wait until 2010 for the Australian Technical Colleges to produce their first qualified tradesperson;

(g) failing to provide support to other regions that have skill shortages, but are not listed for a Technical College”.

I will return to that in a moment.

The fact is that Labor’s concerns have only been exacerbated by the implications of the bill we are currently debating. We have said from the outset of this program that the Australian technical colleges represent a tokenistic stunt pulled by the government—an expensive stunt aimed at demonstrating that
it has something to say about skills shortages and is doing something to respond to the desperate needs of industry. In fact, it was a hastily put together stunt pulled during the last federal election campaign. Again and again we see measures being taken by this government which are essentially quick fixes rather than looking at programs that invest in the long-term future of this country and address the long-term needs of this country. The Prime Minister is a past master at pulling these quick, dirty little stunts, and this is an example of such a measure.

While we have seen this poorly thought through election stunt, the program is experiencing a massive cost blow-out. It is experiencing a cost blow-out because essentially the program does not spend taxpayers’ money nearly as prudently or as wisely as one would expect. The Australian technical colleges, as Labor has predicted, are costing more than they should because of appalling planning by this government. This program was not developed in concert with the states and territories; it was introduced despite them; it was introduced in opposition to them. The government did not work closely with the states; it did not seek to advise the states as to what its intentions were; it did not seek to have their advice on the running of technical colleges. In fact, the government provided additional Commonwealth resources. Rather than enhancing the TAFE system that the states already run, it provided a program as a quick and dirty little stunt to try to undermine the TAFE system. The Howard government did not work with the states to add resources to the existing secondary school system that the states already run.

This government barged in and announced that what it was going to do was create a whole new system of upper secondary vocational training discrete from existing systems, essentially duplicating what had been undertaken by the states themselves. And what is the result? The result is clear to all those who know anything about this matter, and it was clear from day one. Too many of these so-called Australian technical colleges have been established incognito on greenfield sites requiring new buildings, new facilities and new equipment—things that might have been shared in a creative, innovative and economical way with existing schools and TAFE colleges.

Far from pointing to the successes of the program, as the minister would like, the cost blow-outs clearly show that the Australian technical colleges concept was seriously flawed from the beginning. The minister has had to come begging to the parliament to save her bacon by appropriating well over another $100 million to cover the unexpected additional costs. The government could not find anyone willing to negotiate the contracts to run these colleges at anything approaching the prices that were initially offered. All around the country the government has had to increase the contract price—it has no choice. Now, of course, the taxpayers have to foot the bill. They have to underwrite the government’s mismanagement.

For instance, take the case of the technical college at Lismore-Ballina. The program was a 2004 election promise. It is now 2007 and that college has yet to get off the ground. There has been no contract signed, as we were told at Senate estimates less than two weeks ago. The New South Wales government has gone ahead to establish its own network of trade schools, on its own initiative, to address the skills crisis. The New South Wales government has opened its own trade school at Ballina based on the local high school. Of course, that is a sensible, cost-effective way of doing it. The state government is building on existing facilities, existing administration and existing resources to create a practical solution to the
skills shortage crisis. Now it is offering young Australians at Ballina and in surrounding areas new opportunities to learn a trade. There has not been a fuss about this initiative, just purposeful action. Nothing could contrast further with the actions of the Commonwealth government on this matter.

It would be nice if the Howard government could learn from the example of New South Wales or, indeed, my own state of Victoria, which has introduced similar initiatives. I wonder whether the New South Wales government’s new trade school at Ballina has anything to do with the apparent inability of the Commonwealth to interest anyone in setting up an Australia technical college in exactly the same town. Maybe local industry is not happy with the new trade school that the government is proposing; just maybe the ATC will wastefully and unnecessarily duplicate the existing educational facilities at that centre.

That is not all that I am worried about with regard to this program. Instead of the grandstanding that this government has engaged in while setting up its own colleges unilaterally, if the Howard government had chosen to work with the states in a genuine attempt to solve the skills crisis we might now have a viable, effective program in operation. Australia sorely needs a solution to the skills crisis, but it will not find one with this government. The Australian technical colleges are clearly not part of that solution.

The government wants to tell us that this extra cash proves that the Australian technical colleges program is going ahead in leaps and bounds. What we need, of course, is to look at the enrolments at some of these new colleges to get a taste of the truth. They point not to success but to abject failure by this government. An article by the Illawarra Mercury published early this month reported that a week after the Australian technical college in Wollongong was due to open it had 38 students. The Australian technical college at Gladstone in Queensland had 30 students last year.

Senator Sterle—How many?

Senator CARR—Thirty students. Of course, we were told that there were going to be students coming from every quarter. Now we are told that by 2009 there might be 135 at Gladstone. The college at Darwin is not expected to grow beyond a paltry 100 students. When state school enrolments fall that low, state governments will usually close the schools down on the basis that they represent an inefficient use of taxpayers’ money. But, when it indulges in a cheap and nasty political stunt, what does this government do? It puts in another $100 million. The idea of deliberately setting up new training facilities with such poor economies of scale ought to be anathema to this entire parliament. But the financial considerations cannot be allowed to stand in the way of this Howard government’s election stunts.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Intellectual Property

Senator MARK BISHOP (Western Australia) (9.50 pm)—Tonight I rise to take note of a report from the Australian National Audit Office, Management of intellectual property in the Australian government sector. This audit report is effectively the second in as many years looking at how the government is managing its own intellectual property. When one looks through the report from beginning to end, it really is quite damning reading. The report demonstrates, as did its predecessor of some 18 months ago, that the
government has done very little—effectively nothing—since 2004 to protect billions and billions of dollars worth of intellectual property. What does that mean? Billions of dollars worth of publicly owned computer assets and software are under threat. It makes worse the ‘brain drain’ which this government has been managing to avoid for many years.

By way of background, what is intellectual property? It is logos, trademarks, publications, films, broadcasts, designs, inventions and computer programs. Intellectual property rights include, by way of a fairly broad definition: patents, trademarks, copyright, circuit layout rights, designs, plant breeders’ rights and, of course, confidential information. Intellectual property protects the brains and ideas that drive our country and our economy. Increasingly, as this country matures into a service dominated economy, the basis of intellectual property and its legal protection becomes paramount and is in need of increasing legal protections.

Intellectual property is an intangible asset that has mushroomed out of all proportion. It has grown in the last 10 years from being worth something in the order of half a billion dollars in 1996 to being worth well over $8 billion in the 2005-06 financial year. That figure of $8 billion includes $3.8 billion of computer software assets properly held by the government and $3.9 billion of other intangibles. Intellectual property is becoming critical as governments outsource more and more work to third parties. If a government manages intellectual property right, it has the capacity to boost competitiveness, generate revenue and stimulate economic growth whilst at the same time ensuring proper return to the legal owner of that property—the government.

But the government’s record on intellectual property falls far short of achieving any of those goals. Here are the facts as outlined in the Australian National Audit Office report. The audit found that two-thirds of government agencies had no policy for the management of intellectual property. Hence, the auditor recommended a whole-of-government approach to the ownership, administration of and entitlement to intellectual property. Two years after those recommendations, little has been achieved and that whole-of-government approach still sits in a back drawer.

Such an approach, according to the government, was meant to have been completed by May of last year, but right from the beginning of this process—and even as I speak—confusion remains over whether this responsibility rests with the Attorney-General, Mr Ruddock, or the finance minister, Senator Minchin. More disturbingly, intellectual property management continues to have a very low profile within the government. There does not appear to be a minister, a department or an agency that is driving to protect the government’s right to over $8 billion of intellectual property that the government has been responsible for creating in the last 10 years. That is despite a government acknowledgement of the importance of intellectual property management.

We have to acknowledge that the government recognises its responsibility in this area. Indeed, in the lead-up to the 2004 election the government released a policy statement on IP management. In **Connecting an innovative Australia**, the government promised to ensure that ‘all agencies have appropriate intellectual property management strategies’. So the government was aware of the problem and it devised a solution. It was a matter of the government, if re-elected in 2004, moving to cement the negotiations between the two departments—AG’s and Finance—so that there could be either a whole-of-government approach or individual
line portfolio responsibility. But in the almost three years since that time we have had no progress at all. It has to be said: this is another broken promise in this area from the government.

Instead, there appears to be confusion as to which department is responsible for developing and implementing this whole-of-government approach to intellectual property management as outlined by the Audit Office in its performance audit. A chain of correspondence between various departments, the Attorney-General and the minister for finance, Senator Minchin, dates back to the original audit in 2004. As of last August, the Attorney-General and Senator Minchin were still writing letters over the minutiae of responsibility for intellectual property management across all government agencies and departments.

This latest audit concludes: ‘Almost three years after agreement to the earlier audit report recommendations, an overarching approach and guidance to agencies on intellectual property management has not been achieved.’ The audit notes gaps in record keeping, making it hard to know what decisions, if any, have been made regarding this overarching approach to intellectual property. There was also insufficient recording of key events, decisions and differences of opinion, ‘making it difficult to track and report on progress against expected milestones’. Also, there has been little attention paid to date to how intellectual property principles will be applied across government.

Overall, it is a damning audit of an essential government action which should be directed to protecting its own property, which is in the order of $8 billion in 2006 figures that the government has either created or outsourced to be created by other agencies or firms. It is not good enough. At stake are billions of dollars worth of assets. As the Audit Office concluded, the government not only is not managing these properly but is not managing them at all. The government needs to pay closer attention to independent audits such as this and heed their recommendations. Hollow election promises are inadequate. The government needs to effectively manage publicly owned property. Innovative Australian software, for instance, needs to be protected with legal backing so that it cannot be misused, misappropriated or pirated.

This report by the Australian National Audit Office is a timely reminder of the government’s ongoing shortcomings and deficiencies in a critical area that does not receive a great deal of public notoriety but, as I have said, has developed an asset backing of something in the order of $500 million back in 1996 to $8 billion to $9 billion in the 2005-06 financial year. In a 10-year period we have gone from half a billion dollars to $8 billion or $9 billion worth. As our economy changes, as wealth is created in a service economy, as wealth is derived by the owners of products that are created, they increasingly need to have their legal rights protected and maintained by the government across all agencies.

One only has to look at the large outsourced contracts that are increasingly being made by departments like defence, veterans’ affairs, families and community services and agencies like Centrelink, to name a few, to know how many assets are being created, how much intellectual property rights are being ignored and how much brainpower is being put into a range of products that the government does not even know it owns. It shows no interest in maintaining a register or establishing a regime across government, across portfolios and across agencies to protect the $9 billion or $10 billion worth of intellectual property that government agencies have created in the last 10 years, and which over the next 10 years will grow to
something in the order of $20 billion to $25 billion.

**Iraq**

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.00 pm)—The last two weeks have demonstrated very convincingly, I think, that the Howard government is dangerously out of step with world and public opinion on Iraq. President Bush and our Prime Minister have dug themselves into a hole that gets deeper with every bomb blast in Baghdad, with every civilian killed, with every US plane shot down—now eight just in the last month—with every American soldier killed, with every hospital in Iraq bursting at the seams with more injured people and with no end in sight to the slaughter.

Mr Cheney, a hawk behind the ill-fated strategy in Iraq, paid us a visit at the weekend. He is pulling out all stops to shore up the Bush administration’s hopeless surge and to shore up Mr Howard’s support as other countries bale out of this disaster. Mr Cheney wants us to believe, as does Mr Howard, that Iran will be the big winner if there is a significant coalition withdrawal—when in doubt, just find another evil enemy to distract from the mess that is Iraq. If Mr Howard is the greatest threat to Australia’s peace and security, as Mr Rudd says, then surely Mr Bush is the greatest threat to peace and security in the Middle East.

We joined the US in a pre-emptive attack on another country on the basis of false intelligence—intelligence known to be false by anyone who bothered to listen to the weapons inspectors at the time. And this week it seems the US intelligence provided to the International Atomic Energy Agency on Iran’s supposed illicit nuclear weapons is just as inaccurate. Mr ElBaradei told the UN Security Council that the story about Saddam Hussein sourcing uranium from Niger was a furphy, and for his trouble his reappointment as head of the IAEA was opposed by America.

Iran is now also accused of supporting insurgents inside Iraq and backing militant groups. According to the *Los Angeles Times* last week, even American officials privately acknowledge that much of their evidence on Iran’s nuclear plans and programs remains ambiguous, fragmented and difficult to prove. There is little doubt that Iran is enriching uranium in small amounts but no proof whatsoever that it is for nuclear weapons.

While Mr Howard worries about Iran being emboldened by a troop withdrawal, which he chooses to call a defeat in Iraq, the Prime Minister thinks nothing of supporting the US-India deal that supplies uranium to a country that does have nuclear weapons but is not a signatory to the nuclear non-proliferation treaty. The hypocrisy is breathtaking. Would we agree to a similar deal with Iran? I do not think so, even though Iran is arguably a safer option since, unlike India, it does not have illicit weapons.

Of course the geopolitical situation in the Middle East is very complex and becoming more so by the day, but one thing is very clear: it is not the withdrawal of troops that has emboldened Iran; it is the attack on Iraq in the first place. It was turning America’s military might on a largely defenceless country that emboldened and empowered not just Iran but, by all accounts, al-Qaeda and fundamentalists, who found more cause to resent the West.

The attack on Iraq was relatively quick but another war is underway in which the enemy is by no means clear. That is the problem when you wage an unjust war, destroying lives, services and the economy, particularly in such a politically sensitive part of the world. Four years later, the warriors have become the occupiers and their presence is
an ongoing provocation. A third of Iraqis live in poverty and five per cent in extreme poverty, and most of the poorest Shiite Muslims are in rural areas, according to a UN study released a week ago. There are dangerous housing conditions, no access to school, not enough food and not enough medicines. It is hardly surprising then that Iraqis are antagonistic. It is fertile ground for recruitment for militant activity, according to a UN official in Amman.

Australian troops may be welcome for their good work in southern Iraq. The British troops are doing good work in Basra too, but British military chiefs are saying that their work is largely finished. According to Mr Blair, there is no Sunni insurgency in Basra, no al-Qaeda, and very little Shia versus Sunni violence. But Guardian journalist Jonathan Steele reported last week:

... the Sunni community is too small to fight back, and up to two-thirds of them have been forced to flee. Basra’s Christians are also escaping while they can. So, then, who is the enemy? ... everyone knows that it consists of a cocktail of different Shia Islamist militias, armed tribes and criminal gangs. Dealing with them cannot be the task of an army, either foreign or Iraqi. It is a job for police.
The task is made harder in Basra by the fact that the two main militias, the Badr organisation and the Mahdi army, are linked to different Islamist political parties that are vying for supremacy. The governor of Basra and the chairman of the provincial council have ties to one side, and the police chief to the other, while the police force beneath him is packed with men from both. They are engaged in a kind of civic civil war, a local struggle over who controls revenues, both legal and illegal—the most lucrative of which is the siphoning-off of Basra’s oil.

None of this lethal crew likes the British, so it is no surprise that British casualties over the past four months have tripled as troops go valiantly about. The Ministry of Defence keeps no monthly count of attacks on British troops, but the figures for the wounded who are taken to field hospitals have gone up from a rate of five a month between February and October 2006 to 17 a month since then.
The military says Britain should get out because their presence is provocative. But Mr Cheney says withdrawal is not an option. Emboldened jihadists could work their way through to Afghanistan, the Middle East, Spain, North Africa, Asia, across to Indonesia and then down to Australia—the domino theory used to justify the equally disastrous war in Vietnam 40 years ago.

To quote Mr Cheney, the ‘only option for our security and survival is to go on the offensive—face the threat directly, patiently and systematically until the enemy is destroyed’. What enemy is to be destroyed exactly—the whole of Iraq, al-Qaeda, Osama bin Laden, Hezbollah, Hamas, Syria, Iran? Will the war be over when they are all killed? None of us knows.

But Minister Nelson said tonight that the current threat to the world was as great as it was in 1942. With talk about destroying enemies broadly defined as those who oppose what the Coalition of the Willing is doing in Iraq, it could well be as great as it was in World War II. According to reports over the last few days, Iraq is soon to be robbed of its most valuable resource—its oil. Iraqis have suffered two wars, crippling sanctions and then, after 2003, the free market policies of the West. State-run enterprises that employed hundreds of thousands of Iraqis were dismantled and subsidies dropped.

Now it seems the Iraqi government is about to hand over to the private sector all of its oil reserves, the second or third largest in the world. Heather Stewart, correspondent for the Observer in the UK, reported at the weekend on a leaked draft of legislation that would have the government sign away the right to exploit its untapped fields in so-called exploration contracts which could then be extended for more than 30 years.
Iraqi foreign minister admitted discussing the wording with British oil giants.

Stewart says control of oil is an explosive political issue in Iraq. When this sell-out becomes known, it is unlikely to calm what is generally understood to be a civil war. Iraq would continue to own the untapped oil, but contracts would give private oil giants exclusive rights to extract it. Kamil Mahdi, an Iraqi economist at Exeter University, says:

The whole idea of the law is due to external pressure. The law is no protection against corruption, or against weakness of government. It's not a recipe for stability.

The new law is still shrouded in secrecy. Iraqi parliamentarians have yet to see it. I do not think that our troops should be there when this latest assault on Iraq becomes widely known. It is time to urge Britain and the US to back off on this oil deal; it is time we had a plan to bring our troops home.

**Venezuela: Treasurer’s statement**

**Senator MARSHALL** (Victoria) (10.09 pm)—I rise tonight to set the record straight. A matter has been raised in the House of Representatives which needs to be corrected. The matter I refer to is the ignorant, ill-informed and hypocritical commentary made by the Treasurer, Peter Costello. In the last sitting week, he made statements attacking Venezuelan President Hugo Chavez for President Chavez’s description of George W Bush as a madman and the devil.

**Senator Abetz interjecting—**

**Senator MARSHALL**—I take Senator Abetz’s interjection because it simply reinforces—

**The PRESIDENT**—Senator, you did use a non-parliamentary term in referring to the Treasurer.

**Senator MARSHALL**—I talked about the commentary he made, Mr President.

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The PRESIDENT—No, I think you said ‘hypocritical’, which is unparliamentary. I ask you to withdraw that.

Senator MARSHALL—I withdraw that. I will simply say the matter I refer to is the ignorant, ill-informed and hypocritical commentary made by the Treasurer, Peter Costello.

The PRESIDENT—It is unparliamentary and I would ask you to withdraw that, which you have—please continue.

Senator MARSHALL—All right. The Treasurer then went on to attack me for signing an open letter to invite the President of Venezuela to Australia. Well, I have to set the Treasurer straight. I never signed such a letter. I can only presume he got the information from the internet, which is the only place where I am listed as having signed such a letter—a mistake for which I have received an apology from the network which runs the site.

This gives us an insight into the attention to detail paid by the Treasurer and, indeed, by this government. With staff at his fingertips, what did the Treasurer do? He googled his question time research. But did he check his facts? No. Did he get a signed copy of the letter? No. Did he contact anyone involved with the network sponsoring the letter? No. He simply relied on the internet.

Does it concern anyone else that the Treasurer solely relies on the internet for his research? It may come as a shock and a surprise to the Treasurer, but the internet does not always carry the truth. It may astound the Treasurer that the internet is often used to mislead and convey information which is patently untrue. In this particular instance, the addition of my name to this petition was as result of a genuine mix-up by the organisation concerned, rather than a direct attempt to deceive the public. Nevertheless, the information was wrong and there is no excuse
for the lack of research on the part of the Treasurer. Even the slightest attempt of investigation—a simple phone call or an email by the Treasurer or his myriad of staff—would have revealed this to be the case.

This is a man with his hands on the economic levers of our country. Does he google his Treasury projections? It is not surprising then that we see a pattern emerging—one where the government does little, if any, research or background work. We need to look no further than the Prime Minister’s $10 billion water package cobbled together at the last minute, and it did not even go before cabinet.

Was this incompetence or short-term political opportunism? I think it was probably a mixture of both. The opportunism shows in the blatantly obvious: the Treasurer has now resorted to googling South American leaders five minutes before question time. No wonder—given how the electorate is starting to feel, recognising an arrogant and lethargic government for what they are.

As I said before, the Treasurer attacked the President of Venezuela for his commentary on George W Bush. Hugo Chavez has certainly used language that I would not use and language that I do not endorse, and I acknowledge that his attacks are often strident and over the top. But what I found galling is yet another example of this government’s arrogance. The Treasurer attacks Hugo Chavez for his strident and inflammatory commentary and in the same breath calls him a dictator. With the President of Venezuela being democratically elected, it strikes me as hypocritical, insincere, two-faced and duplicitous that the Treasurer would resort to exactly the type of behaviour that he attacks others for doing.

The PRESIDENT—Order! You are using some very unparliamentary terms about the Treasurer.

Senator Sherry—All true.

The PRESIDENT—I did not ask for your comment, Senator Sherry. I would ask you to withdraw those unparliamentary comments, Senator Marshall.

Senator Abetz—How often do you have to be told?

The PRESIDENT—Order!

Senator MARSHALL—I certainly withdraw those comments if you seek me to, Mr President.

The PRESIDENT—Thank you.

Senator MARSHALL—He purports to take the moral high ground yet contradicts himself in his very next breath. While Venezuela is neither a major trading partner nor rates highly in Australia’s political consciousness, this does not give the Treasurer licence to insult the democratically elected leader of a sovereign nation—the very thing he accuses Chavez of. By doing this, he gravely risks jeopardising our international relationship, all in the name of cheap political point-scoring. I suppose the Treasurer could always google the phrase ‘the pot calling the kettle black’.

These half-baked, internet researched, politically opportunistic attacks demean us in the eyes of the world. Instead of focusing on some of the world’s most brutal regimes and the systems which prop them up, or having a discussion around how we can promote peace and prosperity, our Treasurer gets on the internet for a surf.

I ask the Treasurer and the Foreign Minister: have there been any diplomatic repercussions from this? Has the government received any protests from the representatives of the democratic nation of Venezuela? I suspect I will not get an answer, given that the Treasurer will not want to face up to the consequences of his remarks. It is also unlikely that I will get an answer given the
short attention span of this government and its lack of attention to detail—details like public policy and how it affects people’s lives.

This experience also shows how the media will go along with anything that is put in the public sphere, often without challenge. Of all the journalists who mentioned the Treasurer’s commentary, only one—Misha Schubert of the Age—had the professionalism to contact my office in an attempt to verify the facts of the matter. All the other media outlets just ran it verbatim.

We all know that John Howard has been very successful in staying at the top, and keeping Peter Costello’s ambitions well in check. In turn, Peter Costello has sought to outdo the Prime Minister in all areas political. Well, I offer the Treasurer a small tip: when it comes to a lack of research and ignorant commentary, you do not have to try and outdo the Prime Minister. Just because the Prime Minister put his foot in his mouth over his unwavering support for George W Bush and the Iraq invasion, that does not mean that you, Treasurer, have to immediately come up with your own ill-informed commentary on Venezuela. Just because the Prime Minister can go without research or consultation on his major policies does not mean that you have to as well.

It may just be the Treasurer’s competitive streak. It may be peer pressure. Whatever it is, it is not an excuse. This government has become ignorant and arrogant. It treats the people, the parliament and now even leaders of sovereign democratic nations with contempt. And I personally cannot wait until the men and women of Australia get to return the favour.

Qantas

Senator FIELDING (Victoria—Leader of the Family First Party) (10.17 pm)—Family First is concerned about the planned private equity takeover of Qantas. Family First has revealed that Australians would lose more than $1 billion in tax revenue as a result of the takeover by Airline Partners Australia. The huge debt structure that would be created by the takeover means that Qantas would be likely to avoid paying annual income tax. The Qantas takeover could cost Australians $200 million in lost income tax each year for at least five years because the private equity group’s borrowings would be so high that Qantas would have no taxable income. It is worth noting that last financial year Qantas paid $190 million in income tax. Last year, Family First revealed the tax rort where the Qantas takeover partners also stand to gain at least $450 million in capital gains tax exemptions that ordinary Aussies are not entitled to. These tax rorts are not in the public interest.

Qantas is currently a low-debt company which is financially strong. As a result of the bid, Qantas will take on an $8 billion debt and the debt-to-equity ratio will change significantly from the present ratio of 25 to 75 to 75 to 25. So Qantas will be financially weakened because of the private equity takeover. And for what benefit? The takeover bid group, Airline Partners Australia, say they are committed to a $10 billion program of investment over five years. But this is nothing more than supporting the current Qantas investment program.

Australians have been supporting Qantas for years by protecting it from competition in the profitable US-Australia route. Singapore Airlines and Emirates would love to get permission to fly between Australia and the United States, but Australians have been happy to protect a company that showed loyalty to Australians.

Family First believes there is more to running a business than just making a profit. Companies like Qantas have an obligation to
the communities they serve—especially when Australians have shown such loyalty to Qantas. Family First is alarmed at what would happen to Australian jobs to help pay for such a debt-driven takeover. Qantas CEO Geoff Dixon has refused to guarantee that Australian jobs would be safe. Family First believes the takeover is not in the national interest. Qantas would take on a huge debt for no real benefit to Australians.

But Family First was particularly concerned to read that the government has admitted there is a loophole in the Qantas Sale Act which means the legislation which protects the Australianness of Qantas does not apply to Qantas subsidiaries like Jetstar. The Qantas Sale Act says the head office should be in Australia and that Australia should be the main centre for maintenance, catering and administration. It says that two-thirds of the directors should be Australian and that the company should be majority Australian owned. The Treasurer has subsequently confirmed that Jetstar is not subject to the Qantas Sale Act but, despite this, it appears the government will do nothing about it. That is not good enough.

Family First believes it is a huge concern that there is nothing to prevent Jetstar being sold off to overseas buyers, and jobs and operations being sent offshore, if the Qantas takeover succeeds. Securing Australian jobs for workers and their families is Family First’s top priority. Qantas has made huge profits through its budget carrier Jetstar and plans to further drive down costs, particularly labour costs, to reap even bigger returns. It does not take much imagination to see Jetstar sending jobs and operations offshore where labour costs are cheaper.

Michael Ryan, a pioneer of low-cost air travel with Ryanair, was recently asked his thoughts about Qantas and Jetstar and told the Bulletin:

I would imagine that what they are trying to do is put as many of Qantas’ routes into Jetstar [as possible]. Qantas workers and their families are very concerned at this possibility. Cutting costs to the bone might deliver huge profits, but they should not be at the expense of Australian workers and their families.

The Australian and International Pilots Association today took the matter to the Federal Court, arguing that the legislation should apply to Qantas subsidiaries and calling for clarification. However, we should not leave it to the courts to clear up this situation. Family First believes this is an important matter that members of the Australian parliament, as elected representatives, must clarify. That is why Family First will be introducing a bill to amend the Qantas Sale Act, to ensure subsidiaries like Jetstar are included in the protections that apply to Qantas.

There are media reports that some government MPs share Family First’s concern that there is nothing to prevent Jetstar being sold off and jobs and operations being sent offshore. Will these government MPs act to protect workers and their families from their jobs disappearing overseas? Will they support Family First’s proposed commonsense bill to give workers and their families a fair go, or will they abandon workers and their families?

Qantas has reaped huge profits by transferring its routes to the much leaner Jetstar. Jetstar’s international operations have grown quickly and it now flies to Cambodia, Hong Kong, Indonesia, Japan, Malaysia and eight other countries. Most of the 70 new planes Qantas has ordered will go straight into Jetstar, which will move further into Asian markets and is reportedly considering flying to Europe and the United States mainland.
There is sufficient cause to be alarmed. Late last year there was a cloud over 460 heavy-maintenance jobs at Melbourne airport. Last March, 480 heavy-maintenance jobs were lost in Sydney when Qantas shut that operation. Family First wonders what will happen to Jetstar workers and their families who do not have the protection of the Qantas Sale Act.

Securing Australian jobs for workers and their families is Family First’s top priority. That is why Family First will tomorrow introduce legislation to amend the Qantas Sale Act and ensure the restrictions that apply to Qantas, including rules about keeping maintenance, training and administration in Australia, also apply to Jetstar and other Qantas subsidiaries.

*Senate adjourned at 10.25 pm*

**DOCUMENTS**

Tabling

The following documents were tabled by the Clerk:

- Acts Interpretation Act—Acts Interpretation (Substituted References – Section 19B) Amendment Order 2007 (No. 1) [F2007L00303]*.
- Air Services Act—Air Services Regulations—Instrument No. AERU 07-14—Temporary Reclassification of Airspace [F2007L00483]*.
- AusLink (National Land Transport) Act—National Land Transport Network Variation 2007 (No. 1) [F2007L00350]*.
- Australian Communications and Media Authority Act—Broadcasting (Charges) Determination 2007 [F2007L00371]*.
- Radiocommunications (Charges) Determination 2007 [F2007L00372]*.
- Telecommunications (Charges) Determination 2007 [F2007L00360]*.
- Telecommunications (Facility Installation Permit – Application Charge) Determination 2007 [F2007L00349]*.
- Telecommunications (Facility Installation Permit – Public Inquiry Charges) Determination 2007 [F2007L00343]*.
- Telecommunications (Freephone and Local Rate Numbers Auctions – Registration Charge) Determination 2007 [F2007L00369]*.
- Telecommunications (Submarine Cable Permit – Application Charge) Determination 2007 [F2007L00368]*.
- Australian Communications and Media Authority Act and Radiocommunications Act—Radiocommunications (Interpretation) Amendment Determination 2007 (No. 1) [F2007L00346]*.
- Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 3 of 2007—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 (2005) [F2007L00480]*.
- Broadcasting Services Act—Guidelines relating to ACMA’s enforcement powers [F2007L00261]*.
- Building and Construction Industry Improvement Act—Select Legislative Instrument 2007 No. 22—Building and Construction Industry Improvement Amend-

Civil Aviation Act —

Civil Aviation Regulations —

Civil Aviation Order 82.0 Amendment Order (No. 1) 2007 [F2007L00208]*.

Civil Aviation Order 100.66 Instrument 2007 [F2007L00210]*.

Instruments Nos —

CASA 30/07 — Direction – use of night vision devices prohibited in private operations [F2007L00209]*.

CASA 38/07 — Instructions – use of RNAV (GNSS) approaches by RNP-capable aircraft [F2007L00281]*.

Civil Aviation Safety Regulations — Airworthiness Directives — Part — 105 —

AD/A320/147 Amdt 2 — Life Limited and Monitored Parts [F2007L00366]*.

AD/A320/180 Amdt 1 — Fuel Tank Decals [F2007L00389]*.

AD/A320/190 Amdt 3 — Engine Pylon Spar Box Ribs [F2007L00365]*.

AD/A320/193 Amdt 1 — Auxiliary Power Unit Starter and Air Intake System [F2007L00388]*.

AD/A320/199 — A319 – State of Design Airworthiness Directives [F2007L00390]*.

AD/A320/200 — Certified Limitations — MPD Section 9-3 [F2007L00364]*.

AD/A320/201 — Cargo Loading System Fixed YZ Latches [F2007L00363]*.

AD/A320/202 — Main Landing Gear Door Actuator [F2007L00387]*.

AD/A320/203 — Forward Engine Mount Bolts [F2007L00475]*.

AD/A330/63 Amdt 1 — Fuel Tank Safety – Fuel Airworthiness Limitations [F2007L00386]*.

AD/ARTOUSTE/7 — Engine Driven Fuel Pump [F2007L00460]*.

AD/B727/174 Amdt 1 — Shoulder Restraint of Attendant or Observers Seat [F2007L00361]*.

AD/B737/174 Amdt 1 — Shoulder Restraint of Attendant or Observers Seat [F2007L00359]*.

AD/B737/299 — Electrical Bonding [F2007L00384]*.

AD/B737/300 — Fuselage Frame Air Conditioning Bracket Attachments [F2007L00358]*.

AD/B747/67 — Shoulder Restraint of Attendant or Observers Seat [F2007L00357]*.

AD/B747/297 Amdt 1 — Shoulder Restraint Harness Attachment [F2007L00355]*.

AD/B747/315 Amdt 1 — Wing Landing Gear Outer Cylinder [F2007L00354]*.

AD/B747/354 — Crown Crease Beam [F2007L00353]*.

AD/B747/355 — STA 2360 Aft Pressure Bulkhead Web Lap Joint [F2007L00352]*.

AD/B767/162 — Shoulder Restraint of Attendant or Observers Seat [F2007L00351]*.

AD/B767/190 Amdt 1 — Shoulder Restraint Harness Attachment [F2007L00336]*.

AD/B767/228 — Forward and Aft Cargo Compartments Water and Drain Line Heaters [F2007L00381]*.
AD/CAP 10/11—Push-to-Talk Wiring [F2007L00379]*.
AD/CAP 232/12 Amdt 1—Return to Flight – Modification/Reinforcement [F2007L00335]*.
AD/CESSNA 750/2 Amdt 1—Chafing of APU Fuel Tube Assembly [F2007L00378]*.
AD/DHC-2/24 Amdt 4—Wing Strut Assembly Lower Attachment Fittings [F2007L00334]*.
AD/DO 228/10—Fuselage Frame 19 [F2007L00422]*.
AD/DO 328/68—Main Landing Gear Side Brace Assembly [F2007L00376]*.
AD/EXTRA/7 Amdt 1—Upper Longeron at Horizontal Stabiliser [F2007L00474]*.
AD/F2000/23—Engine Cowlings [F2007L00333]*.
AD/GA8/5 Amdt 1—Horizontal Stabiliser Inspection [F2007L00328]*.
AD/GBK 117/16—Tail Rotor Control Lever with Weights [F2007L00326]*.
AD/GENERAL/74 Amdt 1—Front Seat Occupant Restraint Installation [F2007L00324]*.
AD/MU-2/71—Wing Attachment Barrel Nuts and Bolts [F2007L00311]*.
AD/R2/22/16 Amdt 4—Lower Actuator Bearing [F2007L00375]*.
AD/ROBIN/27 Amdt 1—Rudder Pedal Bars [F2007L00309]*.
AD/SC7/13 Amdt 6—Fatigue Life Limitations [F2007L00307]*.
AD/SD3-30/49—Engine and Landing Gear Control Cables [F2007L00476]*.
AD/SD3-60/70—Engine and Landing Gear Control Cables [F2007L00477]*.
106—AD/CFM56/25—Air Turbine Starter [F2007L00377]*.
Commonwealth Places (Mirror Taxes) Act—Select Legislative Instrument 2007 No. 18—Commonwealth Places (Mirror Taxes) Amendment Regulations 2007 (No. 1) [F2007L00299]*.
Corporations Act—ASIC Class Orders—
[CO 07/88] [F2007L00338]*.
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* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Foreign Affairs and Trade: Monetary Compensation
(Question Nos 1986 and 1988 supplementary)

Senator O’Brien asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 8 June 2006:

What is the quantum of payments made as settlements to claims for monetary compensation by the departments and agencies for which the Minister is responsible that are consistent with Legal Services Directions issued under section 55ZF of the Judiciary Act 1903, by financial year, since the first Legal Services Directions were issued.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs and the Minister for Trade to the honourable senator’s question:

Department of Foreign Affairs and Trade

To provide the information sought would entail a significant diversion of resources and, in these circumstances, I do not consider the additional work can be justified.

Export Finance and Insurance Corporation
Nil return.

Australian Centre for International Agricultural Research
Nil return.

Australia-Japan Foundation
Nil return.

AusAid

The quantum of payments made as settlements to claims for monetary compensation was $575,700. The amount of $575,700 excludes compensation payments made by Comcover. Comcover has advised that it is unable to respond accurately to the question without a significant diversion of resources to distinguish between amounts of compensation paid on behalf of agencies and the reimbursement of costs incurred by claimants (eg. legal expenses).

Austrade
Nil return.

Defence: Monetary Compensation
(Question No. 2030)

Senator Mark Bishop asked the Minister for Veterans’ Affairs, in writing, on 15 June 2006:

With reference to an article in the Australian of 15 June 2006, entitled ‘Delay to payout on chopper disaster’:

(1) Can the Minister advise whether the Commonwealth is legally required to demand that compensation be returned if an award of damages is made against a third party.

(2) To what extent, if any, would the damages payment by the United States (US) company affect any pension that is being received by the widows of the Black Hawk helicopter crew.
(3) Has the multi-million dollar US out-of-court settlement been delayed as reported in the Australian; if so (a) over what timeframe has the payout been delayed; and (b) is this the result of any decision or action taken by the Australian Government; if so, why.

(4) when does the Commonwealth expect to make a decision in relation to repayments of compensation or cessation of pensions.

Senator Ellison—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) and (2) In June 2006 the Military Rehabilitation and Compensation Commission agreed not to enforce any repayment of compensation paid under the Safety Rehabilitation and Compensation Act 1988 to any of the plaintiffs to the proceedings against ITT Industries Inc. The lawyers for the plaintiffs were advised of this decision on 26 June 2006.

(3) and (4) These common law damages proceedings commenced in the Supreme Court of Queensland in 2002. An agreement reached between the plaintiffs and ITT Industries Inc, without the participation of the Commonwealth, provided for a settlement, without admission of liability, with the plaintiffs apportioning the lump sum among themselves. The agreement was also facilitated by the Commonwealth, in June 2006, agreeing not to enforce any offsetting to this settlement against any Commonwealth statutory compensation payments that have been made or against any future entitlements. The Supreme Court of Queensland approved the settlement on 7 December 2006. Any delay in concluding the settlement was as a consequence of the plaintiffs needing to satisfy the requirements of the court.

Maternity Payment
(Question No. 2233)

Senator Allison asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 19 July 2006:

(1) How many maternity payments have been made to women to date in each of the following age groups: (a) 15 years or younger; (b) 16 years; (c) 17 years; (d) 18 years; and (e) 19 years.

(2) For each of the calendar years 1996 to 2005, what is the rate and number of pregnancies in Australia.

(3) How does Australia’s rate of teenage pregnancy compare with other Organisation for Economic Co-operation and Development (OECD) countries.

(4) How does Australia’s rate of teenage mothers engaged in education compare with other OECD countries.

(5) For each of the calendar years 1996 to 2005, how many grandparents were primary carers of grandchildren.

(6) What is the Government’s position on teenage pregnancy.

(7) Is there a Government Policy on teenage pregnancy; if so, can details be provided.

(8) What, if any, measures are in place to reduce the number of teenage pregnancies in Australia.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

For the period 1 July 2004 (commencement of Maternity Payment) to June 2006 the number of Maternity Payment recipients aged 19 years and under is as follows.

<table>
<thead>
<tr>
<th>Aged under 15 years and under</th>
<th>Aged 16 years</th>
<th>Aged 17 years</th>
<th>Aged 18 years</th>
<th>Aged 19 years</th>
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</tbody>
</table>
Demographic data compiled by the Australian Bureau of Statistics (ABS) generally refers to births rather than pregnancies. Information on births and the total fertility rate is provided in the ABS publication Births, Australia, 2004, cat. no. 3301.0, pages 13 and 31.

Australia’s rate of teenage fertility relative to that of other OECD countries is available in the OECD publication Society at a Glance, 2005, accessible from http://www.oecd.org/document/24/0,2340,en_2649_34637_2671576_1_1_1_1,00.html

Information on how Australia compares internationally in terms of teenage mothers engaged in education is not readily available.

The ABS Family Characteristics Survey 2003 was the first to provide reliable figures on the number of grandparent primary carers. Data is provided in the publication Family Characteristics, Australia, 2003, cat. no. 4442.0, page 8. This is the latest available data.

The Government supports families regardless of parents’ age with a range of payments and services, including the Family Tax Benefit and the Child Care Benefit. The Government also supports young parents’ maintaining connection with education, training and the labour market. It assists in this through programs such as JET Child Care fee assistance which provides extra help with the cost of approved child care for eligible parents undertaking activities such as job search, work or study.

The Australian Government supports a holistic and developmentally appropriate approach to sex and relationship education as one way to prevent unplanned teenage pregnancies. School-based programs are determined by State and Territory education authorities and individual schools, not the Australian Government. The Government believes that appropriate sex education should include the provision of information and assistance for delaying sexual activity until it can be undertaken in safe and informed circumstances.

Telstra: Payphones
(Question No. 2317)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 8 August 2006:

With reference to the answer to question on notice no. 1605:

(1) On what date did the Minister receive written advice from Telstra in response to her request on 20 February 2006 seeking details of Telstra’s plan to remove 5,000 payphones between February and September 2006.

(2) Can a copy of that written advice be provided, if not, why not.

Senator Coonan—The answer to the honourable senator’s question is as follows:

(1) Following my request of 20 February 2006, Telstra representatives met with me on 22 February 2006. Following this meeting, Telstra provided written information, not advice, regarding payphone removals on 3 March 2006.

(2) Given Telstra provided the information on 3 March on a commercial-in-confidence basis and the disclosure of the information may be harmful to Telstra’s commercial interests and may prejudice the future provision by Telstra of similar confidential information, I am not providing a copy of the information Telstra provided.

Australian Customs Service
(Question No. 2435)
Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 24 August 2006:

With reference to the eight unlawful entrants who landed on Ashmore Reef on 13 August 2006:

(1) Were these entrants first detected by the Australian Customs Service (ACS): (a) if so: (i) on what date, (ii) what was the longitude and latitude of the place at which they were first detected, and (iii) how were they detected; and (b) if not, which agency advised ACS of the detection and on what date.

(2) Were these entrants monitored by ACS prior to their arrival on Ashmore Reef: (a) if so: (i) how long were they monitored, and (ii) why were they not intercepted prior to their abandonment on Ashmore Reef; and (b) if not, why not.

(3) Were these entrants detected by the Jindalee Operational Radar Network; if so, on what date were they detected.

(4) What actions were taken in response to the detections and on what date; if no action was taken in response to the detection, why not.

(5) Did the ACS at any time attempt to intercept the vessel carrying the entrants: (a) if so: (i) when, and (ii) why was this not successful; and (b) if not, why not.

(6) Did ACS receive any indication of an intention to land potential entrants in Australia; if so: when and from whom.

(7) Was ACS aware of whether or not these entrants came directly from their original country to Australia; if so, what was the original country of the entrants; if not, which countries did the entrants pass through in order to arrive in Australia.

(8) Were these entrants taken into detention by ACS: (a) if so: (i) when, (ii) what health checks were completed on these persons when they were taken into detention, and (iii) did any of the entrants require medical attention and did they receive it; and (b) if not, why not.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) Yes.

(a) (i) The unauthorised arrivals were sighted on 13 August 2006.

(ii) The unauthorised arrivals were sighted at 1212.145S/12257E

(ii) A Coastwatch aircraft sighted the unauthorised arrivals.

(b) See answer to (1) (a)

(2) The unauthorised arrivals were not detected prior to their arrival at Ashmore Islands.

(3) See answer to question (2).

(4) A Defence Patrol Boat was tasked to the location on 13 August 2006.

(5) See answer to question (2).

(6) Customs did not receive an indication of intention to land unauthorised arrivals.

(7) This information should be obtained from the Department of Immigration and Multicultural Affairs.

(8) No. The unauthorised arrivals were transferred to a Defence vessel.

(a) (i) The unauthorised arrivals were transferred to the Defence vessel on 14 August 2006.

(ii) The unauthorised arrivals were given a field health check on the Defence vessel. The information obtained during the field check was landed with the unauthorised arrivals.

(iii) None of the unauthorised arrivals required immediate medical attention, although one reported some low back pain.

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(b) ACS surface assets were not involved in the response to the unauthorised arrivals.

Cigarettes

(Question No. 2505)

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

(1) How many Australians lose their lives to fires caused by cigarettes each year.
(2) Can the Minister confirm that in March 2005, Australia’s fire chiefs and all state emergency services ministers unanimously called for the fast tracking of reduced-ignition propensity (RIP) cigarettes legislation.
(3) Have any of the three major tobacco companies operating in Australia voluntarily introduced RIP cigarettes.
(4) (a) Are consumer safety standards for cigarettes routinely set to laboratory standardised conditions; and (b) does this include testing for tar and nicotine yields.
(5) What is the timeframe for further action now that Standards Australia has released the draft standard, Determination of the extinction propensity of cigarettes.

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

(1) Six deaths per annum.
(2) The Ministers did not call for legislation. The Ministers agreed to the development of a standard for Reduced Ignition Propensity cigarettes. The standard is currently in draft.
(3) No.
(4) (a) The draft standard, Determination of the extinction propensity of cigarettes, does include laboratory standardised conditions. (b) The draft standard does not include testing for tar and nicotine yields.
(5) The issue was discussed at the Ministerial Council of Police and Emergency Management on 17 November 2006. The Council: agreed to request the Australian Government Treasurer to introduce a compulsory consumer product (Safety) standard under the Trade Practices Act 1974 requiring that all cigarettes manufactured in or imported into Australia must meet an identified performance standard based on that adopted in the USA and Canada. That is, that no more than 25 percent of cigarettes tested in accordance with the Australian Standard will exhibit a full length burn.

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

Motor Neurone Disease

(Question No. 2516)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 27 September 2006:

(1) (a) Who can receive access to subsidised Rilutek as part of treatment for motor neurone disease; and (b) what limitations are placed on this access.
(2) Do these limitations include an age restriction; if so: (a) what is the justification for discriminating on the basis of age; and (b) what comparable medicines are available for people who do not meet the age criteria.

(3) Do criteria for access to subsidised Rilutek include length of illness; if so: (a) what is the justification for this; and (b) what comparable medicines are available for people who do not meet the length of illness criteria.

(4) What steps has the Government taken to ensure that people under the age of 65 with motor neurone disease and who require levels of support that are currently only provided in residential aged care facilities are able to access that care outside of a residential aged care facility.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) and (b) Rilutek (riluzole) is available for the treatment of Amyotrophic lateral sclerosis (ALS). ALS belongs to a group of disorders known as motor neurone diseases.
   
   Rilutek is subsidised through the Pharmaceutical Benefits Scheme (PBS) and requires an authority. Rilutek is subject to the following restrictions:

   Authority required

   Initial treatment of ALS, as diagnosed by a neurologist, in patients aged 75 years or less, with disease duration of 2 years or less and who have at least 60% of predicted forced vital capacity within 2 months prior to commencing riluzole therapy and who:

   (1) are ambulatory, and
   
   (a) have not undergone tracheostomy, and
   
   (b) have not experienced respiratory failure; OR
   
   (2) are not ambulatory, and
   
   (a) have not undergone tracheostomy, and
   
   (b) have not experienced respiratory failure, and

   (c) are either able to use upper limbs or able to swallow.

   The date of diagnosis and the date and results of spirometry (in terms of percent of predicted forced vital capacity) must be supplied with the initial authority application.

   Authority required

   Initial PBS-subsidised treatment of ALS for patients receiving treatment with riluzole prior to 1 March 2003 who would have qualified under the initial treatment criteria for PBS subsidy.

   The date of diagnosis, date of commencement of riluzole treatment, and the date and results of spirometry (in terms of percent of predicted forced vital capacity) must be supplied with the initial authority application.

   Authority required

   Continuing treatment of ALS in patients who have previously been issued with an authority prescription for this drug and who:

   (1) are ambulatory, and

   (a) have not undergone tracheostomy, and

   (b) have not experienced respiratory failure; OR

   (2) are not ambulatory, and

   (a) have not undergone tracheostomy, and

   (b) have not experienced respiratory failure, and
(c) are either able to use upper limbs or able to swallow.

At its November 2006 meeting, the Pharmaceutical Benefits Advisory Committee (PBAC) recommended the removal of the age requirement of 75 years or less from the current Authority Required PBS listing. The age restriction will be removed from 1 February 2007.

(2) Yes. (a) The current restriction on access for patients aged 75 or less will be removed from 1 February 2007.

(b) Physicians can prescribe medications to help reduce fatigue, ease muscle cramps, control spasticity, and reduce excess saliva and phlegm. This supportive care is best provided by multidisciplinary teams of health care professionals such as physicians; pharmacists; physical, occupational, and speech therapists; nutritionists; social workers; and home care and hospice nurses. Working with patients and caregivers, these teams can design an individualised plan of medical and physical therapy and provide special equipment aimed at keeping patients as mobile and comfortable as possible.

(3) Yes.

(a) Based on expert opinion and clinical trials data, patients who have a disease duration of less than 2 years are more likely to benefit from Rilutek (riluzole).

(b) See (2) (b)

(4) The Commonwealth Government assists younger people with moderate, severe or profound disabilities, such as motor neurone disease, and their carers, through the Home and Community Care Program (HACC).

Motor neurone disease is not separately identified as a special needs category for the HACC program. The program provides funding for services which support people who live at home and whose capacity for independent living is at risk or who are at risk of premature or inappropriate admission to long term residential care.

In 2006-07, the Commonwealth Government will provide an estimated $929.3 million to the HACC program, which is an increase of 8.33% over 2005-06.

**Adverse Drug Reactions**

*(Question No. 2521)*

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 29 September 2006:

(1) Is the Minister aware of the research finding by the University of Sydney, published in the *Medical Journal of Australia* on 3 April 2006, that 10.4 per cent of general practitioner encounters were with patients who, when asked, reported an adverse drug event in the previous 6 months, reports that this has been confirmed by other studies and that is widely recognised as a gross under-estimation of the problem.

(2) Can the Minister confirm the finding that there appeared to be ‘gross under-reporting’ of adverse events and that the Adverse Drug Reactions Advisory Committee (ADRAC) of the Therapeutic Goods Administration actively discouraged reporting of less severe adverse drug events, as well as known side effects, to avoid overloading the system.

(3) Can the Minister confirm that the number of reports submitted by general practitioners to the ADRAC fell from 3314 in 2002 to 2075 in 2004.

(4) Was active discouragement by the ADRAC the cause of this fall; if not, what was the cause.

(5) What is the scope of patient morbidity for adverse drug events classified as ‘unimportant’.
(6) What is the estimated annual cost to the health system of preventable adverse drug events severe enough to warrant hospitalisation.

(7) Will the Government insist that general practitioners in future report all moderate and severe drug reactions, including those that are a result of a known side effect.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) In the study by Miller et al, published in the Medical Journal of Australia on 3 April 2006 Adverse Drug Event was defined as an “unintended event due to the use of a medication that could have harmed or did harm the patient”. “Harm” includes physical, psychological or emotional suffering. The Therapeutic Goods Administration (TGA) encourages the reporting of all suspected adverse reactions to medicines, including vaccines, over-the-counter (OTC) medicines, herbal and traditional or alternative remedies. The following types of reports are particularly requested:

• All suspected reactions to new drugs
• All suspected drug interactions
• Suspected reactions causing death, admission to hospital or prolongation of hospitalisation, increased investigations or treatment or birth defects.

Reporting of serious reactions is mandatory for sponsors of medicines.

(3) Yes.

(4) No. The reasons for reduced reporting to the TGA of suspected adverse drug reactions by general practitioners are not known.

(5) The TGA collects information on those adverse drug events considered to be suspected adverse drug reactions. These are classified as “serious” and “non-serious”, rather than important and unimportant (the International Conference on Harmonisation (ICH) definitions are used). A serious adverse event or reaction is any untoward medical occurrence at any dose that: results in death; is life-threatening; (NOTE: The term “life-threatening” in the definition of “serious” refers to an event/reaction in which the patient was at risk of death at the time of the event/reaction; it does not refer to an event/reaction which hypothetically might have caused death if it were more severe); requires inpatient hospitalisation or results in prolongation of existing hospitalisation; results in persistent or significant disability/incapacity; is a congenital anomaly/birth defect; or is a medically important event or reaction.

Medical and scientific judgment should be exercised in deciding whether other situations should be considered serious such as important medical events that might not be immediately life-threatening or result in death or hospitalisation but might jeopardise the patient or might require intervention to prevent one of the other outcomes listed in the definition above. Examples of such events are intensive treatment in an emergency room or at home for allergic bronchospasm, blood dyscrasias or convulsions that do not result in hospitalisation, or development of drug dependency or drug abuse. Adverse reactions that do not meet these criteria for a serious reaction are deemed to be non-serious for the purposes of this classification.

(6) The TGA does not have information on the estimated cost of preventable adverse drug events in Australia.

(7) In Australia reporting of suspected adverse drug reactions is voluntary for healthcare practitioners and consumers. Sponsors of prescription medicines regulated by the TGA are required to report all serious suspected adverse drug reactions involving their products. Due to the nature of the reporting system it is preferred to adopt a cooperative approach with contributors other than sponsors of the products concerned.
Defence: Internal Investigation
(Question No. 2619)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 8 November 2006.

(1) With reference to the answer to question on notice no 2229, paragraph (1) (Senate Hansard, 6 September 2006, p 168): (a) what were the specific findings against the Australian Public Service (APS) officer dismissed in the faulty procurement process for combat clothing; (b) what were the specific provisions of the APS Code of Conduct breached; (c) who conducted the investigation; and (d) who made the final determination of dismissal.

(2) Given that conciliation was undertaken by the Australian Industrial Relations Commission on the wrongful dismissal application by the dismissed APS officer, and that a sum of compensation was paid by the department, does this mean that the decision to dismiss was not completely justified.

(3) For each of the years 2003, 2004, 2005 and 2006 to date, what was the total compensation paid in conciliated wrongful dismissal cases in (a) the Defence Materiel Organisation; and (b) the department.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) and (b) It is not possible to answer the question fully as to do so would be an unreasonable disclosure of personal information, particularly noting that the decision was contested by the employee concerned. It is a matter of public record that the public servant was dismissed under Section 29 of the Public Service Act 1999 for a breach of the APS Code of Conduct. It was found that the employee had breached the following sections of the APS Code of Conduct:
13(1) behave honestly and with integrity in the course of APS employment;
13(2) act with care and diligence in the course of APS employment;
13(3) when acting in the course of APS employment must treat everyone with respect and courtesy, and without harassment;
13(4) when acting in the course of APS employment must comply with all applicable Australian laws. The law in this case was the Financial Management and Accountability Act 1997;
13(5) comply with any lawful and reasonable direction given by someone in the employee’s agency who has the authority to give the direction. The directions were the Chief Executive Instructions and the Commonwealth Procurement Guidelines;
13(8) use Commonwealth resources in a proper manner; and
13(11) at all time behave in a way that upholds the APS Values and integrity and good reputation of the APS.

(c) An investigator from the Inspector-General’s organisation within the Department of Defence conducted the initial investigation.

(d) The decision to dismiss the employee was made by the Director Personnel Services, Defence Materiel Organisation, a delegate of the Secretary of Defence under section 15(1) of the Public Service Act 1999.

(2) No. No finding of fault was made as to either the process or merit. The matter was settled in accordance with legal principle and practice. This did not mean that the decision to dismiss was flawed, but rather the settlement recognised the legal rights of both parties and the possible financial risk to the Commonwealth in pursuing its rights.

(3) (a) DMO Contested Dismissals
Total Agreed Settlements
2003-04 - $25,410
2004-05 - $113,114
2005-06 - $26,615
2006-07 to date - $48,813

(b) Defence Contested Dismissal
Total Agreed Settlements
2003-04 - $44,184
2004-05 - $54,812
2005-06 - $2,500
2006-07 to date - Nil

Civil Aviation Safety Authority: Travel Costs
(Question No. 2688)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Can details be provided of all Cabcharge costs for the Chief Executive Officer of the Civil Aviation Safety Authority, Mr Bruce Byron, for the following financial years: (a) 2003-04; (b) 2004-05; (c) 2005-06; and (d) 2006-07 to date.

(2) What is the maximum amount charged to Cabcharge for a single taxi journey by Mr Byron.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Mr Byron does not use Cabcharge and therefore has not incurred any Cabcharge cost.

Office of Indigenous Policy Coordination
(Question No. 2769)

Senator Crossin asked the Minister for Families, Community Services and Indigenous Affairs, on notice, on 15 November 2006:

With reference to changes to the Corporations (Aboriginal and Torres Strait Islander) Act 2006:

(1) Are there any plans in place for the Office of Indigenous Policy Coordination to publicise the changes; if so: (a) what are they; (b) how will the changes be publicised; and (c) who will publicise them.

(2) (a) What support and training will be available for existing corporations during the transition period; and (b) will such support be available for all of the 2800 corporations currently registered that are still operating; if so, how will such training be prioritised in relation to demand.

(3) (a) What funding and other related resources will be available; (b) from which programs; and (c) will additional staff be recruited to provide training and support; if so, how many.

(4) Will funding be available to organisations to meet changing requirements if needed (for example, changing computer programs or holding additional meetings to change constitutions).

Senator Kemp—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The Office of the Registrar of Aboriginal Corporations (ORAC) has a communications strategy to publicise each stage of the development of the Corporations (Aboriginal and Torres Strait Islander) Act.
2006 (the CATSI Act) and the transitional arrangements from the current Aboriginal Councils and Associations Act 1976 to the CATSI Act. It uses a variety of means, including:

- Media releases;
- Radio advertisements (through the National Indigenous Broadcasting Service);
- Mail-outs to all existing corporations and key stakeholders, advising of the changes and inviting comments;
- Fact sheets (updated as required), frequently asked questions, the Get in on the Act booklet (a guide to the legislative package) available on ORAC’s website;
- Providing a model transitional constitution;
- Responding to specific queries by organisations or individuals;
- Posters for corporations containing key dates to make changes;
- Distribution of regular editions of The Oracle newsletter; and
- Presentations to corporations at each of ORAC’s corporate governance workshops, and on request, and presentations to key stakeholders, including peak community bodies and funding agencies.

While the new arrangements will commence on 1 July 2007, corporations have a transitional period of up to two years to align their constitutions to meet the requirements of the CATSI Act. During this period, ORAC is providing an 1800 hotline, facts sheets, do-it-yourself tools, model constitutions, troubleshooting sessions and compliance training. It will be available to any of the corporations that need it. Corporations will be streamed for reporting purposes into categories of small, medium and large. Most corporations will have reduced reporting requirements and ORAC is currently targeting large corporations for assistance in recognition that some of these corporations will need special assistance.

A recent $28 million Budget initiative to strengthen the capacity of Indigenous corporations include funding to ORAC associated with implementation of the CATSI Act. This allows all of ORAC’s services to be enhanced to support the implementation process.

The two year transitional period provides corporations with a significant period of time to make necessary changes, allows for two annual general meetings cycles for constitutional changes to be considered and made and will enable ORAC to provide assistance to those corporations that require it during this period.