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RADIO BROADCASTS

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- **CANBERRA** 103.9 FM
- **SYDNEY** 630 AM
- **NEWCASTLE** 1458 AM
- **GOSFORD** 98.1 FM
- **BRISBANE** 936 AM
- **GOLD COAST** 95.7 FM
- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—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
Temporary Chairmen 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
Nationalists 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

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### Members of the Senate

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

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

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

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

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
The Hon. Dr Brendan John Nelson MP
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
The Hon. Kevin James Andrews MP
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP
The Hon. Ian Elgin Macfarlane MP
The Hon. Joseph Benedict Hockey MP
Senator the Hon. Helen Lloyd Coonan
The Hon. Malcolm Bligh Turnbull MP
Senator the Hon. Christopher Martin Ellison

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

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Eric Abetz
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 Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP
Assistant Treasurer
The Hon. Dr Sharman Nancy Stone MP
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP
Special Minister of State
The Hon. Gary Roy Nairn MP
Minister for Ageing
The Hon. Christopher Maurice Pyne MP
Minister for Vocational and Further Education
The Hon. Andrew John Robb MP
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 Justice and Customs
Senator the Hon. David Albert Lloyd Johnston
Assistant Minister for Immigration and Citizenship
The Hon. Teresa Gambaro MP
Assistant Minister for the Environment and Water Resources
The Hon. John Kenneth Cobb MP
Parliamentary Secretary to the Prime Minister
The Hon. Anthony David Hawthorn Smith MP
Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce 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 Foreign Affairs
The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Minister for Defence
The Hon. Peter John Lindsay MP
Parliamentary Secretary to the Minister for Health and Ageing
Senator the Hon. Brett John Mason
SHADOW MINISTRY

Leader of the Opposition

Kevin Michael Rudd MP
Julia Eileen Gillard MP

Deputy Leader of the Opposition, Shadow Minister for Employment and Industrial Relations and Shadow Minister for Social Inclusion

Senator Christopher Vaughan Evans
Senator Stephen Michael Conroy

Leader of the Opposition in the Senate and Shadow Minister for National Development, Resources and Energy

Anthony Norman Albanese MP
The Hon. Archibald Ronald Bevis MP

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology

Christopher Eyles Bowen MP
Anthony Stephen Burke MP

Shadow Minister for Infrastructure and Water and Manager of Opposition Business in the House

Senator Kim John Carr
The Hon. Simon Findlay Crean MP

Shadow Minister for Homeland Security, Shadow Minister for Justice and Customs and Shadow Minister for Territories

Craig Anthony Emerson MP
Laurence Donald Thomas Ferguson MP

Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy

Martin John Ferguson MP

Shadow Minister for Immigration, Integration and Citizenship

Joel Andrew Fitzgibbon MP
Peter Robert Garrett MP

Shadow Minister for Industry and Shadow Minister for Innovation, Science and Research

Alan Peter Griffin MP

Shadow Minister for Trade and Shadow Minister for Regional Development

Senator Joseph William Ludwig

Shadow Minister for Service Economy, Small Business and Independent Contractors

Senator Kate Alexandra Lundy

Shadow Minister for Multicultural Affairs, Shadow Minister for Urban Development and Shadow Minister for Consumer Affairs

Jennifer Louise Macklin MP

Shadow Minister for Transport, Roads and Tourism

Robert Bruce McClelland MP

Shadow Minister for Defence

Senator Jan Elizabeth McLucas

Shadow Minister for Climate Change, Environment and Heritage and Shadow Minister for the Arts

SHADOW ATTORNEY-GENERAL AND MANAGER OF OPPORTUNITY BUSINESS IN THE SENATE

SHADOW MINISTER FOR SPORT AND RECREATION, SHADOW MINISTER FOR HEALTH PROMOTION AND SHADOW MINISTER FOR LOCAL GOVERNMENT

SHADOW MINISTER FOR FAMILIES AND COMMUNITY SERVICES AND SHADOW MINISTER FOR INDIGENOUS AFFAIRS AND RECONCILIATION

SHADOW MINISTER FOR FOREIGN AFFAIRS

SHADOW MINISTER FOR AGEING, DISABILITIES AND CARERS
Shadow Minister for Federal/State Relations, Shadow Minister for International Development Assistance and Deputy Manager of Opposition Business in the House
Robert Francis McMullan MP

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

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

Shadow Minister for Health
Nicola Louise Roxon MP

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

Shadow Minister for Education and Training
Stephen Francis Smith MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Minister for Finance
Lindsay James Tanner 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 Affairs
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
WEDNESDAY, 21 MARCH

Chamber

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

BUSINESS

Consideration of Legislation

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (9.31 am)—At the request of Senator Ellison, I move:

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

- Aged Care Amendment (Security and Protection) Bill 2007
- Appropriation Bill (No. 3) 2006-2007 and Appropriation Bill (No. 4) 2006-2007
- Aviation Transport Security Amendment (Additional Screening Measures) Bill 2007
- Bankruptcy Legislation Amendment (Debt Agreements) Bill 2007 and Bankruptcy (Estate Charges) Amendment Bill 2007
- Corporations Amendment (Takeovers) Bill 2007
- Farm Household Support Amendment Bill 2007
- Health Insurance Amendment (Provider Number Review) Bill 2007
- Migration Legislation Amendment (Information and Other Measures) Bill 2007
- Offshore Petroleum Amendment (Greater Sunrise) Bill 2007 and Customs Tariff Amendment (Greater Sunrise) Bill 2007
- Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2007
- Tax Laws Amendment (2007 Measures No. 1) Bill 2007

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.31 am)—The long list of bills that the government has put forward for exemption from the cut-off is not warranted. The argument fails. The role of the Senate, as you know, Mr President, is to allow adequate time for public input to important bills, such as those listed. Again this shows the arrogance of this government in wanting to truncate the scrutiny that the Senate and, through it, the public can bring to such legislation. The Greens do not support this motion.

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (9.32 am)—That is exactly the same wording that we received from Senator Bob Brown yesterday, when he was complaining about this arrogant government providing extra time for the Senate to consider legislation. It is just the same old mantra, irrespective of the motion or the issue. Today I have moved that certain bills be exempted under the provisions of standing order 111, because they are vital bills. For example, the Farm Household Support Amendment Bill 2007 has been drafted to formalise the exceptional circumstance relief payments available to farm-dependent small business operators being affected by the prolonged drought being experienced across Australia. Clearly, Senator Brown and the Australian Greens do not want that legislation to be debated and passed early to assist the drought-stricken farmers of this country.

We also have the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006. This bill bolsters the Australian government funding commitment to education, so he would seek to delay a funding commitment to education in this country. We have the Aviation Transport Security Amend-
ment (Additional Screening Measures) Bill 2007, which provides for extra search capacity as an additional security measure. Once again, the Australian Greens would seek to stand in the way of that. I have outlined a few examples of why these bills require urgent consideration by the Senate. I hope that honourable senators see the sense in dealing with these bills on the basis that the government proposes.

Question agreed to.

Rearrangement

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (9.34 am)—I move:

That:

(1) On Thursday, 22 March 2007:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm;

(b) the routine of business from 12.45 pm till not later than 2 pm, and from 7.30 pm shall be government business only;

(c) divisions may take place after 4.30 pm; and

(d) the question for the adjournment of the Senate shall be proposed at 11 pm.

(2) The Senate shall sit on Friday, 23 March 2007 and that:

(a) the hours of meeting shall be 9.30 am to 4.10 pm;

(b) the routine of business shall be:

(i) notices of motion, and

(ii) government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 3.30 pm.

(3) On Tuesday, 27 March 2007:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business from 7.30 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 10 pm.

(4) On Thursday, 29 March 2007:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;

(b) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;

(c) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 4.30 pm shall be government business only;

(d) divisions may take place after 4.30 pm; and

(e) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed below, including any messages from the House of Representatives:

Aged Care Amendment (Security and Protection) Bill 2007
Airports Amendment Bill 2006
Airspace Bill 2006
Airspace (Consequential and Other Measures) Bill 2006
Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007
Appropriation Bill (No. 3) 2006-2007
Appropriation Bill (No. 4) 2006-2007
AusCheck Bill 2006
Corporations Amendment (Takeovers) Bill 2007
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006
Energy Efficiency Opportunities Amendment Bill 2006
Farm Household Support Amendment Bill 2007
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.34 am)—The government is proposing to have us sit on Friday and to have extended sittings again next week but, as you know, Mr President, we are not sitting at all in April. The position of the Greens on this matter is that we ought to be sitting more weeks. That would cover all the matters that Senator Abetz just referred to. It would provide proper debating opportunity. It would give the public proper opportunity to feed into legislation, instead of it being dumped on the Senate and expedited through this extraordinary mechanism we have just seen and us now having to sit on Friday and sit extended hours, as we will tonight and next Tuesday.

Of course, the Greens would have no objection to that if there were unforeseen circumstances which confronted the nation. But that is not the circumstance here. The foreseen circumstance is the government moving to an election in disarray and in great disfavour with the Australian public and wanting to get out of the parliament as fast as it can without the proper use of the Senate to enable it to adequately scrutinise the legislation and scrutinise the government’s performance.

Instead of sitting fewer hours, fewer days in recent decades, if there is an extended workload the government needs to deal with then we should be sitting extra weeks. With that comes the ability of the opposition parties to question the government each day and move motions challenging the government and, through public consultation, to adequately tackle the government on its legislative schedule as well as its performance in an election year. We are dealing here with a government majority, who are simply abusing the normal forms of the Senate and saying, ‘Let’s get out of here. We can’t stand it in the Senate. We want to get away from the parliament.’ The Prime Minister, his ministers and his members always do better if they are not under the force of scrutiny that the Senate sittings can bring.

This is a crash and run project by the government—and the minister knows that—to get out of this place but to get its legislation through by sitting extra hours at night and by
sitting on Friday, for goodness sake, when there is no emergency here. There is no emergency legislation here whatsoever. When it comes to drought relief and other matters that the minister just spoke about, it is absolutely his own fault that legislation has not been brought in here with the usual forms of the Senate. I remind the senator that the drought has affected this great country of ours over the last 10 years, not only over the last 10 days. If the government is not able or competent enough to bring in legislation to give relief to farmers within the usual sitting hours of the parliament, that shows incompetence by the government and a failure to understand the role of government.

What is demonstrated here, of course, is the absolute arrogance of this Prime Minister and this government’s failure to connect with the Australian people. Decisions are now made in the Prime Minister’s office and in cabinet, and the House of Representatives as well as the Senate are being used simply as a rubber stamp because the government has the numbers. This is the hubris that the Prime Minister said he would not use when, after the last election, it was found that the government had a majority in the Senate. If there is ever a reason for the Australian voters to remove that majority at the forthcoming federal election, we are seeing it exemplified here today as the government uses its numbers to get rid of the proper scrutiny that the Senate can bring.

Sure, the government is running scared. Sure, the government wants to get out of here. Certainly, the Prime Minister will instruct Senator Abetz to bring in motions like this to cut short proper Senate sittings. Let me put on the record that the Greens are quite prepared to support a motion from the government to bring us back to sit in April, when there are zero sittings listed, so that the Senate can properly function and do its job. We do not support this proposal to have an extra sitting on Friday and to sit late into the night so that the government can get out of here without being presented with more question times and more debates on its failure to deliver good governance to this country. It is time this government went.

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (9.40 am)—Mr President, we have been presented with a bizarre concoction of arguments by the Leader of the Australian Greens. For the sake of those who are listening in to this debate, let us remember that the parliamentary timetable for this year was in fact set last year when, if I might be as bold to say, the government was still doing a bit better in the opinion polls than it is currently. So the argument that was postulated by the Leader of the Australian Greens that we have somehow cut short the sittings because the opinion polls are currently against us and things are not going well for us flies in the face of the objective fact, which is that the timetable was set last year when the circumstances were completely different.

The one telling thing about the opinion polls in recent times, as Senator Parry would well know as a student of these things, is that another party has been suffering in the opinion polls as well, and that is the Australian Greens—only at five per cent, which would mean it would not get a single senator back into this place at the next election. That is the reason that Senator Bob Brown is now trying to become a de facto opposition in this place.

The reality is that this government has moved a motion for extra sitting hours and, indeed, an extra sitting day. We said, ‘Let’s sit on Friday,’ but in response the Leader of the Australian Greens says, ‘No, don’t sit on Friday; let’s sit in April.’ What intellectual prowess would the Leader of the Australian Greens present to the Senate in April that he is unable to present on Friday? Absolutely
none. This is a pathetic attempt by the Australian Greens to oppose anything this government does—and for one simple reason: cheap politics without any objective basis to the assertions being made.

All of the bills on this list that we have put before this place have been to a committee or honourable senators in this place have not sought to refer them to a committee. That is the truth about the bills on this list. Either the bills have been considered by a committee—a structure of this place—or honourable senators have said, 'These bills are not worthy for consideration by the various committees of this place and therefore we believe it is appropriate to bring them on for debate.' Why defer something for extra consultation when, at the Selection of Bills Committee and at other forums of this Senate, honourable senators have agreed not to refer these particular bills to a committee?

What we are saying is very simply that there are some important things to be done, be it the Farm Household Support Amendment Bill, the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill et cetera—those relatively non-controversial bills that have been to committees or that honourable senators did not want to refer to committees but that, in recognition of the important role of this chamber in our parliamentary democracy, we acknowledge should be given extra time. That is why we are suggesting an extended sitting regime—extended night sittings this week and an extra sitting day on Friday.

The date on Friday will be 23 March. What would be the difference if, instead of debating these matters on 23 March, we were to debate them on 2 April? What would be the difference between those two dates and that one week? What would be the material difference between sitting in April and sitting at the end of March? There is none. This is another pitiful example of the Leader of the Australian Greens wasting the time of this place and trying to make arguments where there are none. If the Australian Greens genuinely wanted these bills to be considered, they might have said that the bills were worthy of being referred to a committee. That, of course, did not happen. I ask honourable senators to support the motion.

Question agreed to.

ENERGY EFFICIENCY OPPORTUNITIES AMENDMENT BILL 2006

Second Reading

Debate resumed from 20 March, on motion by Senator Colbeck:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.46 am)—by leave—On behalf of the Democrats I move amendments (1) to (4), (6) and (8) on sheet 5180 together:

(1) Schedule 1, page 2 (after line 4), before item 1, insert:

1A At the end of subsection 3(2)

Add:

; and (c) to implement cost-effective energy efficiency opportunities, noting that they will achieve cost savings.

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

1B Section 4 (after the definition of controlling corporation)

Insert:

cost-effective, in relation to energy efficiency opportunities, means the benchmark for financial feasibility will
generally be a payback period of up to three years. The discount rate/internal rate of return to be used in making an assessment of financial feasibility should be the current bank bill rate. For long-lived assets (more than 10 years) a full lifecycle analysis should be undertaken. The payback periods should include consideration of savings achieved through reduced energy bills, operational cost savings and enhanced productivity.

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

1C Section 4 (after the definition of Court)

Insert:

energy efficiency opportunities means activities that result in the reduction of energy use or the improvement of energy efficiency.

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

1D Section 4 (after the definition of energy use threshold)

Insert:

greenhouse gas emissions includes but is not limited to the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

(6) Schedule 1, page 4 (after line 23), after item 5, insert:

5A Paragraph 20(3)(b)

After “use”, insert “and greenhouse related emissions associated with energy use”.

(8) Schedule 1, page 4 (after line 23), after item 5, insert:

5C After Part 7

Insert:

Part 7A—Implementation of Energy Efficiency Opportunities Assessments

23A Implementation of the assessment plan

(1) The object of this section is to require registered corporations to implement assessment plans required by Part 5.

(2) A registered corporation must:

(a) implement the cost-effective energy efficiency opportunities identified in the assessment plan submitted under Part 5; and

(b) complete the implementation of the energy efficiency opportunities identified in the assessment plan before the expiration of the 5 year period commencing 1 July 2007.

(3) The extent of implementation of the energy efficiency opportunities identified in the assessment plan is a matter which inspectors authorised under Part 8 are authorised to monitor and report on.

(4) A registered corporation contravenes this section if it fails to comply with subsection (2).

Note: Clause 3 of Schedule 1 provides for a civil penalty for failing to comply with this section.

These amendments are in two groups. The second group relates to the threshold participation, which I mentioned in my contribution to the second reading debate. The amendments require corporations that are within the energy use threshold to implement identified cost-effective energy efficiency opportunities when cost-effectiveness is defined as those energy efficiency opportunities with less than a four-year payback period. It should be noted, as I said in my second reading contribution, that 60 per cent of these cost-effective energy efficiency opportunities can be implemented at little or no cost at all, that a lot of these cost-effective energy efficiency opportunities will pay for themselves, on average, within 2½ years and that after this time there are accrued energy savings.

The first group of amendments relates to the objective of realising a range of national economic, social and environmental benefits
to be gained from improving energy efficiency through the economy. Implementation of cost-effective energy efficiency opportunities results in gains in economic growth, consumer welfare and employment. Energy efficiency is the most cost-effective greenhouse gas abatement activity that there is. It will also ensure improved energy infrastructure utilisation and reduce energy supply costs. Energy efficiency means that you can defer new capital investment until such time as cleaner energy technologies become less expensive.

I urge the committee to support these amendments. As I said, the bill as presented to us is a minor bill but it does give us a chance to capitalise on the opportunities that energy efficiency could provide. At present corporations, despite the audits, are not taking up the measures that they could, even though the payback period is quite short. Our amendments would require them to do that. They will also reduce the threshold for participation, and I will come to that when I move the next group of amendments.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.50 am)—The government does not support the amendments moved by the Democrats. We see these amendments as providing an excessive amount of red tape and regulation over the existing systems that are in place. The existing process has the support of industry, and we intend to give firms the opportunity to demonstrate their commitment to the measures.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.51 am)—That is remarkable, because we are in an age of climate change which is already impacting on the economy, as well as on the stability of global governance and the well-being of coming generations. If there is one immediate option that is available to this government to get a transition through to alternative energies, including its own much-mooted but totally unproven option of clean coal, it is energy efficiency. World expertise shows that through simple energy-efficient measures industry, the domestic sector, the retail sector and the primary produce sector, including resource extraction, can cut current use of electricity by 30 per cent to make it available for new users.

If that were really tested it would mean that we have some decades worth of breathing space in terms of not increasing impacts on the atmosphere by building new coal-fired thermal power stations, for example. But we are not going to get there simply by saying, ‘Leave it to the good industries out there—or households, universities or whatever it might be—to adopt energy efficiency and the polluters can keep doing what they do without any regulation.’

Shortly, Senator Milne will be moving Greens amendments to put some legislative action behind this. If we are going to succeed in this world of climate change, we need stick as well as carrot so that the polluters who will not play the game properly can be brought into line and those who are squandering energy find that the days of squandering are over. We need to divert wasted energy into new uses; that means that we do not have to build new thermal power stations.

But the government say, ‘No, we will allow the waste to continue, and we will continue to reward the polluters’—the lazy if not malevolent polluters who do not care about the future and will continue the sceptical view of climate change as if it were not a big issue confronting the world. Well, it is a big issue. The government should be leading with an energy efficiency bill which will provide a template to ensure that those who do the right thing get rewarded and those
who do the wrong thing get penalised. It is simple goodwill practice.

I suspect we are going to see the government using its numbers again to knock down amendments to this legislation from the Greens and the Democrats which would give it teeth. Let that be on the government’s record. The government should be supporting these amendments as the Greens do. It should be supporting the Greens amendments that will be moved next.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.54 am)—The minister says that the government cannot support these amendments as they are about red tape. Can the minister indicate what so far has happened with regard to audits and what the aim of the government is in terms of compliance with audits that find that there is cost-effective energy efficiency that can be developed in corporations? At what point will the government say, ‘We need to have a bit of push and shove here because industry is just not taking up those opportunities which are discovered by their audits’? How successful has the program been so far in terms of those companies adopting measures found to be cost-effective by those audits? At what point will the government say, ‘We need to toughen up here and make this something other than a voluntary scheme’?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.55 am)—It appears that the Greens and, to an extent, the Democrats—but particularly the Greens—think that all industry is bad and it is out there basically to pollute, destroy the environment, gobble up resources and just have no heed for anything that might be in the public or the environmental interest. I remind honourable senators that energy is a significant cost for these businesses.

Senator Allison—Madam Temporary Chairman, I rise on a point of order. That is not what I said in my speech during the second reading debate or in my comments about this bill and our amendments, nor was it anything to do with the question that I put. I ask you to remind the minister that he is suggesting that we are coming from a very different position from the one I outlined. I think this is misleading.

The TEMPORARY CHAIRMAN (Senator Crossin)—Senator Colbeck.

Senator COLBECK—As I was saying, energy is a significant cost for these businesses and it is in their interest to save energy where they can. That was the point I was getting to, Senator Allison. It is the government’s objective to work with industry to demonstrate to them where the energy savings might be found. In fact, as part of that process, there is a public reporting requirement for industries that are using significant levels of energy to report on the savings that they are finding. Any business that can come up with significant cost savings in respect of energy use would be crazy not to implement them.

I will give you four examples. Xstrata Coal in New South Wales identified 32 projects by January of this year. They include energy savings of 13,686 gigajoules, which is a reduction of more than one per cent in energy use; greenhouse gas reductions of at least 3,700 tonnes of CO₂ equivalent per year; and significant cost savings, obviously. Xstrata Copper at its Townsville refinery has found four measures that amount to cost savings of $200,000 a year to the company—a significant saving—and greenhouse gas emission reductions in the order of 3½ thousand tonnes of CO₂ equivalent per year if the programs are fully implemented.

Orica has identified 70 projects that represent energy savings of 140,000 gigajoules
per year, which is a six per cent reduction in non-feedstock energy use across the site, and greenhouse gas reductions of 9,520 tonnes of CO₂ equivalent a year. Those savings are worth in the order of $1 million to the company. Midland Brick has identified over 50 energy efficiency opportunities so far. The major focus has been on two of their kilns. There are energy savings of approximately 270,000 gigajoules per year, equivalent to approximately 19,000 tonnes of CO₂ or the energy use of 5,000 households.

There are significant benefits being identified in conjunction with industry. Industry has a significant energy cost. In some of the businesses I have seen, in excess of 35 per cent of the input costs is spent on energy. There are significant savings to be made if industry can maximise their energy efficiency and in so doing generate savings for their businesses.

I do not agree with the assertion being made—I am not saying that it was necessarily just by the Democrats—particularly by Senator Bob Brown, that industry is all bad and greedy. I do not think that is reasonable. Industry has clearly demonstrated that it is prepared to work with the government. There are savings being made, as I have outlined. We ought to encourage industry to continue to work along those lines.

Senator MILNE (Tasmania) (10.00 am)—To set Senator Colbeck straight, the parties in the Senate that work day in, day out, to promote businesses that are investing in renewable energy and energy efficiency are the Greens and the Democrats. Far from being opposed to those companies, we do our level best to promote what they do and to draw to the attention of Australians the number of businesses going offshore because government policy is driving them out of the country. They are going overseas to maximise their profits and roll out of technologies. So let us not hear the lame political comment that we have just heard from the government senator.

The question here is: why does the government resist making mandatory the requirement to implement the identified energy efficiency savings? It is all very well for Senator Colbeck to stand up and say that these companies have identified opportunities for saving energy. Have they implemented them all? Are we seeing progressive implementation? Businesses are not necessarily going to make decisions to become more energy efficient if they can persuade governments to discount power to them. In Tasmania, as most people would know, the big industrial users of energy—Comalco, for example—have bulk power contracts with what was the monopoly hydro—government-owned at that time—enterprise. We had a situation where, rather than take sensible measures to reduce their energy use, the big industrial users instead used political power to drive down the cost of energy so that they could continue to operate at a profit at the expense of the Tasmanian taxpayer. That is what industry has done in the past and continues to do around the country. They have negotiated—in the case of Tasmania—secret bulk power contracts which both Liberal and Labor governments in Tasmania have refused to make public on the basis of their being commercial-in-confidence, even though there was a monopoly supplier and one large company in the case of Comalco.

Now that these bulk power contracts are coming to an end, there is huge pressure and politics being played around energy. So let us not hear this nonsense that companies which suddenly find there are savings to be made in energy efficiency necessarily make the decision to invest their corporate dollar in that energy efficiency. Often they use investment to expand their businesses into other areas and so on.
We want an explanation from the minister as to why the government baulks at going the next step. Having required companies to identify energy savings, why will the government not then require those companies to implement those savings through a mandatory regulated measure? If you take climate change seriously, if you recognise the savings that are to be made from energy efficiency, why will you not accelerate the process? Is it because the government believes—as does Ziggy Switkowski—that climate change is not the major problem facing Australia and that we have 15 to 20 years to fiddle around while unproven technologies suddenly become proven, or does the government take this seriously? Does the government accept that we have to make significant cuts? If so, why are the government baulking at the notion of making mandatory that which they tout as voluntary?

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.04 am)—Parliamentary Secretary, I identified in my speech in the second reading debate some of the reasons why businesses do not take up what they would ‘be crazy not to implement’—your words. There is quite a long list. I did not make it up. They were developed by the Ministerial Council on Energy and the National Framework on Energy Efficiency. They documented the known barriers. Relevant information is not always available at the right time to the right people to enable informed energy efficiency choices to be made. Policies and programs that only provide information do not address or overcome behavioural barriers and inertia. As energy is a small proportion of the total expenditure for many consumers, the potential savings are not perceived as justifying the necessary investment in time and effort to consider and implement energy efficiency improvements. Many organisations do not have easy internal or external access to the necessary expertise or tools to identify or take advantage of the available energy efficiency opportunities. And there are others. This is not just me making something up.

The history of energy efficiency, not just here but in other countries, is that it is not enough to require companies to do audits. We need to push them to that next step. We have put the bar fairly low. We have said in our amendments that if it can be demonstrated that there is a payback period of up to three years then they should go ahead. Three years is nothing. If we were talking about 15 or 20 years payback, then you would say that that is the sort of investment you would think twice about, but three years is a very short time frame. It is our advice that the vast majority of what will be identified in these audits will be in that category.

There are 250 corporations required under the act to do the audits. You have given us the examples of Xstrata and Orica, which identify a huge number of projects that could deliver on savings, but how many of those 250 firms are you aware have commenced putting in place the investment needed for these energy savings? Out of those 250 companies, what is going to be delivered at the end of the day? That is what we want to know. If you cannot demonstrate to the parliament that this act is working, delivering energy efficiency, then it is a pointless exercise. We are trying to shore up the legislation, to make it happen—something that your government does not seem interested in doing.

So is this just a face-saving, make it look like we are doing something exercise? Is this a red tape exercise in making these companies do their audits, but you are not prepared to follow through? We need to know how effective you think this act is going to be and, if it is not going to be effective, if you cannot demonstrate that it is already deliver-
ing, then we need these amendments to make sure that happens.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.07 am)—I want to pick up Senator Colbeck’s claim that I am saying that business is bad. Of course, I did not say that at all. As you will have heard, Madam Temporary Chairman, what I did say—and Senator Colbeck smiles at his duplicitous delivery to the chamber—was that bad companies should not be rewarded when good companies are doing the right thing. The amendments of the Greens and the Democrats are saying: let’s make this a level playing field in the market so that where energy efficiency is identified it becomes a requirement to employ it, in the interests of reducing the impact of greenhouse gases on the climate. It is a very big component of getting things right.

Senator Colbeck might want to see Gunns in the same light as every other company. We don’t. Gunns, for example, through its destruction and burning of forests—that season is again upon us in Tasmania—puts enormous amounts of greenhouse gasses unnecessarily—there is no energy gain from this—into the atmosphere of Tasmania. We know that the Stern report said that stopping the burning of old-growth forests could make a bigger saving around the world than ending all the transport systems of the world, and it can be done now. It is the quickest way, beyond energy efficiency, to turn around the enormous threat of climate change. Gunns is a bad company. But for every bad company there are a stack of good companies who are doing the right thing.

Senator Colbeck’s party is advantaged by donations, and large ones at that, from Gunns Ltd. I think we are seeing a government that has been in too long, that is in thrall of and under gains from a corporate sector that is doing the wrong thing and that wants to stay the government’s hand from bringing in proper legislation to level the playing field so that those companies doing the right thing—and there are thousands of them—are rewarded, not penalised. That is what this debate is about.

Senator Colbeck has got it very wrong. He is new. He does not understand the complexities of the arguments here. But making simple political statements, as he has done, and misrepresenting what I have said is not going to shield him from that. He can go as red in the face as he likes sitting over there, but the fact is that we expect a more mature debate and an argument from Senator Colbeck as to why he is failing to endorse amendments like those from the Democrats and Greens. Those amendments simply say that, where savings can be found in this critical period of climate change—even the Prime Minister accepts the realities of it these days—we need to move from simply saying that people can do what they like to saying that the government will ensure that there is a level playing field, that energy audits are required and that when savings can be found in terms of not polluting the atmosphere they shall be implemented. That is what we are debating here. Let’s make it fair for all companies so that the good ones are not penalised and the bad ones are not allowed to continue their polluting trade at the expense of the atmosphere. That is what this debate is about and that is the level of argument that we challenge Senator Colbeck to take up.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.11 am)—I think it is quite amusing that Senator Bob Brown should accuse me of making political statements as part of this debate because if there is anyone adept at making political statements as part of a debate it is Senator Brown. He is probably the most political
person in this place, although he continually tries to take the moral high ground. But all credit to him—he is one of those adept political operators who are very good at making political statements.

I disagree with Senator Brown in respect of Gunns. Gunns is a good company. It just happens to do something that Senator Brown does not like. So, rather than make the argument, he will demonise the company, which is quite often the approach that the Greens take. Senator Milne has already had a crack at another important company for the north of Tasmania, Comalco, and the way that they operate with respect to their energy use. If a company can make energy savings and then put those energy savings into growth, what is wrong with that? What is wrong with a company making energy savings and putting those energy savings into growth? That again takes pressure off the expansion of energy use. What is the problem with that? Senator Milne makes these arguments but I just cannot see the problem with a company legitimately making energy savings and then putting those energy savings into growth.

To turn to the points that Senator Allison made, in respect of where the process is at this point in time and what evidence we have that these energy savings are being put into place, we are still at the stage of registration of industry. That process closes this month. Obviously some businesses are further advanced than others. There is a five-year assessment process that goes through with this, obviously with reporting, and that provides a level of public scrutiny—and I think that is quite reasonable. We want to work with these businesses. We do not see at this point in time that it is necessary to enforce, by regulation or legislation, compliance. We think that industry will be willing to work with us. The work that has been done at this point in time clearly demonstrates that, and industry is genuinely interested in looking at energy savings, as I have said. Energy is a significant cost to industry and any cost savings that can be made are valuable to industry. Whether those energy savings are put into reduction of costs throughout the business or into growth of the business I do not think makes much difference. It is important that those principles apply, and that is why we are taking the approach that we are.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.15 am)—I refer again to the barriers that were identified by the ministerial council and ask the parliamentary secretary: which of those are being overcome at present? What has been done about the lack of information, high transaction costs, access to finance, low order management priorities, split incentives and so on—all of the barriers to energy efficiency which were identified? What is the objective here? How many tonnes of greenhouse gases are going to be avoided by this energy efficient measure? What will the act deliver after five years? If, 2½ years into the process, it looks like it is not going to reach the target, then what is the government going to do about it?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.16 am)—The whole point of this legislation, which was passed last year—and obviously the amendments that we are making now—is to assist industry with the inhibitors you were just talking about. That is why we are putting the legislation into place—to work with industry to help them identify the efficiencies and overcome the inhibitors.

In respect of potential targets, I think it is better for industry to be looking at what their energy savings might be than for the government to mandate that they ought to be saving 20 or 30 per cent. Industry knows its business better than government does, and
for us to be imposing artificial limits and targets on industry is unrealistic. As I have said several times, industry is interested in saving energy because it saves costs. In the current global environment, there is an incentive for industry to be much more efficient. Efficiencies to be found in any area of business are important. Energy efficiency is one of them.

Some industries are significant users of energy in respect of their overall input costs. I know of a couple in my neck of the woods where energy is 30 to 35 per cent of their input costs. So there are significant incentives for them to save energy. As Senator Milne said, there is pressure on the cost of energy—that is a legitimate point. The points Senator Milne made in respect of some of the bulk energy deals that have been done and the pressure that is applied across the system are legitimate and reasonable and reinforce the point that energy is a significant cost to industry. Industries ought to be—and are, with the assistance of government through this legislation—working to identify those savings and implement them.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (10.17 am)—Labor will not be supporting the Democrat amendments, and not because we do not understand the sentiment behind them or concur with some of the remarks made by Senator Allison in support of them. I want to bring her back to the contents of the legislation. We are having a wider energy debate, which is fine; it is an important debate, in which the parliament ought to be engaged. But I have more modest ambitions today—to stick to the bill. However, on other occasions, I am happy to have a broader debate. Obviously it is up to senators today to do so.

This legislation is a small and fairly tentative step for the government. It is one that Labor has endorsed because it is a positive first step. My sense of the debate today is that the Greens and the Democrats would like the government to go further. I would like the government to go further. Am I going to use this bill as a means to try to achieve that? No. Why? In part because I think it is important we get the bill through and we start to make the scheme work. If we identify problems in the original act, those problems need to be fixed. I accept that. Is the government going to accept broadening the scope of the bill? No. Labor is happy to accept this bill, if you like, as a non-controversial bill because of what it does. The Greens and Democrats amendments tend to reflect the wider debate, which is fine. It is sought, in some part, to make other provisions mandatory, to broaden the nature of the scheme and to require more compulsion to implement energy savings.

We support the current bill. There is mandatory assessment of energy efficiency operations. The bill and the original act hope that the price signal will drive company behaviour but there is some evidence that that has not been enough in the past. That is why we have the act and this amending bill. Despite what should be a cost driver, there is an economic behaviour driver. Industry does not seem to have been, in many cases, as focused on that. There is now a greater focus on energy efficiency, partly because the cost is going up and the cost will go up more. People are much more sensitive to their energy usage and the costs of that.

We support the scheme. We are going to look to have it assessed fairly early. Some of the points about assessment are appropriate. Senator Allison was asking some legitimate questions about how this will work in practice. I suppose my bottom line is that the legislation is a small step. We are going to support it. I know people want to go further. The reality is that this bill is not going to take it
further. It is part of the much wider debate. This reflects the government’s reluctance to take bold steps. It is very tentative in approaching these energy and climate change issues. But we say it is a worthwhile initiative. The government is not going to go further at this stage, and I am not sure that with this scheme we would want to go further at this stage. It is about trying to get business to cooperate within the framework. It does identify the main energy users and some important points are made about concessions on the price of energy.

I have some concerns about the attempt to exempt certain industries from carbon trading regimes that may occur in the future. That undermines the potential of the schemes. The real debate here is that the government is unwilling to take on the cost of CO₂ emissions. One of the drivers of energy efficiency is to put a price on carbon. The government is in denial about that challenge. Senator Minchin still remains a sceptic and the government has not quite made up its mind. It seems to be split internally on acceptance of the challenge of CO₂ emissions and climate change. What we should be debating and focusing on more in the parliament is the question of the introduction of a carbon cap scheme which does focus industry on its energy decisions.

Since taking on the portfolio of resources and energy for the Labor Party I have been struck at how far in advance of the government and the parliament business is. It is way in front of us. We are about five years behind. The government is 10 years behind. Business is preparing for a carbon trading scheme. It is focused on these issues. It operates internationally and it is planning for that reality. All that needs to happen in Australian politics is for the government to be dragged, kicking and screaming to the acceptance of the world moving to carbon trading schemes and putting a price on emissions. This is a very small step in focusing on energy efficiency, but the big driver of a change in behaviour will be a price on carbon.

While I accept the desire to have a broader debate—it is a very reasonable thing and it is a good opportunity for people to make some of those broader arguments by way of considering amendments—we will not support the amendments because we do not think they are appropriate in terms of this bill, which is a small step. We are prepared to give it a go. We supported the original act. The slowness of the implementation is concerning. We think that tackling the issues of energy efficiency for these large energy users is important. The mandatory reporting requirements as contained in the bill is an important first step. At this stage we are not going to support moving to the more regulatory and more prescriptive measures that Senator Allison proposes, although I understand the sentiments behind them. We will not support the amendments but we will support the bill.
that we will reach 127 per cent of our Kyoto target by 2012.

There is an urgency to act. We have to act. We should be acting in those areas where the savings are cost effective. We know that businesses are going to benefit from this. They just need a bit of pushing and shoving to get there. That is what this is about. We cannot wait for five years to assess the situation. This is a small step and we cannot wait five years to take it. We are looking at a massive increase in our greenhouse emissions. Despite our very generous deal at Kyoto, despite the huge credit that we receive for not cutting down trees, we are still going to exceed our target by 2012.

This may not be a controversial bill, Senator Evans, but this issue is hugely controversial. The Australian people are looking for action. I do not want this to turn into a debate. Senator Evans, you said you did not want this to turn into a broader debate. We could speak for the next three weeks just on carbon trading. I will resist doing that. But we do need to bring you back to some realities here. The reason for the amendments is not just some whim of the Democrats or some flight of fancy. We are doing this because the task is so great. The government seems not to recognise that. It is wallowing around in this sea of indecision: ‘Let’s be nice to industry and let them do it in their own good time.’ There is not time. If you have read any of the reports that have come out of the United Nations in the last few weeks and months you will know that there is no time to waste. We need to take action now. If you read the Stern report you will soon understand that the folly of not taking action immediately will cost the economy down the track. It is in Australia’s interests, it is in industry’s interests, it is in the parliament’s interests—and I would have thought it was in the Liberal Party’s and the Labor Party’s interests as well—to act and to act now. Here is your chance.

Senator MILNE (Tasmania) (10.28 am)—I rise to also express my disappointment that the Labor Party will not support the amendments and, presumably, the Australian Greens amendments, which we will deal with shortly, which try to achieve the same thing—that is, to put some teeth into this legislation. I thought it was the role of a legislature, when making laws, to make the best laws that it can for the country. To say that we do not want to broaden the debate now and we do not want to increase any part of the framework at this time is an excuse for inaction. Only yesterday the shadow minister for the environment, Peter Garrett, was reported in the Sydney Morning Herald as saying how wonderful the European Union was for having set a 20 per cent reduction in greenhouse gases below 1990 levels by 2020. I agree. Labor has a policy of 60 per cent reduction on 1990 levels by 2050.

How are Labor going to get there if at every turn they back off from any mandatory requirement for industries to do anything? Whilst you can talk all you like about the residential sector, the fact of the matter is that we have 250 corporations using more than half a petajoule of energy per year and they cover round 40 per cent of Australia’s total energy use. That is from the government’s own explanatory memorandum.

This is an opportunity to act and act now. If you accept what Sir Nicholas Stern has had to say and what the world’s scientists have had to say in the IPCC report, we have fewer than 10 years left as of last year. So we have until 2016 to significantly reduce greenhouse gases and to try to maintain global temperatures below an average two-degree rise. How are we going to do this by 2016 if we allow five years of fiddling around before we say whether this has
worked? I hear the minister say that that is crazy and that of course they would do it. Perhaps the government can explain to me why it is that, according to the International Energy Agency, Australia’s energy efficiency has improved at less than half the rate of other countries? Are our industries just not bright enough? Are other countries better? What is going on here? The difference is that other countries have regulated. They have regulated because they do not want to penalise progressive companies. Progressive companies are disadvantaged by the implementation costs of energy efficiency measures relative to companies not prepared to act under voluntary schemes. That is a fact.

If you read yesterday’s paper you would have seen that AGL has gone offshore and joined the Chicago trading exchange. Industry is well ahead of the government and the opposition. In fact, the irony is that, while the Treasurer and the government argue that they are the best managers of the economy, Australia’s most progressive businesses are all saying, ‘We are fed up. We are sick of the uncertainty. We know a carbon price is coming. By not acting you are disadvantaging us and we are having to go offshore.’ So off goes AGL—not some small start-up company by any means—to the Chicago exchange. The minister needs to explain why, if the government are managing this so well, these companies are rushing offshore. It is because they can see the opportunities in the carbon market.

More particularly, I would like an answer to the fact that the 2004 energy white paper stated that energy efficiency could deliver 40 per cent of energy savings to the year 2010. We are already in 2007. It noted that energy efficiency improvements in Australia have occurred more slowly than in other nations, with just a three per cent improvement from 1973-74 to 2000-01. Why is it that Australian industry has failed on energy efficiency? Why is it that the European Union had to have a directive on energy efficiency that has led to building a competitive advantage in the whole environmental and energy management area? Why did the European Union do it if it was crazy for companies not to act without it? The fact is that it has not happened for all the reasons that Senator Allison has just indicated. The government have not acted and now we are in a global crisis.

It is quite apparent to me that the government does not believe we are in a global climate crisis and that we have only until 2016 maximum to make significant greenhouse gas reductions. It is obvious to me that that is the case. It is obvious to me that we have climate sceptics and the government advocates—such as Ziggy Switkowski, who was in the paper today saying that climate change is not the greatest threat facing Australia, without going on and saying what supposedly is—at the same time as we have state governments moving to cut off wetlands and so on because of a water crisis that quite clearly is linked to climate change. Yes, there are climate sceptics. There are nuclear advocates in the coal industry saying: ‘Our technology won’t be ready for 15 or 20 years, so climate change is not that urgent. It can wait for our technology to come on-stream.’ It cannot wait, we cannot wait and, what is more, the Australian economy is suffering because progressive businesses are heading offshore.

We have hollowed out the manufacturing sector and we are losing the innovators, who are going offshore because of government policy. The minister has still not explained to anyone in this house why it is that the government think that voluntary regulation is going to work and why there is no target. One of the amendments I am going to move in a moment is for a national target. The minister has said he has no idea at all what level of energy this might save in five years. At the
end of five years they will add up what they did save and then tell us. There is no target. There is no performance limit or benchmark at all. There is just a country ramble when we are faced with a huge global crisis.

I would like an answer from Senator Colbeck as to why it is that Australia’s energy efficiency has improved at less than half the rate of other countries if voluntary schemes work so well. In terms of Labour’s objection, I want to know from the Labor Party whether they endorse the target that the opposition’s shadow minister for the environment, Peter Garrett, suggested was a good thing in the paper yesterday—the European Union’s target of 20 per cent below 1990 levels by 2020. If so, how are they going to get there if they, too, refuse to make mandatory the energy efficiency savings identified in the audits that relate to 40 per cent of Australia’s total energy use? It suggests to me that they are prepared to talk up climate change in every forum except the parliament, where it counts.

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

The committee divided. [10.40 am]
(The Chairman—Senator JJ Hogg)

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

**BNOES**
- Adams, J.
- Bernardi, C.
- Boswell, R.L.D.
- Brown, C.L.
- Chapman, H.G.P.
- Eggleston, A.
- Fielding, S.
- Fifield, M.P.
- Hogg, J.I.
- Hurley, A.
- Johnston, D.
- Kemp, C.R.
- Ludwig, J.W.
- Macdonald, J.A.L.
- McEwen, A.
- McLucas, J.E.
- Nash, F. *
- Patterson, K.C.
- Polley, H.
- Stephens, U.
- Troeth, J.M.
- Watson, J.O.W.
- Wortley, D.

* denotes teller

Question negatived.

**Senator MILNE** (Tasmania) (10.44 am)—I move amendment (1) on sheet 5179:

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

1A  Section 3

(1) The objects of this Act are:
(a) to facilitate the establishment of a national energy efficiency target; and
(b) to promote the identification and implementation of measures to reduce energy consumption through energy efficiency.

(2) In order to achieve its objects, this Act requires:
(a) the Minister to establish a taskforce of experts to report on the implementation of a national energy efficiency target; and
(b) corporations to undertake an assessment of their energy efficiency opportunities to a minimum standard in order to improve the way in which those opportunities are identified and evaluated; and
(c) corporations to publicly report on the outcomes of that assessment in order to demonstrate to the community that those businesses are effectively managing their energy; and

(d) corporations to implement identified energy efficiency measures contained in their energy assessment; and

(e) establishment of an Energy Savings Fund.

This is an eminently sensible amendment because it addresses the lost opportunity in this energy efficiency ‘lost opportunities’ amendment bill. It recognises the lost opportunity to require corporations to implement the findings in their audits. It goes further by requiring the minister to set up a task force to develop a national energy efficiency target. The problem is that the government refuses to set climate change and greenhouse gas reduction targets and time frames. It is working with an open-ended process even though the real world is working with very clear processes and time lines in response to daily reports about the adverse impact of climate change. By refusing to set national energy efficiency and greenhouse gas reduction targets and time frames, the government is condemning future generations to appalling lifestyles and climate consequences. Government members will live long enough to see that reality.

The parliamentary secretary did not respond to the question I asked him during the last debate on this legislation and I would like an answer. Why has Australia’s energy efficiency improved at less than half the rate achieved in other countries if voluntary schemes work? It is a simple question and I will keep asking it until I get an answer from the government. It is an unacceptable situation given the global crisis that we must deal with.

First, we need a national energy efficiency target. We must then identify and implement measures to reduce energy consumption and establish an energy savings fund. That would then generate the investment we need to be able to roll out the energy efficiency technologies that will effectively deal with the crisis we have at the moment and enable us to achieve the identified 30 per cent energy efficiency savings. As I indicated in my speech in the second reading debate, those savings will buy us the time to leapfrog the old technologies and enable us to meet increased demand through energy efficiency, reduction of use and increased supply using new renewable energy technologies.

I cannot for the life of me see why the government will not take this opportunity. It is not enough for the Minister for the Environment and Water Resources to talk about banning light globes when he and this government are refusing to require action from the 250 corporations that use 40 per cent of Australia’s energy. The minister insulted the community when he said that those corporations must simply register by March of this year. That will be followed by a five-year process to see how they go after they have registered and have done their audits. At the end of that process, we will assess whether they have actually done anything. If they have not done anything, presumably the government may then regulate. We do not have that time; we do not have five years. Sir Nicholas Stern said that we have less than 10 years to deal with this issue.

The Labor opposition’s support for this legislation is an abrogation of its responsibil-
It is time that this duplicitousness stopped. Members cannot tell Australians that they support greenhouse gas reductions and not take the necessary measures to achieve that. I put the same challenge to Labor. A minute ago I heard Senator Evans say that the opposition is not prepared to require companies to implement the findings of the audits. How will we achieve a 60 per cent reduction by 2050 without requiring that? It is not enough to write op-ed pieces for newspapers. What will Labor do to achieve the target? We are approaching crunch time. European Union directives require its members to achieve targets, but nothing is required in Australia. That is completely unacceptable.

The government supports the clean coal fund and the Labor opposition wants to spend $1.5 billion on unproven clean coal technology. We want to set up an energy savings fund to support energy efficiency measures in Australia. No doubt that will be voted down today, just like the Democrat amendment was voted down. This amendment is designed to change the objects of the legislation to give it some teeth, to require compliance and to provide some vision to take this beyond an unlimited vacuum. It says that we need an energy efficiency target in Australia. It will come, but probably not until 2010, when the world is facing an even greater and more urgent crisis. The problem with not acting now is that it will make it a lot harder and a lot worse for future generations when they are forced to act.

So I now put to the parliamentary secretary: why is Australia’s energy efficiency improving at half the rate of other countries if the government’s voluntary arrangements work so well? Perhaps he can answer that. Secondly, what is wrong with establishing a national energy efficiency target? I am not saying what the target should be; I am setting up an intention to have a target and a process to get one. Why wouldn’t we have a national energy efficiency target if we are serious about tackling climate change? Thirdly, why wouldn’t we require these companies to implement the savings that they have identified? Finally, how are we going to reduce greenhouse gas emissions in Australia if the 250 companies that use 40 per cent of our energy are not mandated to do anything?

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.53 am)—I indicate that the Democrats will support this amendment. No target has actually been suggested in this amendment. I think we probably could put a target in fairly quickly. Two or three per cent is doable by 2010 by all accounts, and we could probably say five per cent by 2012 or so. However, we do support the idea of establishing that target. But the point that the government needs to hear is that this all needs to happen quickly. We certainly support the establishment of a task force of experts to do it, but you would want to make sure that they started their work on Monday week or so in order to get this going.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.54 am)—I have just a couple of points in response to Senator Milne’s questions in particular and to some of the things that Senator Milne said during her presentation. Senator Milne is right: our rate of reduction of energy use is lower than, say, that of the EU. A number of factors are involved in that process, one of those being that, because Australia has a significant advantage in energy costs, it attracts a higher proportion of high energy use companies. One of the things that the government are seeking to do through this process, through the legislation that was passed last year, and which we are looking to make some minor technical amendments to today is to work with those industries so that they
and the government can understand where efficiencies might lie and be gained. That is the whole purpose and point of this legislation.

So there are a number of factors involved, particularly our low energy costs, which are a significant advantage to industry in our country. Senator Milne earlier talked about the impact on manufacturing. I can assure her that, if there is a significant increase in the cost of energy that is disproportionate to other countries around the world, there will be a very negative impact on industry and employment in this country. That is one of the reasons that the government has said consistently that it will not disadvantage Australian industry in its energy policy, and that is why it insists that, if we are to be part of a carbon trading system, it be a global carbon trading system.

And that is why we have engaged with the world’s largest greenhouse emitters to build a process that puts us in a situation where we do not negatively impact on our industry. We are working very closely with industry to see those things are moved forward. So I think that our approach is a responsible one in respect of industry in this country and in respect of employment. We see it as very important that we work with industry. The Greens cannot have it both ways. They cannot say that industry are ahead of us and then say that industry are not interested in participating in this process. We know that they are. I have already given some examples of how they are looking at this process, working with us, identifying savings and putting them into place.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.56 am)—The first thing that needs to be said is that one has to have some sympathy for Senator Colbeck in this situation. It is a complex area, and it is not one that he has been used to debating. Indeed, it is an area that the government has turned its face against for a decade now. One of the things that have put Australia in a very disadvantaged position is the Howard government’s scepticism about climate change and therefore its failure to follow through with world’s best practice in this area.

The first thing to be said about Senator Colbeck saying, ‘We don’t want industry to be disadvantaged,’ is that that is the government again lining up, saying it wants to be there with the world’s worst practice. You will find countries such as maybe Russia, India perhaps and the United States under the Bush administration—and this will rapidly change if the Democrats keep control of the legislature in the United States and there is a Democrat president next year. But why should Australia be lined up with the world’s worst practice? And that is endorsed by the Labor Party in refusing to take up these very sensible amendments.

Then Senator Colbeck says as an excuse that Australia attracts a higher proportion of high energy use companies. If that is the case, that simply means that Australia has a bigger opportunity to employ energy efficiency to cut its greenhouse gas emissions, because the bigger the corporations, the more energy they are using, the bigger in general the opportunity for cutting back through efficiency.

We now have the enormous burden on our shoulders to reduce greenhouse gas emissions. But the problem here is that this government is under the thrall of the coal industry; the aluminium industry, the huge consumer of coal-fired power; and the heavy metallurgical industries, which consume so much of the power. Those companies do not want to have their responsibility to the world and to coming generations imposed on them, because they are looking at the profit line
and it is cheaper for them to do nothing. It is cheaper for them to continue to hyperpollute the atmosphere at no cost. And that is what the government and the Labor Party opposition are endorsing here today.

We do not have, as Europe has, a carbon tax. That is world’s best practice. We do not have, as Europe has, a carbon trading scheme. That is world’s best practice. And we do not have, as Europe has, mandated energy efficiency targets. That is world’s best practice. The shadow spokesperson for the environment, Peter Garrett, said in a column in the Australian yesterday that at last Britain is bringing in the world’s first climate change bill. Where has he been? That is what Europe has been effectively implementing over the last couple of decades. Indeed, Senator Milne brought a climate change bill into the Senate for the Greens last year, which will be debated later this week. We will find that, on today’s performance, the Labor Party will oppose it—and the government will oppose it.

What we have here is the two big parties in this parliament, nobbled by the high energy use companies that Senator Colbeck referred to, refusing to take up the responsibility that is incumbent upon them to change this country from world’s worst practice to world’s best practice and to do the right thing by all Australians, their kids and their grandkids. The Stern report, let me remind the chamber, said that a one per cent cut in gross domestic product to fund doing the right thing now will save our grandkids a 20 per cent cut in their gross domestic product because of the impact of climate change. We are charged with the responsibility to act now and to act urgently—all the more urgently because of the failure of the Howard government over the last 10 years to act responsibly and in accordance with world’s best practice.

What we are getting here today from both the government and, surprisingly, the alternative government—the Labor Party—is world’s worst practice. This is driven by the coal industry and others who say: ‘Let’s not legislate. Leave it to us—who have failed to do the right thing for decades—to do the right thing some time in the future. But let’s not get us ahead of world’s worst practice.’ The Democrat amendments, and now Senator Milne’s amendment for the Australian Greens, head us towards being world leaders.

Let me remind the chamber that with energy efficiency targets come enormous job-creating opportunities. This is not neutral in terms of jobs. When you move to cut wasted energy in industry and in the retail, the agricultural and the domestic sectors, you create jobs. If people are going to have inventories of their power use implemented, that requires tradespeople to fix up the waste. It requires consultants to advise people. I advise every business in Australia to get an inventory done to cut their energy wastage. Even the Prime Minister is now talking about carbon taxes and a potential carbon trading scheme. When that happens the price of power is going to go up. What then happens is that those people who are energy efficient and are using less power have much smaller power bills. The extraordinary thing about this process is that it ends up cutting the power bills of people who employ energy efficiency measures and it creates jobs. The European experience is that you also create technology that is then exportable to other countries and you gain a windfall in export income. That is the business side of this.

We can be, as the government and opposition are now, lazy about this and say: ‘Leave it to industry; we will draw their attention to it but we will leave it to them to implement it.’ But the world is changing rapidly and there will be mandated targets a little way down the line. It is coming. It is unavoidable.
Wait till we see what targets the second round of Kyoto talks, due in three to five years, set for the world. Just the week before last the countries of the European Union went back to their own domestic parliaments and, while the government and Labor Party here are blocking this legislation, all legislated for this. They want a 20 per cent cut in greenhouse gas emissions and a 20 per cent delivery of renewable energy by 2020. They are going to legislate for it. Prime Minister Blair in Britain and his environment secretary, Mr Miliband, consequently announced that they are going for a 30 per cent target. Here we have a government and an opposition led by Mr Rudd who want no targets at all in the short term.

Why are targets not being set? Because they are in the thrall of heavy industry, against the interests of the average Australian—the average Australian family, the average Australian small business and indeed the big businesses themselves. When you have that sort of blinkered thinking, you wonder just how much the Australian economy is going to be disadvantaged by this lazy failure to implement world’s best practice now. That is what this amendment is about; it is saying, ‘Let’s move up to the European level of practice.’

Angela Merkel, the conservative Chancellor of Germany, spoke about the disaster stalking humanity. She understands that somebody has got to take the lead. When she, Prime Minister Blair of the UK and others were asked if Europe was going to be put at a business disadvantage, they went straight to the clear ethical requirement on the world to change course and talked about somebody having to take the lead. How different that attitude of conservative and Labour premiers in Europe is to that of the coalition and the Labor Party here in Australia, which says: ‘We measure ourselves by world’s worst practice. We are not going to step up to the plate, be ethical and take the lead here.’ I am afraid there is a penalty clause—that is, the business end of this operation. Since 2003 Germany has created 60,000 jobs just in the area of renewable energy. How many have been created in the area of energy efficiency, which is the area before the chamber at the moment? I cannot give you figures but let me tell you: it is thousands of jobs. Because that is what happens when you move wise, world-leading legislation.

So on all counts the government and the opposition have got this wrong; the Greens and the Democrats have got it right. These amendments should be passed, and the pity of this is that in a year or two from now we will be back in here passing these very same amendments as legislation simply because the world is going to force the Australian government to. The Australian people want these changes—80 per cent of the polls show that, for example, the Australian people want the Kyoto protocol ratified—but this government says no. But these changes will come, because the public is wiser than the leadership of either the coalition or the Labor Party.

There should be time for rethinking here. I am amazed that the Labor Party lines up with the Howard government on this. I am amazed that the Labor Party cannot see that world’s best practice is what we should be leading. We are not saying, ‘Go out into some unknown territory;’ we are simply saying, ‘Line up with those countries in Europe and with California and the other states in the US which have decided to break away from the Bush mantra of pushing oil and coal.’ Let us put our children and their interests ahead of those of Exxon and the other big corporations which do not want any legislated result.

We have got the big corporations winning in Australia on ‘Let’s not have legislated tar-
gets’, but the Greens have taken a more responsible attitude to this, as have the Democrats. That is why these amendments are here and that is why they should be supported. They should have the support of the opposition. The last 10 years of failure might lead us to the conclusion that the government could not raise itself to do the right thing by Australia even in 2007.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (11.10 am)—I want to comment on the remarks Senator Colbeck made a little earlier when he said that high energy users are attracted to Australia. They are indeed. It is not just because Australia has not ratified Kyoto. It is not just because we have got cheap power, mostly coal-fired power. It is also because the Australian government has not shown much interest in those big energy users—how they use energy and why they use as much as they do—or put any sort of pressure on them to reduce usage. This bill is another example of that. In fact, we do not have energy and energy efficiency data collected in this country so the parliamentary secretary cannot answer a whole range of questions about those 250 biggest energy users. We do not have minimum key performance indicators of energy intensity. We do not calculate those on an annual basis. Our energy data collection is a disgrace. We just do not know which energy users are using power and how. That is the fact of the matter.

A point about carbon trading needs to be made, and this is something that Senator Evans raised before: it will not necessarily produce energy efficiency. It is likely—we do not know because we have not got it yet; we have got a task force, nothing more—that it is going to be applied at the smokestack as it were, and that is not where energy is used. So you need other mechanisms to mandate energy efficiency.

Also, energy efficiency would make power cheaper. The government does not seem to understand that. As I said in my second reading debate speech, a study has been done—I am not making this up—which shows that a one per cent energy efficiency target would reduce our wholesale electricity price by 19 per cent. You would not only be doing industry a favour by finding savings for them through the audit requirement; you would be advantaging consumers across the board because that wholesale price would go down. I explained why. It is about peak loads; it is about the need to find new energy generation that would be avoided with even a one per cent target, a very tiny per cent. We know that one per cent can be achieved at little or no cost.

There is much the government can do. It does not necessarily take away the cheapness of our energy, although plenty are talking about a price signal. Again, no doubt our high energy users are attracted to Australia because we do not have that price signal and we do not look like having one, frankly, any time soon. The reasons that those energy users are attracted to Australia need to be examined. It is not something to be proud of; it is an indication of the lack of government action and the lack of the right signals to make energy efficiency happen.

Senator MILNE (Tasmania) (11.14 am)—I will add to those remarks. I am interested to hear the government’s explanation as to why Australia’s energy efficiency has improved at less than half the rate of other countries—that being that we have a large number of companies that are big energy users and we attract others. It interests me because the European Union includes countries like Hungary, the Czech Republic, Slovakia, Bulgaria, Romania, Cyprus, Estonia, Poland and Slovenia. These eastern European countries that have joined the European Union are way behind the eight ball com-
pared with Australia in the level of energy efficiency of their companies and where they are coming from. Yet all the countries in the European Union are required to abide by the European Union directive on energy efficiency. So I do not accept for a moment the excuse that Australia attracts companies that use a lot of energy and therefore we go soft on them. The European Union does not go soft on the eastern European countries; it requires the whole of the European Union to meet the energy efficiency targets and to follow the directives that give effect to those targets.

What about Australia? That does not answer the question at all. Senator Colbeck has said that we cannot have it both ways—that we say industry is ahead of the government and then we say industry will not implement these measures. It is not inconsistent at all. I am saying that industry is way ahead of the government in recognising that a price signal is needed for carbon, and it is crying out for one. I am saying that it is the government that is actually holding up investment—because there is no certainty in the investment climate because it does not know what the regulations are going to be.

But the issue with companies then not doing the right thing is that the progressive companies are disadvantaged because of the implementation costs of energy efficiency relative to companies that are not prepared to act under voluntary schemes. Of course there are going to be some companies that do not want to act, but that does not negate the view that companies generally, good and bad, are way ahead of the government in requiring investment certainty in regard to a carbon signal and price, emissions trading and energy efficiency. But the good companies are the ones that are disadvantaged by the government’s refusal to act.

Why am I not surprised? You only have to look at the delegations that Australia takes to the climate change conferences. That will tell you which companies in Australia have clout with this government and why we have this proposal for voluntary schemes and not mandated implementation. Look at who went to Montreal. Look at who went to Nairobi. You find the aluminium industry fair, square and central to what goes on in the negotiations. Do they support mandatory targets? No. They use the whole time on the government delegation to try to undermine global efforts to get mandated targets, particularly for the post-2012 period. Not one of those companies supports mandated targets on energy efficiency or stringent targets post-2012. They are the companies the government is listening to. They are the companies the government is responding to by saying, ‘Okay, we’ll require you simply to report on what you could do. We will not require you to implement those things that you identify you could do.’ I am not seeing progressive companies on the government delegations to the conferences on climate change. The companies are there to support the government’s view. It and the United States want to undermine, water down, blow up and destroy any effort by the rest of the world to get a stringent post-2012 regime on climate change.

Regardless of the efforts of those companies and the efforts of the Australian government, we are going to have a post-2012 emissions reduction treaty for the world. What Australia does will be relatively irrelevant. What the US does will be significant, and the US is already moving very fast. It is quite clear that, regardless of who wins the next presidential election in the US, the US will move rapidly and is already moving. Look at the Chicago Climate Exchange. Look at the north-eastern states of the US and their trading scheme. Look at what Ar-
nold Schwarzenegger is doing in California: requiring 20 per cent renewable energy to be purchased by the utilities. That is why, thanks to this government, Solar Heat and Power has left Australia—bye-bye!—and has gone to California. Those utilities are desperate to sign contracts with anybody who can produce renewable energy to meet their 20 per cent target supplying renewables. They could sign up immediately in California, whereas they have 300 megawatts out at Moree waiting to be implemented and they cannot do it because the government will not put a price on carbon. It is because of the cheap price of coal-fired energy that they cannot establish their concentrated solar thermal at Moree.

So let us not have this talk about crippling Australian industry. In fact, to put some figures on it, the economic modelling for the Ministerial Council on Energy in 2003—four years ago—showed that a 50 per cent penetration of a low-energy efficiency scenario over a 12-year period would deliver the following substantial economic benefits. It found that real GDP would be $1.8 billion higher, employment would increase by about 9,000, stationary final energy consumption would be reduced by nine per cent and greenhouse gas emissions from stationary energy would be reduced by nine per cent. Why would you not want that to happen—improvements to GDP, improvements to employment, a reduction in stationary final energy consumption and a reduction in greenhouse gases? That was in 2003. Why would you not do it? That is the question that the government must answer.

It is clear to me that the pressure that the government comes under from the self-titled ‘greenhouse mafia’—that is, the coal industry, the oil industry and the large energy consumers—means that that is where the effort is put in. That was revealed by Four Corners last year and it is revealed daily by the efforts of the spin doctors and the sceptics. That is why the government will not do it. But I would like to hear that from Senator Colbeck. When your economic modelling for the Ministerial Council on Energy in 2003 identified that if you went with even a 50 per cent penetration of a low-energy efficiency scenario over a 12-year period you would get a $1.8 billion increase in real GDP, employment figures increasing, stationary final energy reduced and greenhouse gases reduced, why will you not do it?

Question put:
That the amendment (Senator Milne’s) be agreed to.

The committee divided. [11.26 am]
(The Temporary Chairman—Senator JOW Watson)

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

NOES
Barnett, G.
Bishop, T.M.
Campbell, I.G.
Eggleston, A.
Fielding, S.
Fifield, M.P.
Humphries, G.
Hutchesons, S.P.
Joyce, B.
Kirk, L.
Lundy, K.A.
McGauran, J.J.
Moore, C.
O’Brien, K.W.K.
Patterson, K.C.
Polley, H.
Seullion, N.G.
Sterle, G.

Bartlett, A.J.
Milne, C.
Nettle, K.
Stott Despoja, N.
Bernardi, C.
Brandis, G.H.
Colbeck, R.
Ferguson, A.B.
Ferravanti-Wells, C.
Forshaw, M.G.
Harley, A.
Kemp, C.R.
Ludwig, J.W.
Macdonald, I.
McLuscas, J.E.
Nash, F.
Parry, S. *
Payne, M.A.
Ray, R.F.
Stephens, U.
Troeth, J.M.
(2) Schedule 1, page 3 (after line 4), before item 1, insert:

**1B Section 4 (after the definition of monitoring warrant)**

*payback period* means the period of time it takes to recoup the cost of the initial capital outlay of an energy saving project.

This amendment relates to the definition of the payback period—meaning the period of time it takes to recoup the cost of the initial capital outlay of an energy saving project. It is an important insertion in the bill in relation to matters pertaining to implementation of the mechanism to require companies to implement their identified energy efficiency savings. This amendment defines the payback period. It is a straightforward amendment.

I note that Senator Colbeck, representing the government, still has not given us an explanation as to why the government opposes a national energy efficiency target. I hope in the course of the debate that we are going to get an explanation for that. He is, after all, Parliamentary Secretary to the Minister for Finance and Administration. One would expect that there is a view on why the government does not want a national energy efficiency target, and I would like to hear what it is. The amendment I have moved is a straightforward definitional amendment.

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.30 am)—The definition proposed by the Greens in this amendment is, effectively, unnecessary because it duplicates the definition that is already in the regulations that apply to the bill—regulation 1.3—and have the same effect. The government does not support the amendment.

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (11.31 am)—I move Australian Democrats amendment (5) on sheet 5180:

(5) Schedule 1, page 3 (after line 21), after item 2, insert:

**2A Subsection 10(1)**

Omit “used by the entities that are members of the group is more than 0.5 petajoules”, substitute “related greenhouse gas emissions is greater than one thousand (1,000) tonnes of CO₂ equivalent or five thousand (5,000) gigajoules, which ever is the lesser”.

This amendment changes the threshold above which companies would need to be involved in this measure. It would omit members of the group at 0.5 petajoules and substitute those that have related greenhouse gas emissions greater than 1,000 tonnes of CO₂ equivalent or 5,000 gigajoules, whichever is the lesser.

The effect of that would be to bring around 5,000 high energy using companies into the scheme. We have had a look at what those companies might be and have found that they are companies that have around 200 employees. So we are talking here about still quite large companies in this country—certainly large enough to have an audit done and for energy efficiency measures to be put in place. We say that 250 companies, which is the current reach of the act, is just too few and that, by reducing the threshold, there would be far more involvement and you would still be dealing with the biggest companies and those companies that could af-
ford, both in an administrative sense and in an investment sense, to do this.

Question negatived.

Senator MILNE (Tasmania) (11.33 am)—I seek leave to move Australian Greens amendments (3) and (4) on sheet 5179 together.

Senator Allison—I want to make the point that the Democrats cannot support Australian Greens amendment (4), and I wonder if it would be best to move amendments (3) and (4) separately.

The TEMPORARY CHAIRMAN (Senator Chapman)—My understanding is that you can put the questions separately. So the amendments can be moved together but the questions can be put separately.

Leave granted.

Senator MILNE—I move Australian Greens amendments (3) and (4) on sheet 5179 together:

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

1C At the end of the heading to Part 3
Add “energy use threshold”.

(4) Schedule 1, page 3 (after line 21), after item 2, insert:

2A Subsection 10(1)
Repeal the subsection, substitute:

(1) The regulations must prescribe the energy use threshold.

(1A) The regulations must set a sliding scale for the energy use threshold of not more than 0.5 petajoules for a controlling corporation’s group for each financial year commencing in the 2007-08 financial year reducing annually to not more than 0.2 petajoules for a controlling corporation’s group by the financial year 2011-12.

(1B) A controlling corporation’s group meets the energy use threshold for a financial year if in that year the total energy used by the controlling corporation’s group is more than the energy use threshold nominated for the relevant financial year as prescribed by subsection (1A).

The government is proposing that the Energy Efficiency Opportunities Amendment Bill apply only to those companies that use more than half a petajoule of energy per year. As we said, that is 250 companies covering around 40 per cent of Australia’s total energy use.

The Greens believe that it is critical not only that we capture the companies that use more than half a petajoule but also that, over time, we expand the coverage of the Energy Efficiency Opportunities Amendment Bill to cover companies that use less than half a petajoule so that, over time, you would capture all the companies that use over 0.2 petajoules. We would go from half a petajoule down to 0.2 petajoules so increasingly, over time, we would capture more and more of the companies that are high energy users.

We are proposing that each financial year, commencing in 2007-08, it reduce annually to not more than 0.2 petajoules for a corporation by the financial year 2011-12. It is a progressive increase in the number of companies that are captured by this legislation, so that you progressively get energy efficiency measures moving through the system. We think it is important. I do not think it is enough to deal with just 250 companies. I think we have to increase that over time. We are suggesting a phase-in so that the energy use threshold is changed over time and we capture more and more of the nation’s large energy users.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (11.36 am)—The Australian Democrats support amendment (3). We do support amendment (4) to some extent but think that the target of 0.5 petajoules for 2007-08 could be pushed to our
amendment. It is contrary to our amendment which says that we should go to the lower threshold straightaway and involve more than 250 companies. It is a small point, and it is obvious that the amendment is not going to get up so I doubt that it matters.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.37 am)—The government does not support the two amendments. The scheme has been carefully targeted at the 250 biggest energy users, which comprise 60 per cent of business energy use—a fairly large proportion of energy use—and provides what the government sees as a sensible regulatory balance. What is being proposed would potentially increase the regulatory burden on industry by some 20 times but for much less gain in respect of energy efficiency. There is real capacity for lessons learnt by the 250 major energy users to be passed on by the public reporting process to other industries.

Senator MILNE (Tasmania) (11.38 am)—I thank Senator Colbeck for his contribution, and I ask him if he would table the analysis that has been done in regard to the increased regulatory load on those companies and also the assessment of the energy efficiency gains if this were to be implemented. The inference of what he is saying is that the energy efficiency gains would not be worth the regulatory effort, so I would like to have an explanation. I did ask that the government table the documentation and analysis that has been done to demonstrate the point.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.39 am)—I would like to clarify, Senator Milne, that I am talking about coverage of energy use. I think the government have made a reasonable calculation in respect of that documentation. I do not have a table at this point in time to place before the chamber, but the government believe that we have made a sensible and balanced decision in relation to the proportion of industry that is being brought in under this process, and bearing in mind that this legislation was passed in this form last year. Effectively we are making some minor technical amendments which the Greens and the Democrats are trying to broaden through a different agenda, as was indicated in the debate earlier.

Senator MILNE (Tasmania) (11.41 am)—It is clear that there is no analysis and that it is a back-of-the-envelope analysis. The government admitted earlier that it does not have a target and it does not have any idea what the energy savings are going to be from this legislation. It does not have a target and it does not have a performance benchmark. It simply knows that there are 250
companies that cover around 40 per cent of Australia’s total energy use and that, by bringing this in, somehow we might reduce that energy use. There is no target and there is no modelling. We do not know what is being aimed at in the five years that we have got until the review. And now the government has told me that expanding the threshold to progressively include more and more companies that have energy usage of less than half a petajoule but more than 0.2 of a petajoule is going to impose a regulatory burden and insufficient energy savings. But it cannot identify what those savings are. It has got no idea. That is the fact of the matter. There is no documentation to support the government’s view. It is an ideological one which simply says, ‘We don’t think the regulatory burden is worth the effort. We’ve got no idea what amount of energy we could save or what amount of energy we will save,’ and the government is blocking this amendment.

In terms of broadening the agenda, when this legislation was first brought in we moved these amendments and the minister of the day, Senator Ian Campbell, could not answer our questions—just as Senator Colbeck cannot answer them today. We know that the minister personally tried to get the implementation of these audits and did not succeed. We are facing an ideological view about voluntary behaviour as opposed to regulatory mechanisms. There are no figures on the table to justify it, and history is going to judge the government very severely for failing to act at this time because it is so obvious that this is necessary. This is also rendering Australian business uncompetitive with overseas business. As the measures become more and more stringent in other countries, the levels of efficiency in those countries will get higher and Australian businesses will go out the back door—just as your refusal to have a mandatory vehicle fuel efficiency standard has driven the Australian car manufacturers to the brink whereby they are not competitive with China or the EU. The best they can do is use a government subsidy to re-tool and sell V8s into a US market where it is completely failing.

If you want to make Australian industry less efficient and less competitive with overseas, you are going the right way about it by sticking with the advice of certain members of the big business community—high energy users who do not want to be required to do anything and want to have the ease of a voluntary situation continue. It is simply not going to occur. The rest of the world is going to force us, whether Australia likes it or not. Tragically, when it does, our industries are going to be less efficient. I just wanted to get on the record that there is no documentation to justify the government’s position in relation to failing to extend the threshold. The government cannot indicate at all what levels of savings may be achieved by expanding the number of businesses and energy users. We have got no idea from the government. It just adopts a position of opposing it because it does not want to extend the number of businesses or the amount of energy covered that this threshold change would bring about.

The TEMPORARY CHAIRMAN (Senator Sandy Macdonald)—We are taking these amendments separately. The question is that Australian Greens amendment (3) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that Australian Greens amendment (4) be agreed to.

Question negatived.

Senator MILNE (Tasmania) (11.45 am)—by leave—I move amendments (5) and (6) together:

(5) Schedule I, page 4 (after line 23), after item 5, insert:
5A After Part 6
Insert:

Part 6A—Implementation of identified energy efficiency measures

20B Requirement to implement identified energy efficiency measures

(1) A registered corporation required to lodge an assessment plan in accordance with Part 5 must identify as part of the plan a program of energy saving capital improvements (the energy audit) which have a payback period specified in sub-section (5).

(2) A portion of the saving identified in the energy audit required by subsection (1) must be made within three years from the commencement of the Energy Efficiency Opportunities Amendment Act 2007.

(3) The regulations must include provision for a registered corporation to delay the implementation of an energy audit prepared under subsection (1) if the registered corporation provides satisfactory evidence of an intention to implement the energy audit.

(4) A registered corporation must provide an annual summary of the implementation of the energy audit of the previous year and a summary of the proposed implementation of the energy audit for the following year to be included in the register maintained by the Secretary in accordance with section 12.

(5) The regulations must set a sliding scale to progressively lower the duration of the energy payback period from not more than two years in the financial years 2006-07 and 2007-08 to not more than four years by the financial years 2010-11 and 2011-12.

(6) Schedule 1, page 4 (after line 23), after item 5, insert:

5B After section 22A
Insert:

22AA Public reporting of identified energy efficiency opportunities

If an energy efficiency opportunity identified during an energy efficiency opportunity assessment is assessed by the corporation as having a payback period of less than 10 years, the company must:

(a) report the details of the opportunity and the payback period in a report of the type required by section 21; and

(b) include the details of the opportunity and the payback period in its next annual report.

One amendment relates to the implementation and reporting of energy efficiency opportunities. It is clear from the divisions earlier that the government has no intention of requiring companies to implement the identified savings from their energy efficiency audits, which is what this amendment would give effect to.

The other component will require registered corporations to include an annual summary of the implementation of the energy audit of the previous year and a summary of the proposed implementation of the energy audit for the following year in the register maintained by the secretary in accordance with section 12. The reason for this is, as Senator Colbeck said earlier, that the government has no way of knowing what companies have done and what they intend to do in any 12-month period and we will come to the end of five years of the review before we actually know the situation. You will not be able to see how this legislation has performed after a couple of years.

This amendment includes a mechanism that requires companies not only to implement their audits but also to provide an annual summary of the implementation of the audit for the previous year and a summary of the proposed implementation of the audits for the following year and to include them in the register maintained by the secretary. This amendment sets a sliding scale to progres-
sively lower the duration of the energy pay-
back period to not more than two years in the
financial year 2006-07. You cannot set a
lower bar than getting companies a payback
within not more than two years, taking that
out in 2007-08 to not more than four years
by 2010-11 and 2011-12.

In respect of a payback period, this is say-
ing that you must implement the findings of
your audit provided in the first instance you
get a payback period that recoups the cost of
the initial capital outlay as a result of the
energy savings project in that two years,
gradually increasing the degree of difficulty
for companies but not to more than four
years. It is not very difficult for companies to
see that they actually get a financial benefit
within that payback period. It is eminently
sensible that that occurs. It is quite apparent
from the debate earlier that the government
will not support it, but I am interested to
know why the government would not want to
support such a sensible amendment.

Senator COLBECK (Tasmania—
Parliamentary Secretary to the Minister for
Finance and Administration) (11.49 am)—
One of the reasons we do not support the
amendments is that there is already a re-
quirement for companies to complete their
first site assessments by the end of the com-
ing financial year, with public reporting to
start next year. So company boards, their
shareholders and the public will have the
opportunity both to scrutinise and to judge
companies on their performance. We see that
as being an effective way to ensure that the
public, companies and those involved are
aware of the opportunities, and also some of
the smaller companies may be able to take
up the improvements that are brought into
place. As I think we have all agreed, there
will be an increase in the cost of energy as
time goes on, which will provide a further
incentive for industries generally to become
more energy efficient and therefore cost ef-
fective. We see that there are already ade-
quate measures in the bill to cover this issue.

Senator MILNE (Tasmania) (11.50
am)—It is quite clear that the government
has a much greater faith in corporations and
the transparency of their reporting than has
been the experience in Australia with the
Corporate sector. One only has to look at the
ethical investment and social responsibility
sectors to see that there are a number of
companies that are not interested in that level
of reporting. The Global Reporting Initiative
and any number of initiatives have tried to
force companies to be more transparent, and
that is not occurring. That is why I have
moved these two amendments.

We say that if an energy efficiency oppor-
tunity identified during an energy efficiency
assessment is assessed by the corporations as
having a payback period of less than 10
years then the company must report the de-
tails of the opportunity and the payback pe-
riod in a report, as detailed in section 21. It
must also include the details of the opportu-
nity and the payback period in its next an-
nual report, thereby informing its sharehold-
ers that there are energy savings opportuni-
ties. That gives shareholders an opportunity
to judge the performance of the board against
what the company is actually doing. What I
am seeking here is greater transparency,
greater requirements to report, greater capac-
ity for government to assess how this scheme
is going, to generally improve corporate
governance and to give Australia a much
better idea of the opportunities and the speed
with which we could make the changes we
need to make, given that we have to make
deep cuts in greenhouse gas emissions by
reducing energy use in a very short time
frame.

Senator ALLISON (Victoria—Leader of
the Australian Democrats) (11.52 am)—
Amendment (6) requires assessment for en-
ergy efficiency opportunity activities of a payback of less than 10 years. I make the point that, in fact, a payback of four years would pick up the vast majority of energy efficiency opportunities, with the average being 2½ years. It is a very short time frame, so we do not need to go out 10 years in order to capture the vast majority.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.53 am)—A question has arisen a number of times in various forms this morning, but I have not heard a response to it from the government. What in its view or in the estimation of the Australian Greenhouse Office—which the government established a decade ago and which looked at this extensively—is the potential for energy efficiency savings in Australia in the purview of this amendment, which is 10 years, and, in Senator Allison’s view, three years or five years? Can the government inform the chamber of the assessment to date of the energy efficiency potential in Australia as a whole and from the various sectors?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.54 am)—It has been acknowledged several times during the debate that the government has not set a target. The government has been criticised by the Greens and, I think, the Democrats for not having set a target. Its objective is to maximise the efficiencies, and that is the whole point of this legislation—which is what I have said a couple of times. The government sees the benefits of this legislation in working cooperatively and effectively with industry to maximise the energy efficiencies, and in that context—which has been indicated and acknowledged during the debate—it has not set targets.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.54 am)—I was not asking for a target; I was asking for the effective potential that the government knows about and has identified for saving power to be used in new industry, without us having to build new polluting thermal power stations or other options. After more than 10 years in office, can the parliamentary secretary tell us what the potential for energy efficiency in Australia is?

The Rocky Mountain Institute, which has been a world leader in this field at least since the 1980s, looks at countries like Australia as having a potential saving of 30 to 40 per cent. That seems astonishing, but people who have investigated what a real effort to save energy without reducing output or the goods available to us might produce know that you save a lot of money when you do that. There are savings not only in energy consumption by current consumers and, therefore, in the price passed on to people buying goods that might come from the manufacturing sector, for example, but also for the shareholders involved. Senator Milne has just told the committee about the advantage of this Greens amendment in making sure that shareholders have access to the information about savings to be made to that bottom line—which many people are so often interested in—by an energy efficiency coming out of an energy efficiency audit. I was asking: after 11 years of studying this, could the minister tell the committee what the government’s assessment of the energy efficiency potential for this nation is?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.57 am)—Senator Bob Brown mentions the figure of 30 per cent, which he finds quite incredible. The government’s figures indicate that the potential savings could be between 10 and 30 per cent.
It begs the question: if the savings are between 10 and 30 per cent, why aren’t we mandating a target to achieve those savings?

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.57 am)—If the parliamentary secretary is not going to answer that question, he may be able to answer this one: if the savings are between 10 and 30 per cent, what does the government think it will achieve from this legislation? What part of that 10 to 30 per cent will be the outcome from this legislation?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.58 am)—As I said before, we do not have a target; we have not set a target. That is an indicator of the potential savings that we see may be achieved through this process.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.58 am)—No target is one thing; but savings of 10 to 30 per cent is another. Ten per cent is obviously the bottom line—the easy target. Is the parliamentary secretary able to tell the committee whether this legislation will achieve the bottom line savings of 10 per cent through energy efficiency?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (11.58 am)—This could turn out to be a circular argument, Senator Bob Brown. They are the potential savings that the government see as part of this process. We are not setting targets. I have consistently indicated that. He has criticised us for doing that, but that is the government’s position. We do not intend to set targets, but our information indicates that between 10 and 30 per cent are the parameters of the potential savings from the original legislation that was passed last year and which we are making some minor technical amendments to as part of the debate today.

Senator MILNE (Tasmania) (11.59 am)—Again, it is the ‘energy efficiency lost opportunities’ legislation we are dealing with today. I wanted to comment on Senator Allison’s remarks regarding energy efficiency opportunities. Whilst the Greens amendment, in terms of implementing energy efficiency measures, did set out payback periods—as I said, very easy ones of not more than two years initially, going out to four years in 2010 and 2011—that is not to say that energy efficiency measures cannot be achieved with a longer payback period. That is the point. The easy ones can be dealt with in a short time but the more difficult ones may require a longer payback period. In fact there were a number of opportunities identified with longer payback periods of up to 10 years, which is why I have moved this particular amendment.

The fact of the matter is that boards do not tell their shareholders that those opportunities exist, and as we currently stand there is no requirement for them to even go outside the boardroom. That is why it is important that companies be required to identify the opportunities with a longer payback period—say less than 10 years—and to include those details in the annual report. Otherwise, how are shareholders going to have any idea that those opportunities exist?

The largest energy users are big corporations—they have many institutional shareholders—and there are ethical investment funds looking for opportunities, and so on. Why wouldn’t you require companies to identify those opportunities and let the shareholders know that decisions have been made not to invest in those long-term energy efficiency opportunities? It may be that shareholders endorse that view; it may be that they do not. But they cannot make a de-
cision about that and they cannot look at the strategies of a corporation unless those energy efficiency opportunities, over a long period of time, are identified. I put in this amendment an opportunity for public reporting because it allows some transparency and some real involvement of shareholders in the operations of companies.

The greenhouse gas effort—I come back to this at all times—that the world has to make within 10 years is huge. It is dramatic. In my view we have to get more than 80 per cent reductions on 1990 levels by 2050 and at least 20 per cent, if not 30 per cent, by 2020. How are we going to get there if we do not give the community the opportunities to exercise the power as shareholders when it comes to making judgements about the corporations in which they have shareholdings? That is why I am keen to see this additional requirement for reporting there to allow that collaborative effort between the community, business and government to work towards achieving significant greenhouse gas reductions. I would like to know from the parliamentary secretary why he would oppose having this requirement for corporations to put this information in their annual reports.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.03 pm)—As I have already indicated, under the act companies are required to complete their first assessments by the end of the coming financial year and publicly report them next year for energy efficiencies that can have a payback period of up to four years. So there is already a public reporting process that companies have to comply with. Given that already exists as part of this legislation we see the Greens amendment as superfluous.

Senator MILNE (Tasmania) (12.03 pm)—I do not know whether we are reading from the same sheet. You are talking about the requirements to report in terms of the government’s register or whatever; I am talking about the requirement of corporations to put it in their annual reports and to look at 10 years, not four years. So it is not the same at all. By all means say that you do not support it but please do not insult us by pretending you do not understand it.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.04 pm)—Senator Milne, you should listen to what I have said. I have said that there is a requirement for public reporting. They are public or they are not public. There is public reporting. As Senator Allison has indicated, most of the projects can get a payback period of three or four years. You are talking about a payback period of 10 years; it is likely to be a very inefficient project. We see that there is public reporting; we have indicated that several times. That is why we do not support the amendment.

Question negatived.

Senator MILNE (Tasmania) (12.05 pm)—I move the Australian Greens amendment (7) on sheet 5179:

(7) Schedule 1, page 4 (after line 23), after item 5, insert:

5C At the end of Part 8
Add:

Division 7—Energy Efficiency Target Taskforce

38A Establishment of Energy Efficiency Target Taskforce

The Minister must, before the expiration of 3 months after the commencement of this Act, establish an Energy Efficiency Target Taskforce (the Taskforce) to inquire into and report on the establishment of a national energy efficiency target.

38B Membership of Taskforce
(1) The Taskforce is to consist of 4 members, appointed by the Minister.

(2) The Minister must appoint members to the Taskforce with the following expertise:
   
   (a) one member representing industry;
   
   (b) one member representing conservation interests;
   
   (c) one member representing the Commonwealth;
   
   (d) one member with expertise and qualifications in energy conservation.

(3) The member appointed under paragraph (2)(c) must convene and chair the Taskforce.

38C Report of the Taskforce

(1) The Taskforce is to report to the Minister within 18 months of the commencement of the Energy Efficiency Opportunities Amendment Act 2007.

(2) The Minister must cause a copy of the report of the Taskforce to be tabled in each House of Parliament within 5 sitting days of receiving it.

This amendment establishes an energy efficiency target taskforce to inquire into and report on the establishment of a national energy efficient target. It cites the membership of the taskforce and then it says that it is to report to the minister within 18 months of the commencement of this particular amendment act and that a copy of that report is to be tabled in each house of parliament.

As I indicated before, this is not setting what the energy efficiency target is. It establishes a mechanism so that Australia can have the option of an energy efficiency target. It is not saying what level the target is, but it is giving us a mechanism to move towards having a target. I still have not had an explanation from the government as to why you oppose establishing a national energy efficiency target. Any country that is serious about dealing with climate change has an energy efficiency target. You say that we are simply working with business to assist business to reduce their energy use, but to what end? Is it to assist them to be more profitable? That is fine, and if you mandated it, it would make them more profitable more quickly. But to what end? The reason other countries have national energy efficiency targets is that they are serious about reducing their greenhouse gas emissions, that they have ratified the Kyoto protocol and that they intend to meet the targets of greenhouse gas reductions. Therefore they are heavily into reducing demand and at the same time building renewable energy so that they can come within their targets.

Even if we are serious about even 108 per cent of 1990 levels, at the moment we are not on track to achieve it. Without the windfall of the land use, land use change and forestry provisions, Australia is on track for 127 per cent of 1990 levels. We are nowhere near what we need to do. If you are saying you will not have a national energy efficiency target, you are saying you have no commitment to a long-term reduction in greenhouse gases, unless you believe that clean coal and nuclear are somehow going to be operational in the time frame and somehow reduce greenhouse gases. The government has absolutely no capacity to do this because the technologies in the case of nuclear are too expensive, too dangerous and not going to happen in the time frame, and in the case of clean coal are unproven. It is fantasyland. Putting government money into that is not in the best interests of Australia and we will oppose it.

Let me come back to this—this is a mechanism for having a national energy efficiency target. I would hope that the Labor opposition is going to support this as well, because if we do not have a mechanism then we are never going to have a target and without a target we are not going to meet
even the greenhouse gas reduction commitments we have, let alone our moral responsibility to the rest of the planet to get our emissions down. Let’s have a more serious answer than simply, ‘We’re working with companies to let some of them become more energy efficient.’ Without a target, without performance benchmarks, it is just a gesture to corporate Australia with no outcome.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.09 pm)—The Greens amendment, quite frankly, is nothing more than a recipe for bureaucracy and red tape, and obviously the government does not support that. We have indicated several times during the debate today that we do not support targets. The Greens continue to refer to other countries that have them. But when setting a target you need to have a mechanism in place to actually meet that target. Interestingly, many European countries are talking to Australia about this program as a mechanism to meet their targets. In fact, a recent Productivity Commission report on energy efficiency recommended against setting a target. We reiterate our perspective on that but do not support this amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.10 pm)—The Productivity Commission report on that is one thing; the world’s best practice by countries comparable to us is another. They are way ahead of the Productivity Commission, this government and this opposition in setting targets. The minister earlier said that energy efficiency could produce 10 to 30 per cent savings of the current use of energy by Australia’s largely coal-burning power stations, which are creating an enormous pollution hazard for the future of this country with massive costs involved. I ask the parliamentary secretary: is it true that, if we were to achieve a 30 per cent target, we would have no need to look at the nuclear option at all?

Senator MILNE (Tasmania) (12.11 pm)—While the parliamentary secretary is considering that, I would like to respond to his view about the Productivity Commission. It is certainly true that they came out against a national energy efficiency target. Frankly, it makes them a laughing stock around the world, because their rationale for that is the old economic view that anything beyond the production of energy is free and an externality. They take the use of fossil fuels as separate from greenhouse gas emissions and the cost to society of producing the power. They say there is not an economic case to save energy. They are a joke. It is a joke that they are arguing along those lines. They should talk to state governments who are now challenged with having to put in new supply or somehow achieve energy efficiency. They need to take on board the principles of sustainable development and that ecologically sustainable development requires that the externalities of the production of energy, such as greenhouse gas emissions, are internalised in the cost.

We will have a price on carbon. It will internalise the cost of carbon dioxide. Perhaps then the Productivity Commission will recognise that there is an economic case for saving energy. But the way they think is that you do not cost carbon dioxide emissions into energy. I cannot believe that the Productivity Commission still behaves in this way, but then again I could not believe that ABARE continued to give the advice it gave to government until I saw that the former head of ABARE Brian Fisher had gone across to Charles River Associates, the biggest climate change sceptics on the planet. He is now giving them the benefit of his advice. What a pity he did not admit at the time that he was advising ABARE and advising government
that he was involved in such climate change scepticism.

The Productivity Commission report on the national energy target will be seen as a national embarrassment as Australia gets a bit more perspective on internalising the costs of carbon dioxide emissions and the costs of climate change. The Productivity Commission should determine the cost to the Australian economy of the drought and then tell us about whether or not there is benefit to be gained from energy efficiency.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.13 pm)—Giving some consideration to Senator Brown’s question, a 10 per cent to 30 per cent decrease in the amount of industry use of energy—given that that is only 40 per cent of the national use—does not rule out any form of energy generation coming online. The government’s position on future energy use is quite clear. We do not rule out any of the energy options. The Greens obviously have a different perspective to the government on that. That is their business. Given that the overall energy needs of Australia are expected to potentially double by 2030, ruling out any energy option is irresponsible. That is the government’s firm view. Considering a potential reduction in energy use by industry of between 10 per cent and 30 per cent, given that industry accounts for only 40 per cent of overall energy use, does not leave room to rule out any energy generation options.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.15 pm)—What an incredible failure of vision is involved in those statements. Firstly, if you did take industry as being 40 per cent and a 30 per cent cut was achievable, there is 12 per cent cut out of the Australian current consumption and available for new use. But the parliamentary secretary is saying that the government is banking on there being no cut in domestic consumption, no cut in the retail sector and no cut in the agricultural sector. The government is happy to allow business as usual, and that is fatuous. It is so last century. It is incredible that it is coming out of a government seven years into this century. If industry can achieve a 30 per cent cut, there is a strong argument that the other sectors can achieve bigger cuts than that. That is where we should be aiming.

Energy efficiency is the best way to provide power for new users because when you switch off a light the power that was used there is available to switch on a light for some productive purpose in some new installation—it is as simple as that. But the parliamentary secretary says that regardless of that we will be building new power stations. That is illogical. To be putting vast investment into that—including into Mr Howard’s favoured option of nuclear power—is incredible when energy efficiency, which creates no greenhouse gas emissions and is so much cheaper and so much more job productive, can do that job.

What Senator Milne and I are uncovering here is a government that simply does not know what it is doing. It simply does not have priorities; it does not have a plan. Eleven years after coming into office, it is still treating climate change in a cavalier manner and showing that there is a better nous in the average primary school student about climate change than there is in the current cabinet and leadership of this country. It is reckless to say that we will go ahead with nuclear power even if energy efficiency is there as a viable option without the hazard, without the cost and without the division that that Howard option would bring to the Australian community.
Meanwhile the opposition supports the government in opposing these amendments which would mean that we would be equipped rapidly, with the first report coming down in 18 months, with the knowledge about the contribution that energy efficiency can give this country—knowledge that this government should have had 11 years ago. We could then move on to implementing the gains from that, which are going to save us from having to establish more thermal stations in a decade when clean coal—the other thing that the Prime Minister, the opposition leader, Mr Rudd; and Mr Garrett talk about—is not available. The Stern report said that we must act within a decade to save our kids from extraordinary impacts from climate change, which Angela Merkel, the Chancellor of Germany, can see is a potential disaster for humankind.

But here we have studied ignorance. We have the government saying, ‘We will not allow the Greens amendment through because that would allow us to discover how much energy efficiency this country has the potential to achieve,’ knowing that would mean that we do not need to establish either polluting coal-fired power stations or dangerous nuclear power stations, to which the Prime Minister is attracted. This is studied ignorance from a government which has its mind back somewhere in the last century. It is the government’s responsibility to establish what the targets are here. Here we are talking about energy efficiency—which is cheap, is good for business, improves profits, creates jobs and, as you get the technology for it, creates export opportunities—and the government is saying: ‘We don’t want to measure that. We’ll leave it to the Europeans to grab the world advantage in that. We want to be back with the polluters, Saudi Arabia and Russia included, because the coal industry has control over our policy basis.’

Studied ignorance can never be accepted. But turning down this amendment is studied ignorance by the government. It is a deplorable attitude. This is going to have to be made up by future governments a few years or many years down the line at far greater expense to this country. If you do not have the information base, you are not able to plan and you are not able to establish options. The climate change spectre hangs over us. The reality of climate change—the droughts, the worst bushfires, the worst cyclones, the increased coastal erosion coming from sea level rises and the feeling of concern about it in the community, which is a negative—is being ignored by this government, which should be putting itself at last onto a basis of best practice in gaining information.

Senator Milne’s amendment says, ‘Let’s get that information’—we all know it is readily gettable—‘and put some expertise into having a report back to parliament and consequent reports.’ The government says no. It is incredible that this government can turn its back on its past failures and also wants to compound them into the future with this minimalist attitude to its high responsibility for tackling climate change to the advantage of business, families and the environment in Australia. It cannot do that. This particular moment is just an indicator of how far short of the mark this government is. This amendment should not be here; it should be in this legislation. It should have been legislated 10 years ago. Instead of that, we have the parliamentary secretary effectively saying: ‘I don’t want to know. We will leave it to business to work it out as it goes along, on a business-by-business basis, but I don’t want to know what can be achieved in Australia to deal with climate change.’

I know his direction has come from the prime ministerial office, but he has a responsibility to be able to adequately answer the challenge that comes out of amendments like
this. There is no adequate answer from the
government. What makes this all the more
worrying is that the opposition agrees—there
is studied ignorance from the government
and studied ignorance from the Labor Party.
If there is some reason why we should not
know what the potential for energy effi-
ciency is in this country, let us hear it. I have
not heard it today and we are not going to
hear it if the minister continues to fail to rise
to the challenge of taking up a positive
amendment like this. We are going to get a
negative response from both the government
and the opposition.

Senator MILNE (Tasmania) (12.24
pm)—I note the parliamentary secretary said
that there is no point in having an energy
efficiency target unless you have the mecha-
nisms to achieve it. I think that was the most
satisfactory answer I have had from the gov-
ernment all day as to why it will not move
for an energy efficiency target: it is not pre-
pared to put in place the mechanisms to im-
plement it. It does not want to have a
benchmark standard against which perform-
ance can be measured. It is the position of
the Howard government that, unless you
have the mechanisms to implement and
achieve the target, there is no point in having
the target. It will be interesting to see if it is
also the position of the opposition. This is a
straightforward amendment which is a
mechanism to provide a national energy effi-
ciency target for Australia. I urge the support
of the chamber on this amendment.

Senator BOB BROWN (Tasmania—
Leader of the Australian Greens) (12.25
pm)—I have one other vitally important
question to put to the parliamentary secre-
tary. He mentioned that on current projec-
tions Australia’s energy consumption—
largely through burning coal, or maybe, if it
was rushed by the Prime Minister, we could
have a nuclear power station or two online
by 2030—will double by 2030. Has the gov-
ernment considered demand management for
the sake of the future of the planet and the
people who will be on this planet in the fu-
ture? What is the government’s attitude to
demand management? If it does consider that
sensible option, how is it going to undertake
it?

Senator COLBECK (Tasmania—
Parliamentary Secretary to the Minister for
Finance and Administration) (12.26 pm)—
That is what this legislation is all about. That
is why we passed the bill last year: to look at
reduction in energy use, to bring on energy
efficiencies and to reduce the potential
growth. I might add that Senator Bob
Brown’s previous recitation ignores quite a
few facts. It is long on rhetoric and cliches
but pretty short on fact. The figures that I
gave of a potential doubling of the energy
demand by 2030—and, I might add, a treb-
ling by 2050—do, in fact, incorporate poten-
tial energy savings and demand growth be-
low economic growth, reflecting growth in
less energy-demanding industries. The gov-
ernment’s figures do give consideration to
energy efficiencies as part of our projections
on growth. On a slightly different topic, I
reflect that we were criticised roundly prior
to the 1996 election for not setting an unem-
ployment target. Enormous pressure was
applied to the Prime Minister to set an unem-
ployment target. Our objective was to
strive to do the best we could and we have
achieved the lowest unemployment rate in
over 30 years; it is currently 4.6 per cent. I
think that we apply the same principles to
this particular process with good cause.

Senator BOB BROWN (Tasmania—
Leader of the Australian Greens) (12.28
pm)—The parliamentary secretary says that,
taking into account energy efficiency, we
will have doubled our energy consumption
by 2030 and tripled it by 2050. These are
frightening figures. Can the parliamentary
secretary tell the committee what the green-
house gas emission outcome scenarios for 2030 and 2050 coming from those figures will be for Australia compared to the 1990 level, which is the benchmark for the Kyoto protocol?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.28 pm)—That will depend entirely on the mix of energy options that the country has before it over that period of time, which is one of the reasons why the Prime Minister—quite rightly—does not rule out any energy generation option. There is obviously going to be a growth in the demand for energy. The indicators demonstrate that quite clearly. No responsible government would take any clean energy generation options off the table. So the answer to Senator Bob Brown’s question is that it really depends on the energy mix. The government’s view is that clean coal, renewables and nuclear all have a part to play not only in meeting that demand but also in reducing CO₂ emissions.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.29 pm)—Let me put the question again, because it was not answered. The parliamentary secretary says that there will be a doubling of energy consumption in Australia by 2030, taking into account energy efficiency, and then a tripling by 2050. He tries to squib answering the question about what that will mean in terms of greenhouse gas emissions by saying that it will depend on the mix. Let me ask the parliamentary secretary: using the best mix possible—he has already disclaimed energy efficiency as being in that mix, because he has taken that into account—what are the projections for greenhouse gas production in 2030, when we have doubled energy consumption, and in 2050, when we have tripled it? On the best figures—which the government will have come up with; obviously, it would be irresponsible not to—what is the best scenario that Australia is looking at in terms of greenhouse gas emissions by those two dates?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.30 pm)—I have already given my answer. I do not intend to expand on it any further. I think I have given quite a reasonable answer to the question. Senator Bob Brown is obviously not interested in that answer. But I have provided my answer to the chamber.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.31 pm)—What the parliamentary secretary is saying is that he does not have an answer. He can give figures about energy consumption—that is, a 100 per cent increase by 2030 and a 200 per cent increase by 2050—but even on a best-case scenario he cannot give figures about greenhouse gas production. We must assume that those figures will be of the same order, because he has said that those figures for energy consumption take into account energy efficiency so we can eliminate that from the mix. That is extraordinarily threatening to the future of this planet. That breaches the Intergovernmental Panel on Climate Change report. It breaches the call by thousands of scientists and hundreds of Nobel Prize winners, which predated the Howard government coming into office back in 1996, that we tackle climate change. It breaches any standard of sensible practice in dealing with the reality of climate change and the impact it is going to have on this nation of ours, Australia.

It just shows how captured by old power bases this government is. It knows what the energy requirements of the corporations are but it does not know about the greenhouse gas emissions. I think it does, actually. It has had the Greenhouse Office working on things like this for the last decade. The gov-
ernment knows what the phenomenal increase in greenhouse gas emissions is from the scenario being presented by Senator Colbeck here this morning, but it is too ashamed to give those figures to this committee—because they are too frightening and delinquent to contemplate for a government that will not go in for demand management and will not set energy efficiency targets. In turning down this amendment of Senator Milne’s, the government does not want to know what the energy efficiency capabilities in this country are.

This is studied ignorance and it is irresponsible. Not much more can be said about it. This is failing this nation. It is failing the people in Australia—the families, the businesses, the small towns and the cities. We are all going to have to live with the failure to act now. We have 10 years of it behind us, and here we have a government in full knowledge, if ever it had it, still failing to deliver on very simple tasks like equipping itself with the knowledge required to be able to make the best decisions 18 months down the track. Here we have the Howard government saying: ‘We don’t want to know. We will cut down an amendment from the Greens that would enable us to have the knowledge base to work on energy efficiency—the best alternative after demand management—in a carbon neutral fashion, tackling the huge problem of climate change.’ The government will have to live with that. But the Greens will continue to put forward positive amendments like this, even if the government and the opposition take a negative attitude towards them.

Question put:
That the amendment (Senator Milne’s) be agreed to.

The committee divided. [12.39 pm] (The Chairman—Senator JJ Hogg)

Ayes.............. 6
Noes............. 44
Majority......... 38

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

NOES
Adams, J. Barnett, G.
Bernardi, C. Boswell, R.L.D.
Brandis, G.H. Chapman, H.G.P.
Colbeck, R. Crossin, P.M.
Faulkner, J.P. Fergason, A.B.
Fielding, S. Fieravanti-Wells, C.
Fifield, M.P. Forshaw, M.G.
Hogg, J.J. Humphries, G.
Hurley, A. Johnston, D.
Joyce, B. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Macdonald, I.
Marshall, G. McEwen, A.
McGauran, J.J.J. McLucas, J.E.
Moore, C. Nash, F. *
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Santoro, S. Stephens, U.
Sterle, G. Troeth, J.M.
Trood, R.B. Watson, J.O.W.
Webber, R. Wortley, D.

* denotes teller

Question negatived.

**Senator MILNE** (Tasmania) (12.42 pm)—I move Australian Greens amendment (8) on sheet 5179:

(8) Schedule 1, page 4 (after line 23), after item 5, insert:

**5C After Part 8**

Insert:

**Part 8A—Energy Savings Fund**

**38D Establishment of Energy Savings Fund**

The Energy Savings Fund is established by this section.
38E Purposes of Energy Savings Fund

(1) The purposes of the Energy Savings Fund (the Fund) are to provide funding:

(a) to encourage energy savings; and

(b) to address peak demand for energy; and

(c) to stimulate investment in innovative energy savings measures; and

(d) to increase public awareness and acceptance of the importance of energy savings measures; and

(e) to encourage cost effective energy savings measures that reduce greenhouse gas emissions arising from the use of energy; and

(f) to provide funding for contributions made by the Commonwealth for purposes of national energy regulation.

(2) It is not a purpose of the Fund to provide funding for investment in low emission power generation, or any other kind of power generation, where the primary purpose of the generation is to generate energy for sale into the power grid.

38F Payments into Energy Savings Fund

There is payable into the Fund:

(a) all money received from contributions required to be made to the Fund under section 38H; and

(b) all money appropriated by Parliament for the purposes of the Fund; and

(c) the proceeds of the investment of money in the Fund.

38G Payments out of Energy Savings Fund

There is payable from the Energy Savings Fund any money:

(a) approved by the Minister to fund all or any part of the cost of any energy savings measure that the Minister is satisfied promotes a purpose referred to in subsection 38E(1); and

(b) approved by the Minister to fund all or any part of the contributions that the Commonwealth is required to make for the purposes of national energy regulation; and

(c) required to meet administrative expenses related to the Fund; and

(d) required to meet administrative expenses of the Minister in connection with the Minister’s functions under this Act.

38H Minister may require registered corporations to make contributions

(1) The Minister may by regulation require registered corporations to make an annual contribution for a specified financial year to the Fund.
(2) A regulation made for the purposes of subsection (1):

(a) must specify the annual contributions payable by each registered corporation to which it applies (being an amount that does not exceed the maximum amount, if any, prescribed by the regulations); and

(b) may specify that an annual contribution may be paid by instalments during the financial year to which the regulation applies; and

(c) must specify the time or, in the case of an annual contribution that is payable by instalments, the times at which any contribution required under the regulation is to be made; and

(d) may be made before or within the first 3 months of the financial year to which it relates.

Since the government opposes implementing the energy efficiency audits that this legislation requires and having a national energy efficiency target, let us hope that the government and the opposition can support the establishment of an energy savings fund. We have had the low-emissions technology fund set up by the government. It caused great excitement to start with because people thought it was actually going to invest in new renewable energy technology. Instead of that, of the $500 million that has been allocated, more than $300 million has gone to the coal industry, one of the most profitable industries in the country, and less than $80 million has gone into renewable energy projects. So not only has it been a huge disappointment in terms of the renewable energy sector but, equally, when you are talking about new energy, it is not talking about the technologies that will help to save energy.

I am proposing to complement what the government has already got with its low-emissions technology fund. I am saying: let’s set up an energy savings fund. The purposes of the fund would be to provide funding to encourage energy savings, address peak demand for energy, stimulate investment in innovative energy savings measures, increase public awareness and acceptance of the importance of energy savings, encourage cost-effective energy saving measures that reduce greenhouse gas emissions arising from the use of energy, and provide funding for contributions made by the Commonwealth for the purposes of national energy regulation.

The purpose of the fund is not to provide funding for low-emissions power generation for renewables. That is a separate thing altogether. This is specifically a fund to facilitate investment in energy savings. If the government and the opposition want to put billions into clean coal, then they must have some justification for why they would oppose putting substantial sums of money into energy savings.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Australian Greens

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (12.45 pm)—The Greens are an extremist political organisation and should be recognised as such by all mainstream political parties. That recognition should extend to refusing to do preference deals such as those Labor is doing with the Greens in New South Wales. Greens’ policies are anti family and anti jobs. Most importantly, they are soft on drugs and hard on coal. Their priorities are upside down and inside out.

The Greens’ election pledges include an upgrade of the legal status of all animals from ‘property’ to ‘beings’. This is a radical move aimed at controlling livestock management practices. In Victoria, the Greens
offered free gay, lesbian and transgender support services for students as young as 13. I am surprised they did not offer this service to the animal ‘beings’ as well.

Greens MLC Lee Rhiannon told Radio 2GB on 12 March:
We’re also looking to advance adoption rights. If the Labor government—if they’re elected—do not honour their commitment to give all gay and lesbian couples the right to adopt children, the Greens will bring forward a private members’ bill on this issue.

The operative words are ‘do not honour their commitment’. That would suggest that Labor has done a deal with the Greens to introduce legislation to allow gay, lesbian, bisexual and transgender individuals to adopt children if Labor is re-elected on 24 March.

What other deals has Morris Iemma done in return for Green preferences? Last year there were reports that clinically produced heroin would be imported into Australia to trial a new treatment for long-term addicts under the Victorian Greens’ drug policy.

AAP reported on 6 July:
Supervised heroin injection rooms, such as the one running in Sydney’s Kings Cross, would also be trialled in Victoria while the policy also proposes to scrap all criminal penalties for drug use. The production, sale or trafficking of illicit drugs would remain an offence, but users would only face a court order requiring them to participate in a health scheme.

Greens health adviser Dr Richard Di Natale added that the drug would not be manufactured in Australia but imported from pharmaceutical companies that supplied other heroin trials across the globe.

On 14 March, NSW Premier Morris Iemma condemned as ‘absurd and disgusting’ a plan by the Greens to decriminalise the use of drugs, including ice. Mr Iemma said such a policy would never go ahead because fair-minded people would not support it. He said:
It is just an absurd, ridiculous and disgusting policy.

Mr Iemma said that any MP who supported such a policy was ‘completely out of touch with reality’. What hypocrisy! If the New South Wales Premier were fair dinkum, he would not do preference deals with a party that comes up with, in his own words, ‘ridiculous and disgusting policy’.

The Greens ‘so soft on drugs’ policy states:
15. Support a rigorous scientific trial of heroin prescribed by accredited medical professionals, with intensive psychosocial support, to registered addicts … … … …
17. Fund a few additional medically supervised injecting rooms and expanded needle exchange programs in locations where such facilities will improve community health and social outcomes … … … …
19. Support trials of analysis of drugs at dance and other venues to reduce health risks … … … …
23. Make the possession and growing of small numbers of cannabis plants for personal use not illegal;
24. Work towards responsible alternatives to cannabis prohibition, including regulation of cultivation and sale to adults with appropriate legal restrictions and health warnings … … … …
26. Allow drugs to be regulated and prescribed for medicinal purposes based only on their therapeutic and palliative effects … … … …
34. Support the immediate repeal of the legislation that enables the use of sniffer dogs for drug detection where there are no prior reasons to suspect a drug offence has occurred, and still allow
for the use of sniffer dogs in customs-related contexts and points of entry security.

The Greens’ policy on drugs makes them the drug-friendly party. They want doctors to prescribe heroin and cannabis. They want marijuana to grow in the backyard next to the Hills hoist. This is how they would green Australia.

The Greens’ economic policy is a classic oxymoron. Firstly, they opposed the tax cuts in the 2006 budget, where Mr Costello handed out $37 billion in tax cuts. In their own words:

The Greens are committed to phasing out the coal industry.

Their policy states:

The Greens will work to:
• stop the development of new coal mines and the expansion of existing coal mines and coal handling infrastructure ...
  … … …
• provide just transitions for communities that have traditionally derived income and jobs from coal mining operations;
• phase out all subsidies to coal mining and impose levies on coal mines to pay for just transitions, mine rehabilitation and investment in renewable energy and energy efficiency; and
• expose “clean coal” and carbon capture and storage as dangerous myths that distract from the urgent task of reducing greenhouse gas emissions.

The Queensland Greens are even more specific, saying:

The Queensland economy is unbalanced because of its dependence on coal exports and coal fired power stations.

The policy, at point 3.6, states that they would:

Place a moratorium on issuing of licences for new coal-fired power stations.

Point 3.7 states that they would:

Begin to phase out coal-fired power stations, starting with older, less energy efficient stations.

Australian mining and mineral processing industries employ more than 320,000 Australians, and ABARE forecast that the combined earnings from Australian minerals and energy exports will increase by eight per cent in 2007-08 to $116.5 billion.

Labor want us to believe that they support working Australians but, by doing preference deals, they are endorsing the sort of left-wing, job-strangling extremism that Bob Brown was peddling in Central Queensland recently. Bob Brown says that we have to stop coal exports and that we have to do it within three years—

Senator Faulkner interjecting—

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! I think you were referring to Senator Bob Brown.

Senator BOSWELL—Senator Bob Brown says that we have to stop coal exports and that we have to do it within three years. But it would be absolutely irresponsible to shut down Australia’s $25 billion export coal industry, which supports 30,000 regional jobs and is the backbone of many regional communities in Queensland. Coal accounts for around 80 per cent of Australia’s power and is Australia’s single largest export commodity.

The Australian Coal Association estimates that 130,000 families are directly or indirectly dependent on the coal industry. Even more families would lose their livelihood if energy intensive manufacturing industries were forced offshore by power generators no longer having access to coal. Senator Brown said that to suddenly ban coal exports would be massively dislocating—he has got that right—but that we have got to do it and we have to do it within a period of three years, a term of government. Senator Brown treats mining-dependent families with utter con-
tempt. They can be moved, reallocated or dismissed. He does not say where to or how. The Greens’ policy is that the transition itself would be funded from the mining industry. How that is going to happen while they are going out of business is anyone’s guess. The only thing that Senator Brown does not want to move is trees. He would go to jail for a tree while sending mining families to the bankruptcy courts.

Peter Garrett has refused to reject a ban on new mines in the Hunter Valley, saying that the expansion of the coal industry such as we have seen in the upper Hunter region over the past decade is a thing of the past. How long will it be before other mining industries also come under attack from a Labor Party prepared to back the anti-mining policies of the radical Greens and include a left-wing, anti-mine protester on their front bench? The coalition government supports mining and mineral processing as valid and valuable contributors to regional employment in particular and to the national economy in general. The government will continue to work with the mining industry to ensure a future in Australia.

Australia’s mining and mineral processing sectors have directly contributed more than $500 billion to Australia’s wealth over the past 20 years and are responsible for significant infrastructure development. Since 1967, the industry has built 26 towns, 12 ports and additional port bulk-handling infrastructure at many existing ports, 25 airfields and over 2,000 kilometres of railway line. Rather than put aside our enormous natural advantage in coal resources, the Australian government believe we should work on ways to reduce the greenhouse consequences of using them. To this end, we have so far invested $275 million in the Low Emissions Technology Demonstration Fund in four projects. That represents an investment of around $1.75 billion in developing low-emission coal technologies. As a result of this investment, it is expected that clean coal power will start being fed into the electricity grid from the year 2009.

Labor plus the Greens equals a dangerous political equation in our parliaments and our economy. There should be no room in Australia for political deals with extremists who are soft on drugs. A Senate in which Labor and the Greens combined to have the majority would be a very dangerous thing for Australia.

Mr Gough Whitlam

Senator FAULKNER (New South Wales) (12.57 pm)—I rise today to speak on a matter of public interest—I could say ‘a milestone’ of public interest. Tomorrow, 22 March 2007, Gough Whitlam becomes the longest-lived of all Australia’s elected prime ministers. Tomorrow Gough will be 90 years, eight months and 11 days old. It will be more than 54 years since he was first elected to parliament in November 1952. It will be more than 34 years since he became Prime Minister on 2 December 1972. And it will be more than 27 years since he retired from parliament on 31 July 1978.

He surpasses John Gorton, previous holder of the record for prime ministerial longevity, having already passed Billy Hughes, Joseph Cook, Stanley Bruce and Robert Menzies. Only one other Prime Minister has lived longer: Frank Forde, who of course also has the distinction of the shortest term as Prime Minister. Never elected by either public or party room, Forde was Prime Minister for only seven days after John Curtin’s death. Perhaps the brevity of the experience contributed to his longevity. Frank Forde reached the age of 92. I am sure we all hope Gough Whitlam will surpass his innings as well.

This milestone of longevity is an opportunity to reflect on Gough Whitlam’s lifelong
commitment to Australia’s public life, but his remarkable longevity is hardly the greatest of Gough’s achievements. The quality of his contribution far outweighs the extent of his endurance. His life has been one of public service and dedication, not only during his decades in parliament but also before his election and after his retirement. Throughout it all, he has been committed to consistent principles. As Gough himself said, launching Labor’s campaign in 1972, when describing Labor’s program:

Our program has three great aims. They are:

• to promote equality
• to involve the people of Australia in the decision-making processes of our land
• and to liberate the talents and uplift the horizons of the Australian people.

Those great aims were Whitlam’s aims from the early days of his political involvement. He has always believed in the role and responsibility of the national government guiding the nation to achieve those goals.

From his first political involvement as a young RAAF navigator in WWII, eager to see Curtin’s Labor government granted wider postwar reconstruction powers, Gough Whitlam has believed in the principle that concrete improvements can be secured for the Australian people through legislative and constitutional reform. To that end Gough has devoted more than six decades of his life. As a parliamentarian and backbencher he used the parliamentary committee system to explore the potential of constitutional reforms, including fixed parliamentary terms—a cause he continues to fight for today. As a Labor activist he pursued party reforms to make the party a viable alternative government, and policy reforms to make Labor’s platform one that truly met the needs of modern Australia.

As Prime Minister, well, the list of the Whitlam government’s legislative reforms is familiar to all of us: replacing Australia’s adversarial divorce laws with a new, no-fault system; improving the position of women and our Indigenous population; introducing the Trade Practices Act; slashing tariff barriers; ending conscription; introducing Medibank, the precursor to Medicare; and education reforms like needs based funding for schools and free university education; not to mention foreign policy achievements such as establishing diplomatic and trade relations with the People’s Republic of China.

After retiring from parliament Gough Whitlam continued to devote his life to public service, serving as Australian Ambassador to UNESCO in Paris, chairing the General Assembly of the World Heritage Convention in 1989, serving on Australia’s Constitutional Commission, and chairing the Australia-China Council. In 1999 he campaigned for the republic referendum—another stage in Gough’s lifelong commitment to involving the Australian people in the decision-making processes of the land and for constitutional reforms to improve our democracy.

Politics is no profession for the easily frustrated. More than his endurance, Gough Whitlam’s persistence commands our respect. As a successful young barrister, Whitlam did not seek a political career as the easiest way to make a buck, nor did he pick a political party on the basis of a swift path to the front benches of government or use his public career to enrich himself in private retirement. Gough chose the party that best represented his belief in the reforming power of government, the power of good government to transform people’s lives for the better. He worked hard to be preselected to contest the seat of Werriwa for the Australian Labor Party. He put in 30 years of tireless effort on the tough ground of opposition. And, after his parliamentary career ended, he has kept on working steadily for the causes he believes in.
When others might have become discouraged, or disillusioned, or simply felt that they had given enough of themselves, their time and their energy, Gough has remained indefatigable, irrepressible and unflagging. For more than six decades in politics, Gough Whitlam has aimed at targets higher than personal success or vindication. His energy and enthusiasm, combined with the continuing powerful relevance of his goals, have made him a hero to many Australians and a towering figure in Australia’s political landscape. He has never ceased to strive to ‘promote equality, to involve the people of Australia in the decision-making processes of our land and to liberate the talents and uplift the horizons of the Australian people’.

Achieving this record of longevity—the longest-lived elected Australian Prime Minister—is a cause for congratulation. But the fact that Gough Whitlam’s long life has been one of such unflagging public service is a cause for appreciation. So today I not only wish to congratulate Gough on reaching this milestone but also wish to thank him, as I am sure many Australians also would, for his achievements, his persistence and his dedication.

Asylum Seekers
Climate Change

Senator NETTLE (New South Wales) (1.07 pm)—Last weekend, the government flew 82 Sri Lankan asylum seekers to Nauru. These young men were found in a leaky boat by Australian Navy crew a month ago and then locked up by the Australian government behind razor wire in the detention centre on remote Christmas Island. The young men have been asking to talk to lawyers, but they have not been granted this simple request by the Australian government. It is a cruel and heartless country that this government is trying to turn us into through these policies.

Young men do not hand over their families’ hard-earned cash, pack themselves into leaking boats and set sail to the other side of the globe unless their lives are in danger. These young men, including a 17-year-old, are from Sri Lanka—reportedly the north of Sri Lanka, where we hear about young men being press-ganged into the military and militias. It is a part of the world that has a sad and sorry history of child soldiers. Just last weekend there was a large story in one of the weekend Sydney newspapers about this ongoing practice.

The government’s response to the plight of these young men has been appalling. The government has not even started to address their claims for asylum. The men have been asking for lawyers, and the government has not only denied them this but, according to reports, actively prevented them meeting. Just this weekend—after having been locked up behind razor wire on Christmas Island for a month—the government sent them to Nauru. Shipping them to Nauru was a cruel and cynical attempt to get these young men and their horrendous stories about the torture they experienced in Sri Lanka at the hands of the authorities out of sight and out of the minds of the Australian public. The government knows that the Australian public—and, indeed, the Australian parliament—will not stand for the mistreatment of young asylum seekers who have fled from civil unrest in a country like Sri Lanka. That is precisely why the government has put so much effort into shutting these young men away, keeping them away from lawyers, from media contact and from people in the Australian community who would like to assist them— Australians who have got big, open hearts and minds.

Last year the public and this Senate chamber made it very clear that we do not want asylum seekers shipped off to Nauru, out of sight, out of mind, away from care and
away from assistance. The principal reason why the Prime Minister withdrew the piece of legislation that sought to send all asylum seekers to Nauru was that asylum seekers do not have the same rights—especially legal rights—in Nauru as they do in Australia. Coalition backbenchers were very well aware of that during the debate of that legislation. Another significant issue of concern was that they did not want to see unaccompanied children sent to Nauru. That is what happened on the weekend. A 17-year-old man from Sri Lanka, who, by all reports, has experienced detention at the hands of the authorities—some of the young experienced torture—was sent by this government to Nauru.

At the time that the public debate was going on, government members made it clear that they would not support sending asylum seekers to Nauru because they were concerned that Australia could not guarantee that asylum seekers in Nauru would have their cases processed in a timely manner, that they would have access to lawyers, or that children would not be locked up. All those concerns that government backbenchers expressed at the time of the government proposal last year to send asylum seekers to Nauru have come to fruition this weekend. We have seen an unaccompanied minor, a 17-year-old boy, being sent to Nauru.

At the time of the debate of the legislation last year, because government backbenchers pointed out that people in Nauru do not have the same legal rights—the same access to lawyers and support—as they do in Australia, the government proposed to bring in a new system whereby there would be legal support provided for asylum seekers in Nauru. My recollection is that it was similar to the system that exists in Australia, whereby the government makes money available to ensure that asylum seekers can have access to lawyers. During the debate last year, the government was trying to address the concerns of its own backbenchers about asylum seekers not having legal support. The government proposed bringing in a system under which people in Nauru would have access to lawyers, funded by the Australian government.

When the Senate indicated that the legislation was not going to pass—government backbenchers in particular made the numbers work that way—the government withdrew the proposal to ensure that asylum seekers in Nauru would get appropriate legal assistance and support. It was almost a petulant, cynical move to offer access to lawyers; the government recognised that government backbenchers thought this was a fundamental issue. But when the parliament made it clear that they were not going to agree to sending asylum seekers to Nauru, the government withdrew the offer of ensuring that asylum seekers would have access to lawyers.

I want to read a comment that was made by the Hon. John von Doussa QC, President of the Human Rights and Equal Opportunity Commission. In a speech in September two years ago, he said:

One of the main roles of a lawyer is to facilitate access to the justice system. In most cases, access to legal assistance is vital, and without it there is a high risk that justice will not be done.

This is why Australia and so many comparable countries have a legal system that provides lawyers to support vulnerable people who are making claims about their need for protection. Anybody who has been involved in the area of immigration law knows how extraordinarily complicated it is. Getting your head around it is really difficult for people who are involved in it. To expect an asylum seeker—who may be a child; who may not have any English at all; who may have been detained and tortured by authorities; who has just come on a leaky boat; who
is from a family fleeing persecution—to understand Australia’s entire immigration legal system is just not plausible. The Australian government has had to recognise that and ensure that there are lawyers who are funded to assist asylum seekers to work their way through the maze of immigration law. We all accept that—that is why it occurs in Australia—but the response of the Australian government, when people who are fleeing persecution come to Australia, is to send them off to Nauru where they will not have that access. That is a cruel move by the government.

There are no lawyers in Nauru who can help people to navigate their way through the legal system. As it happens, the 90 people who are currently on Nauru have managed to get a lawyer to represent them, but not because the Australian government assisted. In fact, we have heard reports that the Australian government actively sought to prevent these asylum seekers from getting access to a lawyer, although they did manage to get access and they now have a lawyer to represent them.

The challenges facing lawyers in representing an asylum seeker in Nauru are extraordinary. For a lawyer to even get to Nauru is a challenge. Julian Burnside found that out in recent years, when he was denied access to Nauru to meet with a client. I have twice tried to get to Nauru and not been granted a visa. I am a member of parliament. These people have been sent there by the Australian government, but I cannot go and see them. This is the same challenge that lawyers face when trying to get this access. I am not blaming the Nauruan government for this; I am blaming the Australian government. They sent those asylum seekers there in the first place. So the limited capacity for lawyers to assist those people is extraordinary. Julian Burnside said on ABC Radio on Monday:

...getting to Nauru is incredibly expensive and it takes a long time. And frankly there's not many pro bono lawyers who are prepared to spend that sort of money or able to spend that sort of money in order to offer their services free of charge. Now that's just the reality of it.

He is talking about these asylum seekers. He continued:

They’ve been taken to Nauru at great expense on the taxpayer in order to prevent them from having the benefit of legal help.

From reports, there has been comment that these vulnerable people had UNHCR documents, some of which indicated they were asylum seekers—that they were refugees. In December last year, the UNHCR put out a report in which they said that the cases of people who are from the north of Sri Lanka and who are fleeing persecution should be looked on favourably—that they are refugees. That is an extraordinary statement for the UNHCR to make. They understand the system of refugee processing, where you need to determine whether people are asylum seekers. They made this statement to say that these people need to be looked at favourably because they are refugees as a result of the situation in Sri Lanka, in the north of Sri Lanka in particular, yet these people have been taken away to a place where they cannot have access to lawyers and support to enable them to proceed with their protection claims.

The Nauruan government has set a time limit of six months for these people to be processed and off Nauru. There are eight Rohingyas on Nauru. They are from Burma. They were in the custody of Australia and then put onto Nauru—but they are Australia’s responsibility—for six months. According to their lawyer, they have not even started processing their asylum claims. If the Nauruan government is saying to Australia, ‘In six months you have to take these 82 Sri Lankans, process their claims and find a
third country to send them to,’ it just will not happen. It will not happen for the current eight asylum seekers on Nauru.

The record of the Australian government in trying to find third countries—because this is what the government says that it wants to do—is woeful. There were 1,547 asylum seekers taken to Nauru, and three per cent were accepted for resettlement in other countries. They are Australia’s responsibility; we put them on Nauru. It is therefore unsurprising that the international community has said, ‘We are not going to take them.’ The Australian government will not be able to comply with the deadlines set by the Nauruan government that these people need to be processed and off the island in six months time. The Australian government will not be able to do it, so these people will have to come to Australia. Let’s bring them to Australia now so that they can get that legal support, so that they can be assisted whilst their claims for asylum are assessed. Let’s bring them to Australia now.

Before the time allotted to me in this debate ends, I want to speak about another issue. I want to tell the Senate about an inspiring young woman that I met last year. I was at the Newtown festival, and I met a young woman by the name of Ariana Ladopoulos. She was walking around the festival with a clipboard, asking people to sign a petition she had written about global warming. Her petition called on the government to ratify the Kyoto protocol immediately and to take steps to ensure that Australia’s emission of greenhouse gases is reduced significantly. Ariana is 13 years old. She gets the significance of the issue of global warming and the need for the government to do something about it. She has been gathering signatures since November last year. Her parents told me that, even when they went away on holidays, Ariana was there with her clipboard on the beach getting people to sign her petition about global warming. She went to a public meeting in my local area of Marrickville, where Senator Bob Brown was speaking about coal, and she got him to sign her global warming petition as well. Ariana presented this petition to me last week for me to table in the parliament. I seek leave to table Ariana’s global warming petition, which has been signed by 1,455 people. I congratulate her on that.

Leave granted.

**Western Australian Institutes for Health**

**Senator ADAMS** (Western Australia) (1.22 pm)—Today I wish to inform the Senate of an ambitious long-term proposal by an alliance of medical research organisations to develop two major medical research hubs in Western Australia. To establish these centres of research excellence, the state’s premier research institutes—the Western Australian Institute for Medical Research, the Lions Eye Institute and the Telethon Institute for Child Health Research—will combine with researchers from the University of Western Australia as well as smaller specialised research teams and hospital clinicians. This alliance is called the Western Australian Institutes for Health and aims to bring together 24 research organisations, which will perform 95 per cent of medical research in Western Australia. As a former member of the Metropolitan Health Service Board in Perth, I have been closely associated with a number of these research institutes and foundations, and I am delighted that, finally, they have come together to form an alliance instead of competing against one another for funding.

The Western Australian Institutes for Health has put forward a proposal to the Australian government for capital works funding of $100 million over six years to support construction of two state-of-the-art research hubs. This is to be supported by the
Western Australian government’s contribution of $130 million. One hub will be built at the Queen Elizabeth II Medical Centre, Sir Charles Gairdner Hospital—a northern site in Nedlands—and one at the Fiona Stanley Hospital campus—a southern site adjacent to the St John of God Hospital at Murdoch.

Despite its physical isolation and relatively small population, Western Australia is home to a large and internationally respected medical research community, boasting over 1,000 researchers, $35 million in National Health and Medical Research Council grants in this year alone and more than $20 million in current grants from international organisations. The strength of the Western Australian research effort is highlighted by the outcomes achieved in recent years. Western Australia has produced two Nobel Prize winners, Professors Barry Marshall and Robin Warren; two Australians of the Year, Professor Fiona Stanley and Professor Fiona Wood; and a Wagner Medal winner, Professor Bruce Robinson.

Western Australia is an international leader in many areas of laboratory based, clinical and public research focussed on stroke and cardiovascular disease, genetic disorders, child health, eye disease, cancer, asthma and mental health. Western Australia is in the midst of a major restructuring of the state’s health system—which I believe is long overdue and an area with which I was closely associated during my serving on the Metropolitan Health Service Board. The Western Australian state government has committed $3.6 billion towards this restructuring plan. The initiative has coincidently created a unique opportunity to re-engineer the state’s medical research effort and to consolidate and integrate the state’s research activities with the new tertiary hospitals.

It has been established that scientists working together with medical practitioners and other health professionals encourage the vibrant exchange of ideas and the development of new multidisciplinary team approaches to attack major health problems. Collaborative research is essential in underpinning effective preventative strategies for tackling the increase in complex diseases such as mental health, diabetes, obesity, asthma and allergies. The Western Australian Institutes for Health proposal will have 95 per cent of the WA research community working together in a massive aggregation of research power, which will involve the development of research hubs in the two new proposed hospital precincts.

The northern hub—the Queen Elizabeth II Medical Centre Trust—will co-locate the premier research organisations with smaller research teams and clinical researchers from Sir Charles Gairdner Hospital, King Edward Memorial Hospital and Princess Margaret Hospital. It will also include the internationally renowned Telethon Institute for Child Health Research building as well as part of the Lions Eye Institute. The centre will include clinical trial facilities, which will encourage engagement with the global pharmaceutical industry, particularly in the Asian region where Western Australia has a geographic advantage through its proximity and being in the same time zone.

The southern hub, known as the Fiona Stanley campus, will bring together academics from the Western Australian Institute for Medical Research, the Lions Eye Institute and the University of Western Australia and clinical researchers from Royal Perth Hospital, Fremantle Hospital and the Royal Perth Hospital rehabilitation facility at Shenton Park. The centre will also incorporate incubator facilities for start-up biotechnology companies. The establishment of these major research complexes will enhance Western Australia’s capabilities to carry out interna-
tionally-recognised research and deliver improved health and wealth to the community.

A submission for federal government support to build these new research facilities was lodged in June 2006, with a revised submission lodged in November 2006. In July last year I was successful in putting forward a motion at the Western Australian Liberal Party’s conference, which unanimously supported the proposal by Western Australian Institutes for Health. In fact overall support for the project is very strong, particularly for the research consolidation which will follow from it. The proposal has also received unequivocal support from Nobel Laureate Professor Barry Marshall and former Australians of the Year Professors Fiona Wood and Fiona Stanley.

Twenty-four institutes and foundations have agreed to come under the Western Australian Institutes for Health banner, creating a predominantly whole-of-state approach to the direction of medical research. Once again, I must say just how pleased I am that they have been able to do it. It has taken a long time for them to get together and put aside their own little fiefdoms, but they have done it and I wish them well with this project.

The master plan for both hubs has been completed, the location of the buildings has been defined and the building design has commenced. The business case for the release of funds for the state’s contribution is under current consideration by the Western Australian Department of Treasury and Finance. The timing of these major health reforms gives Western Australia, and indeed the federal government, a once-in-a-lifetime opportunity to build a critical mass of research excellence spanning biomedical, clinical, population health and health services.

By bringing together the unique population health databases and this newly integrated research capacity, Western Australia will become a model for research translation for Australia and beyond. No other state in Australia—and few places internationally—currently has this set of capabilities for research in action. The Commonwealth has a unique opportunity to facilitate the alignment of the Western Australian medical research activities with the delivery of health care during this period of restructuring.

The medical research community in Western Australia is hopeful that the contribution of matching funding from the Commonwealth will be forthcoming in the May budget and allow this important project to proceed as planned. Design planning has indicated that a total of $437 million is required for this project, which represents the largest investment in health and medical research in Western Australia. The alliance requests $100 million over six years, from 2007 to 2012, to match the total Western Australian state government contribution of $130 million that has been committed specifically for three new research buildings located at the two hubs.

The $100 million sought in federal infrastructure support averages out at very modest amounts on a per institute basis, compared to similar infrastructure/capex funding grants to similar bodies in other states in recent years. Medical research institutes in eastern Australia received over $250 million in infrastructure/capital grants in the 2006-07 budget, with only one Western Australia-based centre receiving a $4 million grant. The funds, if we are successful, will be used to construct buildings, suites for clinical trials and adjacent biotechnology incubators. The federal government has an outstanding commitment to health and medical research, as was demonstrated in the 2006-07 budget, which included $215 million for infrastructure to 17
medical research institutes and $50 million for the John Curtin School of Medical Research. This strong support acknowledges the critical place for medical research in underpinning future health care and the substantial economic benefits to the community of a $5 return for every dollar invested in health and medical research.

The Western Australian government has committed $130 million to this initiative and fundraising for a philanthropic goal of $55 million is well advanced, with donors currently prepared to provide $40 million to $50 million. This is an ambitious program, but one that will have several major outcomes: improved health for Australians via translation of new medical research discoveries by multidisciplinary teams; reduced health costs through development of novel preventive measures, adoption of healthier lifestyles and more efficient delivery of care; and reversal of the brain drain by attracting and retaining the best clinicians and basic health researchers. New jobs will be generated by the expansion of a knowledge based industry. The biotechnology and pharmaceutical industries will be engaged as major partners in large-scale national and international medical research programs and technology development.

There are so many benefits on offer for the medical research community. The two new research hubs will generate a dynamic, internationally recognised research environment supplemented with a critical mass of researchers and state-of-the-art infrastructure. They will build on Western Australia’s unique population-linked health records and cohort studies, which lead the nation’s electronic health records systems. These hubs have the potential to increase Australia’s international contribution to genetics and gene-environment interaction in disease development, treatment and prevention. We will capture and harness intellectual property. No longer will Western Australia’s brightest minds search interstate or overseas for a fulfilling research career; they will have it in their own state.

Western Australia can commercialise research opportunities and, as I have said before, has the chance to attract interest from the international pharmaceutical industry. I will be promoting the proposal by the Western Australian Institutes for Health whenever and wherever I can. I trust that the federal government will continue to lead the way with its commitment to health and medical research and see fit to fund this very important project.

Defence Procurement

Senator MARK BISHOP (Western Australia) (1.36 pm)—In today’s matters of public interest discussion I want to make a contribution on the proposed purchase by the government of 24 Super Hornet jet fighters at a price, we are told, approximating $6 billion. It is fair to say right at the outset that this decision has been made to plug an apparent air capability gap. That gap has never been seriously argued by government. It has been asserted, from time to time, by various commentators in the public domain and it has been asserted by the minister, but it has never been seriously argued and there has been little public documentation that would lend credence to the argument that we are approaching an air capability gap, apart from the fact that it is apparently current government intent to retire the fleet of F111 fighters some time around 2010. If they were not replaced that would logically lead to an air capability gap.

Today I would like to go behind some of the material that has been put in the public domain and perhaps address the few known facts in this debate, the real arguments and the real story—that is, how the government proposes to spend in the order of $6 billion
of taxpayers’ money in purchasing these 24 Super Hornet jet fighters to plug a gap that we believe does not really exist.

As a matter of logic, it is almost impossible to prove or disprove the validity of such a gap and the best fix for it. I say that because the government, via Minister Nelson’s public announcements in recent weeks, has in that process chosen to ignore its own guidelines that provide the way major platforms are purchased in this country. Because that information has not been made public, because that process has not been followed, because it has not been peer reviewed and because it has not been to the appropriate committees of government, taxpayers are unlikely to know whether that money proposed to be spent is indeed going to be wisely spent—nor will they know whether there was a better fix for such a gap, which apparently several months ago did not exist at all.

The story begins on 6 March. The defence minister, Minister Nelson, announced a decision, we presume on behalf of government, to purchase the Super Hornets. It came with a price tag, he advised us, of some $6 billion. His decision, according to his own media release, was to:

... ensure the transition to the F-35 Joint Strike Fighter over the next decade.

In other words, as I said, it was to plug this forthcoming alleged air capability gap. That gap exists because of a decision to retire the F111s in the year 2010 and because their replacement, the JSFs, will not start coming online until 2013 and progressively thereafter. Hence the gap will exist for a minimum of three years and possibly four or five years—until there is a sufficient quantum of the new JSFs in stock.

But officials have been advising the government that there are other options for filling this supposed gap. One of those options—and you would think it was the most basic, which would have required some examination—includes extending the life of the current fleet of F111s. This is supported by facts drawn from a recently published ANAO report Management of air combat fleet in-service support. That report was published last month and it looks at the support, maintenance and refurbishment of Australia’s air combat fleet. That fleet comprises 26 F111s, 66 Hornets and 33 Hawks. The report is one of the few times ANAO has actually praised the Defence Materiel Organisation for largely getting it right. That report speaks glowingly of the in-service support, structural integrity management and line coordination between purchase and maintenance agents for the F111s.

For example, the audit found the satisfaction rate for supply of repairable items and breakdown spares exceeds 90 per cent, an extraordinarily high figure; aircraft availability of the Hawk exceeds the minimum stipulated under the contract; the spares supply chain for the F111s remains 10 per cent above the target rate of 85 per cent; and the structural integrity of the fleet, in the words of ANAO, is ‘well managed’. Its conclusions were that the DMO, the Air Combat Group and the Directorate General Technical Airworthiness are effectively managing the air combat fleet’s in-service support.

With such excellent maintenance and management of the F111s, and the utility of the workforce and skills that have been developed over the last five years as that entire program has been refurbished, the obvious question to ask is: can we extend the life of these craft for an extra four or five years to close the alleged air capability gap? The answer, drawing from that ANAO report, appears to be yes. Indeed, this is backed up by an RAAF report detailed within the report by ANAO. This study, the RAAF report, concludes:
The F-111 fleet’s life could be cost-effectively extended to 2020 ... and furthermore, the planned withdrawal date of 2020 would represent the best return on the F-111 capability investment.

In this context it is worth noting the government has already spent some $2.9 billion upgrading the Hornets and $635 million upgrading the F111s. That is nearly $4 billion, on top of the proposed $6 billion to buy the Super Hornets. Let me further recap. The government’s own 2000 defence white paper said:

The F-111 fleet is expected to leave service between 2015 and 2020 ...

Also, the Chief of the Defence Force, Air Chief Marshal Houston, indirectly referred to this retirement of the F111s in 2004 when he talked about:

The further upgrading of our current platforms for service well beyond 2020 ...

From this brief recitation of extracts from a number of reports, we know the F111 is capable of extending its life until 2020.

Now let’s look at the introduction of the JSF. Just last month, Defence officials assured senators at estimates the JSF program was continuing ‘on track’. Officials also told senators last November in estimates:

There are no indications that the Joint Strike Fighter program is blowing out. And they went on to say:

... if the JSF were to slide substantially ... the purchase of a bridging fighter would be the last resort. There are strategies before we would get to that level of possibly extending the F111 and looking to upgrade more centre barrels on the FA18 horns.

Here Defence is backing up the argument I am putting here today: extend the life of the F111s and upgrade the Hornets before buying the bridging fighter, also known as the Super Hornet. Such a purchase, according to those reports, should be a last resort.

This brings us to the second part of the story—the other side of the argument—the procurement process behind this ad hoc decision to purchase the Super Hornets. The Defence capability manual 2006 provides for three phases for procurement programs: a needs phase, a requirements phase and an acquisitions phase. Other key Defence procurement projects have taken months, even years, to complete. One only has to look at the intensity of work involved in the procurement projects for the AWDs and the LHDs to know that the needs, requirements and acquisitions phases are taking many years and involving hundreds of officials putting together a package of material before final recommendations go to cabinet.

But the approval phase for this bridging fighter, the Super Hornet, took only a matter of weeks. There was no competitive process—no competitive tendering at all. Government advises the risks and costs associated with the acquisition of the Super Hornets have been evaluated through the letter of offer and acceptance for the Hornets from the United States government. In other words: ‘The seller says that it is fine, so proceed with the purchase. Do not do your own needs analysis; do not do your own acquisition analysis; do not do any of the routine work that normally accompanies multi-billion dollar outlays.’ Because that work has not been done, by definition the taxpayer has no yardstick to measure value for money for its outlay of some $6 billion in the next two or three years.

We know that the Super Hornets are an off-the-shelf product. There is nothing wrong with that. The last time government fast-tracked an off-the-shelf Defence procurement project it was for the Tiger armed reconnaissance helicopter. That purchase, again because of inadequate preparatory work, now looks to cost taxpayers an extra $650 million on top of the accepted $1.58
billion price tag. We believe and assert that taxpayers need greater accountability and transparency in major Defence procurement projects like the ones under discussion today. They need to be assured and they have a right to be satisfied that government is not simply throwing good money after bad. I must say that that does appear to be the case with the purchase of the Super Hornets, for the simple reason that the usual amount of investigation, analysis and conclusions have not been put out for public discussion in interested communities.

The government spent nearly $4 billion upgrading its fleet of F111 Hornets and Hawks. Then it created an air capability gap which it seeks to plug with a further $6 billion for 24 Super Hornets. We say that this business of on-the-run policy decisions involving billions of dollars needs to stop. If the government changes later this year, Labor will ensure that that process stops and accountability becomes the norm. The government needs to follow its own rules and listen to its own officials in procurement projects such as the Super Hornet project.

**QUESTIONS WITHOUT NOTICE**

**Smartcard**

Senator MOORE (2.01 pm)—My question is to Senator Ellison, the Minister for Human Services. Can the minister confirm that the government is continuing to evaluate the two access card tenders before the actual access card bill has passed? How can the government be effectively evaluating these tenders when the regulatory framework for the access card has not been established? Will the minister be signing contracts for these two tenders before the bill has become law? What does the minister’s department estimate the value of these proposed contracts to be? Is the minister exposing taxpayers to a financial risk by rushing the implementation of the access card?

Senator ELLISON—As previously announced, evaluation of the two tender processes is continuing. That was announced some time ago. What I have said recently is that, in response to the Senate committee report, instead of having the bill brought before parliament in two tranches I have agreed to deal with it as one package. That does not change anything as far as the evaluation of the tenders goes. That evaluation is ongoing. Of course, the signing of any tender would take place after the passing of any legislation.

This is not an unusual practice. We have seen examples previously, such as with the Australian business number. When that was introduced, systems were largely finalised prior to the bill being passed. The systems
design work on the maternity payment and maternity immunisation allowance also commenced before the legislation was passed in that case. Another precedent is the working credit initiative under the Australians Working Together initiative, which started in early 2001. Systems design work on that commenced prior to legislation being passed.

So there are certainly precedents for this being done. There is nothing untoward in it. In fact, I think it was Senator Lundy who acknowledged during the public hearing on the access card legislation that the separation of the tender process into components was sound practice. That is what we have done: we have separated that tender process into components. There is no reason why that evaluation of tenders cannot continue. The selection of preferred systems integrator and card issuance and management tenderers will occur later this year.

**Senator MOORE**—Mr President, I ask a supplementary question. Can the minister confirm whether any evaluation has been made of the potential risk of any funds following this process of moving tenders forward? Also, given the significant concerns raised by the community during the recent Senate inquiry, why is it that your government is so intent on putting Australian taxpayers’ dollars at some risk by rushing the implementation of this card?

**Senator ELLISON**—The simple answer to that is that the government is not putting at risk taxpayers’ money. What we are doing with the access card is providing the Australian community with a more efficient means of accessing government benefits, a saving to taxpayers by way of enhanced security against ID fraud and fraud against the government and also a more robust protection of individuals’ identities.

I am sure those opposite and other senators would agree that the Medicare card, which is 23-year-old technology, is susceptible to fraud. It proved to be so just last week—in a Melbourne court we saw someone charged with some 40 counts of fraudulent activity involving Medicare cards. This is what we are trying to do: crack down on fraud, provide Australians with greater efficiency and a streamlined process for accessing government benefits, and provide savings to the Australian taxpaying community. This is a benefit that will bring a great deal of advantage to all Australians. (Time expired)

### Broadband

**Senator EGGLESTON** (2.05 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 assisting access to broadband, particularly in rural and regional areas, and advise the Senate whether she is aware of any alternative policies?

**Senator COONAN**—I thank Senator Eggleston for his strong interest in the provision of fast internet services throughout Australia, particularly in the rural and regional areas of his state. There is no doubt that equitable access to broadband infrastructure is critical for Australia’s economic prosperity. Increasingly, it is the means by which we can learn, communicate and conduct business. That is why it is so important that these services are available not just in the densely populated metropolitan areas of main cities but also to those who live in rural, regional and remote areas of Australia. In short, fast broadband is no longer an optional extra; it is critical infrastructure that should be available irrespective of where you live. That is why the government has invested in providing subsidised broadband to regional areas since 2005 and currently has provided a connec-
tion to over a million premises, including small businesses and homes.

Just last week I announced a further $162.5 million to support the Australian Broadband Guarantee that will fill in the remaining black spots in metropolitan, outer metropolitan and regional and remote Australia—in fact, wherever those black spots occur. If required, further funding will flow from investment of the government’s $2 billion infrastructure fund. The government recognises that the next stage of the broadband story in Australia for rural and regional Australia is to provide scalable and sustainable next generation investment. That is why $600 million is available to allow the roll out of a new open access network that will provide national solutions to the need to scale up as consumers’ appetite for faster broadband grows.

The need to look after the telecommunications needs of all Australians irrespective of where they live will not be met by any alternative proposal from the Labor Party. Labor has today announced yet another warmed over, reheated Beazley policy, one which stole its title from the Victorian government and its content from a dumped Telstra commitment. Labor’s proposal will entrench its legendary neglect of rural and regional Australia by abolishing—listen to this—the $2 billion communication fund earmarked to ensure that the most disadvantaged Australians can get reliable services in the future. Adding to this, Labor announced today that it is prepared to throw out its old ideological opposition to the sale of Telstra provided it now get its hands on the money. This is textbook Labor, and a very clear signal that if elected it would trash the Future Fund and send Australia back into recession.

The announcement today is like putting Dracula in charge of the blood bank, and all Australians vividly remember the recession they had to have. Senator Conroy has been forced to admit that this is the same failed proposal which Labor announced two years ago, the one that no-one took seriously, that Telstra dumped and industry damned. This clearly shows that Labor cannot be trusted with the needs of rural and regional Australia. It cannot be trusted with the country’s telecommunications infrastructure and it certainly cannot be trusted with Australia’s economy.

**Smartcard**

**Senator FORSHAW** (2.09 pm)—My question is directed to Minister Ellison, the Minister for Human Services. I refer to the report tabled by the Senate finance and public administration committee last week on the implementation of the government’s access card. Doesn’t the report of the committee which was chaired by Senator Mason provide a damning indictment that the government’s—

**Senator Faulkner**—The now promoted Senator Mason.

**Senator FORSHAW**—Yes, promoted obviously as a result of this excellent report. This report of the committee, which was chaired by Senator Mason, was a damning indictment of the government’s management of the access card implementation. Does the minister agree with Senator Mason’s excellent report that the government’s rushed implementation of the access card makes achieving the central aim of reducing Medicare and welfare fraud difficult? Will the minister guarantee that the access card proposal will not be reintroduced without proper safeguards and transparent and meaningful debate within the Australian community?

**Senator ELLISON**—I think that one should look at the report and realise that the senators on that committee supported the aim behind the access card—namely, to improve the delivery of benefits and services to Aus-
ustralians who are in receipt of government benefits and services, which I mentioned earlier. Also, they supported the fact that the aim was to make it easier to deal with government agencies, reduce fraud and, importantly, replace 16 cards and one voucher. So from that Senate committee report we have support for the government’s aims behind the access card.

The comments that Senator Forshaw points to were made in the context of a recommendation of the Senate committee that they wanted the bill as one package instead of two tranches, just one package—and I have agreed to that. It is business as usual, and we will introduce a single package. We will refer that to the Senate committee to have a look at. In that package there will be the framework, the safeguards with appeals processes and other aspects; and there will be time for the Senate committee to look at it. That is what I have said; it is as straightforward as that.

I think that people should look at the positive aspects of the evidence given to that Senate committee. A lot of people in the community acknowledge overwhelmingly that the current technology we have with the Medicare card is way out of date. It is 23 years old, and we should move with the times. Smartcard technology, which I think Senator Lundy even endorsed, is the way to go in delivering services to make them more efficient for Australians receiving those benefits, saving money for Australian taxpayers and cutting down on fraud. All of those aims were supported by the Senate committee, and that is what we are about.

I have agreed to the main recommendation of the committee, and there has been ongoing consultation. I have started seeing stakeholders in relation to the access card and will be seeing them over the next two to three weeks and talking to them individually. As well as that, Professor Fels will carry on his work in relation to the discussion papers that he and his committee are working on. They will be released for discussion. I point out to the Senate and those listening that the first tranche of bills did have an exposure draft, which was released for discussion, as well as previous discussion papers. This consultation process is ongoing, and there will be a single package which we will bring back to the parliament for scrutiny.

Senator FORSHA W—Mr President, I ask a supplementary question. I note the minister has referred to one paragraph regarding the report and the aims. I invite him to read the other 92 pages, which were a condemnation of the government’s processes and approach. One of the issues of major concern that were raised was the registration process. Can the minister confirm that the document verification service and online system to link the state births, deaths and marriages registers with the Australian government agencies will not be completed until 2010? Given that delay, isn’t it going to be impossible for the government to do a manual check of every birth and marriage certificate presented by an estimated average 35,000 people applying each day for the access card from April of 2008? Minister, isn’t it a fact that your government has just botched this project?

Senator ELLISON—The registration process that we are proposing will comply with the national identity security strategy. The document verification system is a parallel work in progress with the access card. There are similar principles involved in the access card as with the document verification service—that is, a cross-checking of identifiers without drilling down into the databases which stand behind those identifiers, be they drivers licence, Medicare card or passport, and, similarly, in relation to the access card, whether it be ‘Veterans’ Affairs, Medicare or...
Centrelink. Those principles are in accordance with our national security for identity. We will be adopting those for our registration process.

Whilst I am answering Senator Forshaw’s question, it might be worth while if he took up with the opposition spokesman, Ms Plibersek, what the position of the Labor Party is on an access card. Do they propose something which will deliver benefits to all Australians in relation to streamlining access to government benefits? Do they propose cracking down on welfare fraud? These are questions they should answer. *(Time expired)*

Telstra

Senator FERGUSON (2.16 pm)—My question is to the Leader of the Government in the Senate and Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the benefits to Australia from the sale of Telstra and the establishment of the Future Fund? Further, will the minister inform the Senate of what impediments the Telstra privatisation faced? Finally, will the minister also outline to the Senate the dangers associated with raiding the Future Fund to pay for election promises?

Senator MINCHIN—I thank Senator Ferguson for a very appropriate, timely and good question. Last year the government achieved the historic full privatisation of Telstra, after a decade of arguing the case for this momentous achievement of ours. The sale, along with our strong budget surpluses, has allowed us to eliminate Labor’s $96 billion in debt and create the Future Fund to provide fully for the government’s unfunded superannuation liabilities.

Despite the clear benefits to Telstra, to consumers and to taxpayers from the sale of Telstra, the Labor Party have wasted a decade in ideological opposition to this sale. On a daily basis we heard from the Labor Party about all the gloom and doom that would beset the country if Telstra were sold. Following the success of T3 in November last year, Labor made it clear that they would oppose any further selldown of Telstra shares transferred to the Future Fund. On 20 November last year, finance spokesman Mr Tanner said that a Labor government:

... will not sell any more Government-owned Telstra shares, retaining the current stake in the company and providing certainty to shareholders.

All that has gone by the board. Today we saw one of the great policy roll-backs of all time from the Labor Party. Now, within just six months of an election, they have announced not only that they accept the full privatisation of Telstra but that apparently they are going to hasten the sale of the remaining shares by the Future Fund in order to raid the fund and get their hands on the money. So all that ideological opposition to selling Telstra lasted right up until the point where they decided that they needed to get their hands on the cash.

We hear on the grapevine that there are still some ideologues in the caucus who argued strongly against this backflip. I applaud them for at least being consistent. The rest of you have caved in to Mr Tanner and Mr Rudd. We did not see Senator Conroy making the announcement. He was gazumped by Mr Tanner and Mr Rudd. The big backflip represents a reckless and irresponsible raid on the Future Fund, which was established to help save $7 billion a year by 2020 to spend on the problem of an ageing population that this country faces. Labor’s approach is to raid the fund, spend the money here and now, and say: ‘To heck with the future!’

What are they spending the money on? A government owned and operated broadband network. In other words, they are going to support the privatisation of Telstra in order to nationalise broadband provision. That com-
pletely cuts across the existing private sector proposals, including Telstra’s fibre to the node and the G9 broadband network. So, apparently, they have no faith in the private sector’s capacity to deliver broadband to this country. They think they can just blunder in and do what the private sector apparently cannot do.

The announcement today indicates that, regrettably, Labor appears to be back in the business of running commercial operations. The policy today involves putting no less than $4.7 billion of taxpayers’ money at risk in a commercial venture. We have seen state Labor governments all over this country showing that they cannot run rail. We hear that the New South Wales rail system is the worst in the world. They cannot run electricity, they cannot deliver water infrastructure and they cannot deliver a project like the cross-city tunnel, but the federal Labor Party is going to spend $4.7 billion of taxpayers’ money running a broadband network. Labor’s massive backflip on the sale of Telstra indicates that the Labor Party has no principle so great that it cannot be jettisoned in the name of a quick grab for cash and that its financial policy is to raid the money set aside for the future. Labor has not moved at all from its dangerous, interventionist tendencies of the past.

Broadband

Senator CONROY (2.20 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Does the minister recall the Prime Minister’s statement just last month: One of the most important responsibilities of the Commonwealth government is to provide infrastructure for future growth and development of our nation.

Is the minister aware that there are currently two proposals for the rollout of a multibillion-dollar fibre-to-the-node broadband network that have been stalled for more than 18 months due to inappropriate regulatory structures? Why has the government failed to end this farce? Haven’t you failed in your responsibility to ensure the delivery of this important broadband infrastructure for the future growth of our nation?

The PRESIDENT—There seems to be a bit of a problem with the sound. I hope senators will take note of the problem and make the according adjustment. I call Senator Coonan.

Senator COONAN—Thank you to Senator Conroy for the question. What the government has done in relation to broadband is ensure that in underserved areas there is appropriate investment and incentive to ensure that there is a roll out to areas that otherwise would simply not receive it. Building on the government’s $2 billion investment to date, which has seen over a million small businesses and premises connected to broadband, we have announced what I do not think any other government in the world has yet done. That is to have a broadband guarantee that will ensure that every Australian, irrespective of where they live, will be entitled to—

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy, come to order!

Senator COONAN—access fast internet and broadband services that they need and that they want. The investment that the market undertakes in metropolitan areas is something that is incentivised by competition and by the current regulatory environment. It provides an arrangement that will enable anticipatory exemptions to be made for any company at all that wishes to invest in a high-speed network. The regulatory environment that is currently provided is sufficiently flexible to deal with the issues that have been brought to government both by Telstra and by the current G9 proposals.
What is very interesting is that even Senator Conroy, in his statement today, was totally clueless as to what arrangements he might make for adjusting any of the regulatory arrangements that currently apply under the Trade Practices Act to the telecommunications sector. His best offer was, ‘Oh well, we will ask people who want to invest in this to come to us and tell us what regulatory changes they would like.’ That is the best that Senator Conroy could do after nearly three years in the portfolio. He had not a clue as to what he would do with potential overbills or with potential inefficient investments; and for anyone who wants to come and build one of these proposals, all they have to do is to tell Senator Conroy what they would like to do and somehow or other he is going to make regulatory adjustments that will adjudicate on the competing claims that they all have.

What is very important is that this government have invested in competition because we understand that the market is best placed to make the investments that are risky and that will deliver the services in metropolitan areas. Not only is the government’s job to ensure that that framework is robust and flexible and will enable those who invest in new infrastructure to get a proper and sensible return for that investment but we as a government are obliged to ensure that those who live in underserved areas who otherwise would not get services will be able to do so. That is why the government has invested over $2 billion in ensuring that these subsidised services and a new open access network will be able to be built to serve rural and regional Australia. But it is at serious risk. If the Labor Party get hold of the telecommunications fund, the communications fund, and if they raid that, there will be nothing for these very important services in rural and regional Australia. And if they get hold of the Future Fund, the country will be compromised and future generations will suffer from Labor’s spendthrift ways.

Senator CONROY—Mr President, I ask a supplementary question. Why is the Howard government holding back billions of dollars worth of investment in the infrastructure of the future while Australia is left with the infrastructure of the past, condemning millions of Australians to 256 kilobits per second—this government’s preferred speed for broadband? When will you commit to making the changes in attitude and leadership required to catch up with the rest of the world in this important area of infrastructure and try to match Labor’s 12 megabit proposal?

Senator COONAN—Senator Conroy really needs to do his homework. Currently Australia has the second fastest take-up rate in the OECD of broadband. Close to 90 per cent of Australian households and small businesses can already access fast multimegabit broadband speeds of between two megabits per second and eight megabits per second. Senator Conroy really needs to understand that this is an increasing story of broadband. It is a story of ever-increasing bandwidth, and this government will continue to pursue the policies which increase both broadband access and speeds.

Tough on Drugs Strategy

Senator PAYNE (2.27 pm)—My question is to the Minister for Justice and Customs, Senator Johnston. Will the minister please inform the Senate of the progress of the government’s Tough on Drugs policy? Is the minister aware of any alternative approaches?

Senator JOHNSTON—I thank Senator Payne for her question and acknowledge her longstanding interest in this very important subject, particularly in New South Wales. The Howard government remains strongly committed to the fight against illicit drugs.
This is reflected in the fact that, since the inception of the Tough on Drugs strategy in 1997, Commonwealth law enforcement agencies have prevented more than 14 tonnes of illicit drugs from reaching Australian streets and causing further mayhem and destruction to our families.

I want to talk about methamphetamine, ice, MDMA, ecstasy, heroin, GHB and fantasy. These drugs are every mother’s, every father’s, every sister’s, every brother’s, every grandfather’s and every grandmother’s nightmare. In 2004 it was found that nearly one in three Australian teenagers between the ages of 14 and 19 had used illegal drugs of some type. The government’s Tough on Drugs approach has proved to be highly successful. There has been a significant reduction in the number of people using illicit drugs and far fewer people dying of drug overdoses.

I was asked about alternative policies. There is of course Labor’s ‘soft on drugs’ policy. ACTU President Sharan Burrow, a director of that well-known ALP front the Australia Institute, has criticised the federal government for opposing the implementation of prescription heroin trials and drug consumption rooms. Let me say that again: drug consumption rooms. We oppose drug consumption rooms. We oppose drug consumption rooms.

On 19 June, the member for Denison, Mr Kerr SC, suggested that there be tests at nightspots to ensure that party drugs to be consumed there are safe. I say to the member and to the Labor Party opposite that there is no such thing as safe party drugs. New South Wales Greens Lee Rhiannon was quoted in the *Daily Telegraph* of 14 March as saying: ‘We acknowledge that there are ways to treat the link between strong drugs and crime, and it is not to lock people up,’ and Miss Lesa de Leau went on to say, ‘The benefits of not locking people up far outweigh the problem of drug use.’ We oppose that very strongly.

I have upset the opposition, but the fact is that the Greens in New South Wales have been embraced by the Labor Party in New South Wales because of a grubby preference deal. If this opposition had any integrity on drugs policy, they would banish the Greens to the bottom of the ballot paper. *(Time expired)*

**Senator PAYNE**—Mr President, I ask a supplementary question. Mr President, I do note that, at the beginning of the minister’s response, the clock was not set, and I am not sure whether the time allocation was therefore accurate. In relation to the minister’s response, particularly with regard to the results of interdiction efforts that have been made and the impact on young Australians, can the minister indicate why the government will not be adopting the alternative approaches to the ones that he has outlined?

**Senator JOHNSTON**—The reason that the government will not adopt the sorts of policies that the Greens are promoting on drugs, and that the Labor Party is soft on and embraces through receiving Greens’ preferences, is that we are opposed to the use of these drugs.

**Senator Bob Brown**—Mr President, I rise on a point of order. The Howard government’s policy on drugs is for harm minimisation.

**The PRESIDENT**—What is your point of order, Senator?

**Senator Bob Brown**—The minister is contradicting his own policy.

**The PRESIDENT**—No; what is your point of order?

**Senator Bob Brown**—It is that the Howard government’s policy is harm minimisation.

**The PRESIDENT**—Resume your seat.
Senator JOHNSTON—The Greens’ policy says: ‘The regulation of personal use of currently illegal drugs should be moved outside the criminal framework.’ The Greens’ policy goes on to say: ‘Removing criminal sanctions for personal drug use is the policy.’ This is the policy that is embraced by the opposition. If there is any integrity in the opposition, the Leader of the Opposition, Mr Rudd, will pick up the phone and say to Bob Brown, ‘We’re putting you last and we don’t want your preferences.’

Water

Senator SIEWERT (2.33 pm)—My question is to the Minister representing the Minister for the Environment and Water Resources, Senator Eric Abetz. I draw the minister’s attention to the announcement by South Australia’s water minister today that, if the South Australian allocation dropped below 50 per cent next year or they could not maintain weir levels, they would be forced to cut the supply of water to a number of lakes, lagoons and wetlands. Would such an action be compatible with, and supported by, the national water plan? Given the current predictions for reduced inflows into the Murray-Darling, does the minister consider it likely that this will occur?

Senator ABETZ—In answer to the honourable senator’s question, I can indicate that I am not aware of the South Australian minister’s proposal. Therefore, I will take that question on notice, see whether my colleague Mr Turnbull has in fact analysed the proposal to which the honourable senator refers and ascertain whether or not he wishes to provide a response.

Senator SIEWERT—Mr President, I ask a supplementary question. That would be appreciated and perhaps, in that case, he could also tell us how much of the already allocated $10 billion has been spent to date purchasing water to return flows to threatened wetlands. Also, will the government move to urgently buy water to save these wetlands and prevent them being cut off?

Senator ABETZ—I will take that question on notice as well. Preservation of the wetlands clearly is important but there are also other important factors. We as a government are seeking with the $10 billion fund to balance all the needs, which of course include the needs of Adelaide right through the basin, and we will come out with a good, balanced proposal. If there is anything further that Minister Turnbull would seek to add to that answer, I will pass it on to the honourable senator.

Drought

Senator McGAURAN (2.35 pm)—My question is to the Minister for Human Services, Senator Ellison. Will the minister inform the Senate of the action taken by the government to assist farmers affected by the drought?

Senator ELLISON—That is indeed a very important question from Senator McGauran dealing with the drought, which afflicts so much of regional Australia today. The Howard government are vitally concerned about the drought, which affects not only primary producers but also those businesses dependent on farming. In October 2006 we announced an extension to exceptional circumstances, and a number of areas were declared in Queensland, New South Wales, Victoria and South Australia. As a result of that, the drought bus initiative was introduced. We have three drought buses operating across a number of states. It is fantastic when you see the work that has been done in regional Australia in delivering services to those people in regional Australia where there might not be a Centrelink office or there might not be readily available those sorts of services that we enjoy in the city.
Some 60,000 calls have been answered by the Australian Government Drought Hotline, and Centrelink has finalised more than 15,000 applications. Importantly, the drought bus service includes not only Centrelink and Medicare staff but also social workers and rural service officers travelling to regional Australia to provide a range of assistance to people in regional Australia who want to take that up. I think that is very important, because we have to realise that the drought brings with it not only economic problems but also social problems, and the counselling that goes with these services is very important indeed. We are extending the drought bus program, and I am looking forward to launching it in my home state of Western Australia in April this year.

For those people who think they are eligible for assistance, it is important that they not self-assess but that they test their eligibility. I urge them to call 132316—a hotline which is available for them—to see what assistance is available.

Opposition senators interjecting—

Senator ELLISON—From the catcalling that I am hearing from the opposition, it is obvious that some people do not take this seriously. There are people in regional Australia who are struggling as a result of the drought, and it is important that we deliver services to them. The drought bus initiative is doing that. It is taking to the bush the sorts of services we take for granted in the city, such as Centrelink, Medicare and counselling; and the take-up is very encouraging. We have nearly 100 staff processing drought applications, and more staff will be made available if required. They are doing a great job. They have travelled around 30,000 kilometres so far, visiting around 160 towns in drought-affected areas of New South Wales, Victoria, South Australia and Queensland. That gives you some idea of the geographic footprint of these drought buses.

This initiative is bringing to regional Australia services which are essential not only to rural producers but also to businesses which are dependent on farmers—who are, in turn, suffering from the drought we are experiencing across this country. This is a serious and important initiative, and I congratulate the officers concerned in delivering it to regional Australia. They are working tirelessly across a range of areas to ensure that those people in regional Australia are not forgotten.

Broadband

Senator KIRK (2.39 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Is the minister aware that Australia is ranked just 17th for its use of broadband out of 30 countries surveyed by the OECD? Can the minister confirm that ACCC figures show that Australia’s broadband growth rate fell in every quarter of 2006? Is the minister aware that Australia’s leading media proprietors—News Ltd Chairman, Rupert Murdoch; PBL Executive Chairman, James Packer; and Fairfax CEO, David Kirk—have described Australia’s broadband infrastructure as a ‘disgrace’, ‘embarrassing’ and ‘fraudband’? Why has the Howard government allowed Australia to fall behind the rest of the world in an area of crucial importance to Australia’s future economic growth?

Senator COONAN—I thank Senator Kirk for the question. She is wrong on just about all fronts. Australia has over 3.9 million broadband subscribers. ABS figures from September 2006 show that a third of all Australian homes have broadband. Australia is above the OECD average when it comes to broadband take-up: Australia is ranked 17th, Germany is 18th, France is 16th, the UK is 10th and the United States is 12th. But Australia’s take-up of broadband has grown
at a faster rate than any other OECD country, except Denmark, in the 12 months to June 2006. These are not my figures, Senator Kirk; they are figures that are verified by the ABS. You can assert from the rooftops that Australia lags behind, and you would be wrong. For its size, scope and relatively small population, Australia performs very well.

You have referred to some criticisms by some people about the need for fast broadband and for the government, I suppose, from Labor’s perspective, to give in to Telstra’s demands to abolish the entire telecommunications regime in Australia. I think we should be wary when it comes to those who prosecute the antiregulation case and criticise Australia when they have a clear and unambiguous commercial reason for doing so—which is, of course, what some people in the media are doing. It is very important to understand that, as is often the case, media proprietors and content providers have a commercial interest in ensuring that their online media services are utilised to the fullest and that it is provided on infrastructure that they do not have to pay for, Senator Kirk. It is important that you understand that.

The more broadband speeds are available, the more downloading capacity there is for consumers to use an online content provider’s products.

Senator Kirk, what I think you and Labor should be concentrating on is what has to be the most irresponsible announcement—and I assume that Senator Kirk would not have been part of this; but Senator Kirk will have a vote in caucus, no doubt, and Senator Kirk should be voting against it—a proposal that is setting out to raid the Future Fund and to do a huge backflip on Labor’s proposal to oppose, every step along the way, the privatisation of Telstra, which has held this country back and has held telecommunications back for 10 years. Labor’s proposal now is to raid the Future Fund to spend and spend. It is the most shameful economic vandalism, and it is there simply to buy votes. Not only will Labor raid the Future Fund and jeopardise the future of Australians—

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left will come to order.

Senator COONAN—Thank you, Mr President. I was about to say that Labor’s raiding of the Future Fund is the Labor Party of old. It is the Labor Party back to pork-barrelling, back to trying to buy a few votes within a few months of an election. It is the old Labor Party that has fallen at the first fence of economic responsibility. You cannot trust Labor and you certainly cannot trust it with a bucket of money.

Senator KIRK—Mr President, I ask a supplementary question. Why, after 11 long years of the Howard government, do hundreds of thousands of Australians still not have access to a service that the United Nations recently described as a basic utility, like water or electricity? Minister, why won’t you accept the consensus of condemnation of your broadband performance and do something to fix the problem?

Senator COONAN—Thank you for the supplementary question, Senator Kirk. What Senator Kirk clearly does not understand is that Labor’s policy, even at its highest, will not reach 98 per cent of the population. The Australian population should not be duped. If Senator Kirk is worried about areas where the population cannot get broadband, Senator Kirk should support the Australian Broadband Guarantee—a policy that I announced last week—which will provide broadband to every Australian irrespective of where they live. It will fix the black spots, and it will ensure that every Australian can access the services they need and want.
DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of a parliamentary delegation from the Republic of Indonesia. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Zimbabwe

Senator STOTT DESPOJA (2.45 pm)—My question is addressed to the Minister representing the Minister for Foreign Affairs. I draw the minister’s attention to the continued repression of political opponents to the Mugabe regime in Zimbabwe. I ask the minister whether she can outline to the Senate the government’s position on further targeted sanctions being applied to that country, including further economic sanctions from Australia, and also the suggestion by the former captain of the Zimbabwean cricket team Andy Flower that some kind of sporting sanction could be applied. I do acknowledge that members of the government have made comments to this effect, and I ask the government to outline for us the government’s position on such sanctions.

Senator COONAN—Thank you to Senator Stott Despoja for a question about a matter that obviously is of great concern to the Australian government and, I am sure, to everybody in this chamber. Before addressing some of Senator Stott Despoja’s specific questions, I wish to place on record, on behalf of the minister, that the government is appalled at the barbaric actions of the Zimbabwean government in violently suppressing the activities of the political opposition on and after 11 March. I am sure the Senate would wish to know that Mr Downer made our views very clear to the Zimbabwean charge d’affaires on 15 March. Mr Downer’s department also called him in on 16 March.

We are urging Zimbabwe’s neighbours—who would have the greatest leverage over Zimbabwe, as Senator Stott Despoja would appreciate—and key members of the African Union and the Southern African Development Community to use their influence to persuade the Zimbabwean government to respect the rule of law and the civil and political rights of its people. We are working with countries concerned about the political and economic catastrophe in Zimbabwe to place greater pressure on the leadership, including by allowing the situation to be considered by the United Nations Human Rights Council. I think it has been said in the press, but it is worth repeating that the Australian ambassador and the consul in Harare are appalled at the injuries sustained by Mrs Sekai Holland, Mr Morgan Tsvangirai and other leaders. Inquiries have been made as to their current condition, their having been severely beaten in detention.

Australia has imposed progressively strengthened travel bans and financial sanctions against members of the Zimbabwean government since 2002, and we urge other countries to do likewise. The Zimbabwean government’s policies have crippled a once-thriving economy, leaving citizens to endure hyperinflation. Zimbabwe’s unemployed population is living very close to the poverty line. Perhaps the most appalling statistic is its lowest life expectancy of any country.

Senator Stott Despoja asked about the implications for Australia’s One Day International tour to Zimbabwe. Mr Downer has previously called on the International Cricket Council to change its rules to allow teams to forfeit tours to countries where serious human rights abuses are occurring. It will be up to Cricket Australia to consider a range of issues on its mooted One Day International
tour of Zimbabwe, including the security of
the Australian team, and to consider with the
ICC just how the game of cricket could pos-
sibly be seen to be served by international
tours to Zimbabwe.

I also have some very recent information,
which is that the Prime Minister has appar-
ently said that he will speak to Mr Downer
about this issue but that he has an inclination
to maintain his previous position that the
government would prefer that the tour did
not go ahead but that the decision would be
left to Cricket Australia, noting that it does
have some attendant obligations to the ICC.

Senator STOTT DESPOJA—Mr Presi-
dent, I ask a supplementary question. I asked
the minister to outline the government’s
opinion on further economic sanctions that
have been called for, including from mem-
bers in this place. I also ask whether the min-
ister is aware of a recommendation by the
International Crisis Group, which actually
suggests that members of families who are
the subjects of those targeted sanctions ap-
plied by the EU or the US have their visas or
their residency permits cancelled. Is the gov-
ernment aware of any Zimbabweans cur-
cently in Australia who fall into that cate-
gory—that is, the children or relatives of
people who are subject to those particular
sanctions? If that is the case, what will the
government do about considering or revok-
ing those visas or permits? Once again, I
want to clarify: is the government saying that
it will not consider a sporting sanction but it
is clearly leaving it up to the cricket board,
or will our government consider, as it has
done previously in relation to South Africa
and apartheid, supporting a sporting sanc-
tion?

The PRESIDENT—Order! That was a
very long supplementary question.

Senator COONAN—It was a long sup-
plementary question, and I intend Senator
Stott Despoja no disrespect by not being able
to deal with all of it as comprehensively as I
would choose to. Perhaps I will deal with the
last question first. It is the case that the
Prime Minister has asked Mr Downer to con-
sider the position of the tour. The govern-
ment’s present inclination is that we would
prefer that the tour did not go ahead but that
we would leave the decision to Cricket Aus-
tralia, noting that Cricket Australia has some
attendant or other obligations to the ICC.
Whilst the government might have a clear
preference, the position that Cricket Austra-
lia takes will be a matter for it—but the gov-
ernment’s view would be drawn to its atten-
tion.

As to the issues to do with economic sanc-
tions, I think those deserve a much longer
answer than I am able to give right at this
very moment. But I will check, for the pur-
poses of providing a comprehensive answer,
whether there are children or relatives in
Australia of the category that Senator Stott
Despoja talks about.

**Defence Procurement**

Senator MARK BISHOP (2.53 pm)—
My question is to Senator Minchin, the Min-
ister for Finance and Administration. Does
the minister recall telling the Senate on 1
March this year, in response to a question
about the purchase of the Super Hornet com-
bat aircraft, that ‘the government has made
absolutely no decision to make such an ac-
quision’? How does the minister explain
the defence minister’s announcement made
just five days later to purchase 24 Super
Hornets at a total cost of over $6 billion over
10 years? Given this rush decision to buy the
Super Hornets, where does that leave the
government’s commitment to Mr Kinnaird’s
two-part approval process and the objective
of having in place a more rigorous and ro-
bust process for submitting defence capabil-
ity options to government? Doesn’t the haste
in the approval process indicate once again that the rush decision to override the Kinnaird process was not the result of immediate strategic need but just plain political expediency?

Senator MINCHIN—I do have some regard for Senator Bishop and his diligence on these issues, but in this case he is completely wrong. I am happy to report that my answer to the Senate on 1 March was accurate. The government had not made a decision at that time. The government was, of course, deeply involved in what was then reaching the end point of a long consideration of our air defence capacity and our air superiority capability. Subsequent to the question that I received on 1 March, the government finalised that process of long consideration and decided that it would indeed move to purchase the 24 Super Hornet aircraft at a full cost, including maintenance and through-life support, of some $6 billion to ensure that Australia’s air defence capability is maintained in full. We see that as a primary responsibility for this government.

The government has been diligent in ensuring the adequate defence and national security of this country. We are proud of our record. No final decision has been made, but we are engaged in, as you know, the detailed consideration of the acquisition of the JSF, which, prima facie, we see as the ideal aircraft for Australia in that it has the multiskill capabilities required for our Air Force of air-to-air and strike capacity. To ensure that Australia maintains adequate air capability through the transition from our F111s and existing F18s, it has been decided, as I said, after a long period of consideration of the options, that we will acquire the Super Hornet aircraft. So I can assure Senator Bishop that the decision was made in a very considered fashion, following proper process.

The most important thing, of course, is that as a result of the superior management of the budget by this government—restoring the fortunes of the Australian government’s fiscal position—the government is glad to be in a position where it is able to make an investment of this kind to ensure our air capability. If we were still faced with a situation of massive debt and annual budget deficits, such a purchase would have been a much more difficult exercise to embark upon. But, given the sound finances of this country under our superior management, it is possible for us to make this important investment in this aircraft, which Defence recommended as being the aircraft that is appropriate to ensure that our air capability is maintained through the transition from the F111 and F18 to the JSF.

Senator MARK BISHOP—Mr President, I ask a supplementary question, which arises out of that response. Can the minister confirm that department of finance officials still participate in defence capability committees to help cost, evaluate and review major procurement decisions prior to their announcement? Given the rush decision, a lack of comprehensive project evaluation and non-adherence to the two-stage Kinnaird process, if the finance minister is now so far out of the loop on a project that will spend some $6 billion of public moneys, who is now protecting taxpayers' financial interests?

Senator MINCHIN—I reject the assertions made by Senator Bishop in his question. As I said in my first statement—and again we have the problem where people just ask the supplementary without listening to the answer to the question—the decision was not rushed. This has been under consideration by the government for quite some time. My department was properly involved in the detailed costing of the alternatives and the options available to the government. The Department of Finance and Administration
and I were certainly not out of the loop. The finance department was actively involved, as was I, in the NSC making this very important final decision. As I said, I am delighted that, as finance minister, I am part of the economic team which has ensured that the finances of this government are superior to almost any country in the Western world, with nine surpluses out of 11 budgets and the repayment of $96 billion of debt. Consistent one per cent of GDP surpluses have ensured that we are in a position to make this critical investment in the defence of Australia. (Time expired)

Macquarie Island

Senator PARRY (3.00 pm)—My question is to the Minister representing the Minister for the Environment and Water Resources, Senator Abetz. Will the minister please inform the Senate what the Howard government is doing to protect the World Heritage values of Macquarie Island from degradation caused by rabbits and rats?

Senator ABETZ—Isn’t it interesting how Senator Sterle gets excited when rabbits and rats are mentioned? I wonder why! I thank Senator Parry—the excellent Acting Government Whip—for his question. This is a very important issue.

Senator Carr interjecting—

The PRESIDENT—Senator Carr!

Senator ABETZ—Let us not forget that Macquarie Island is a possession of Tasmania, and has been so since 1825. The island is a declared state nature reserve, and the responsibility for managing the island lies squarely with the Tasmanian government.

Senator Carr interjecting—

The PRESIDENT—Senator Carr, come to order!

Senator ABETZ—Having said that, the Howard government does recognise the environmental significance of Macquarie Island. The island, quite rightly, is a declared World Heritage area. That is why our two governments share the costs and responsibilities for managing the island. For example, the Tasmanian government pays the salaries of their rangers and other Tasmanian personnel on the island while we, the Australian government, provide their transport, accommodation and other logistical support worth some $1.5 million per annum. Unfortunately, despite all this, under the Tasmanian government’s stewardship, rabbit and rat numbers have exploded to plague proportions in recent years, further threatening already endangered albatross and precious native flora.

Because of state Labor’s lock-up-and-forget mentality with these reserves, the entire island ecosystem is facing a grave threat from rabbit-induced erosion and predation by rats. That is why several years ago the Australian government funded the preparation of an integrated rabbit, rat and mouse control program for Macquarie Island. While that plan was complete in May 2006, and probably much earlier, it has been a challenge, unfortunately, to get the Tasmanian minister to provide a copy to Australian government ministers. Indeed, when Minister Wriedt finally sent us the plan in November we responded within days, offering the Tasmanian government half of the $16.5 million cost of the plan.

The Tasmanian minister then sat on her hands for almost four months. It was only after she was embarrassed into it that she finally paid some attention to the problem. But then instead of putting her shoulder to the wheel she sought an urgent meeting with my colleague Minister Turnbull to talk about the offer and announce that the cost had blown out by 50 per cent, as the figures that she had provided were almost two years out
of date when she provided them only last
November. Talk about incompetent! None-
theless, the Australian government has gen-
erously raised its offer to half the revised
cost of $24.6 million. Our offer is on the ta-
ble. It is time for Tasmania, who is rolling in
GST windfall moneys, to commit.

Unfortunately, senators opposite, by their
interjections, have shown that they are not
interested in this genuine environmental
problem. If the shadow minister for the envi-
ronment were genuinely concerned about
genuine environment problems, instead of
bagging out the forestry industry and the
fishing industry he would be calling on his
state colleagues to do that which is neces-
sary. To use words that even Mr Garrett
might understand, fair is fair and it is about
time that Tasmania paid its share.

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Defence: Guided Missile Frigates

Senator MINCHIN (South Australia—
Minister for Finance and Administration)
(3.04 pm)—On Thursday, 1 March, in a
question from Senator Faulkner, I undertook
to obtain further information on the force
guided missile frigates. I table additional
information provided by the Minister for
Defence and seek leave to have it incorpo-
rated in Hansard.

Leave granted.

The document read as follows—

Senator Faulkner asked the Minister represent-
ing the Prime Minister, without notice, on 1
March 2007:

(1) I refer the minister to the project to upgrade
the Navy's guided missile frigates, originally
intended to deliver six fully upgraded, mis-
sion capable warships. Is the minister aware
that the government canned the upgrade of
the two oldest ships in November 2003 be-
cause of the massive delays that were already
being experienced.

(2) Can the minister confirm that former minis-
ter Robert Hill said at the time that the con-
tract would be renegotiated to account for the
fact that only four ships would be upgraded,
instead of the planned six.

(3) Can the minister confirm that, as a result of
those so-called ‘negotiations’, taxpayers will
still pay the full price of the upgrade.

(4) Can the minister now explain why he thinks
it is a good deal to get four upgraded ships
for the price of six.

Senator Minchin—The Minister for Defence
has provided the following answer to the honour-
able senator’s question:

(1) The Government did not “can the upgrade of
the two oldest ships in November 2003 be-
cause of the massive delays that were already
being experienced.” That is an incorrect as-
sertion. What is correct is that the FFG Up-
grade now seeks to regain the original rela-
tive capability of four guided missile frig-
ates.

On 7 November 2003, the Government an-
nounced it had made a number of decisions
which would lead to some rebalancing of the
Defence Capability Plan as a result of the
Defence Capability Review just completed.
One of those key decisions was to strengthen
the Navy’s defensive air warfare capability.
The anti-ship missile defence projects then
were to be complemented by the introduction of SM2 missiles
to four of the FFGs and the acquisition
of three air warfare destroyers. To provide"
offsets, the two oldest FFGs were to be decom-
misioned and removed from service from
2006. This was to address the total operating
costs, including maintenance and personnel,
for the existing FFG class of six ships.

HMAS Canberra was subsequently removed
from service in late 2005. On 16 January
2006, the Minister for Defence agreed to de-
fer the decommissioning of HMAS Adelaide
until no later than the end of 2007. This has
subsequently been extended to January 2008.
to accommodate operational needs and provide more flexibility in managing the relocation of HMAS Adelaide’s crew.

Disposal of the ships will be through a transfer of HMA Ships Canberra and Adelaide to the Victorian and NSW governments respectively to be sunk as dive wrecks to provide opportunities for tourism and revenue.

(2) Yes.

(3) No. The FFG Upgrade prime contract has been renegotiated and a Deed of Settlement and Release signed 29 May 2006. This has formalised the Government’s decision (of November 2003) to reduce the FFG Upgrade project from six to four ships; settled a number of outstanding commercial and contractual issues on this project; agreed a revised viable contract master schedule with a Contract Final Acceptance of December 2009 but within the fixed price which was reduced by approximately $40 million dollars (Feb 98 Contract base date price) or $54 million dollars (May 06 Price). This reduction included savings from the lower installation costs for four ships.

(4) As explained previously, the renegotiated contract includes a price reduction for four ships. The upgrade of the four FFGs is an important capability for the Navy, in conjunction with our eight ANZAC frigates, in maintaining the required total number of air warfare capable ships to support our operational commitments.

The FFG Upgrade contract is a fixed price contract and the contract scope reduction was initiated through the contract provisions of termination for convenience. The reduced contract price requires the contractor to deliver all the contracted supplies except the installation of equipment into the two ships not now being upgraded.

The ‘ship sets 5 and 6’ equipment remain as contractual deliverables and it is likely that this equipment will now be used for a variety of applications. These include provision of in-country training for both operators and maintainers in Sydney and Perth, in some cases replacing training previously provided in the United States; risk reduction activities for the FFG SM-1 replacement project (one set of radar and onboard training system equipment retained in the United States for system development and test activities); additional integration and support assets at the FFG Upgrade Warfare Systems Support Centre in Garden Island, Sydney; and major support spares for the four upgraded FFGs.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator FORSHAW (New South Wales) (3.04 pm)—I move:

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

I particularly want to address my remarks at this point to the answers given by Senator Ellison, the Minister for Human Services, to those questions about the government’s proposed access card. In doing so I note, as was evident in the questions, that last week the Senate Standing Committee on Finance and Public Administration tabled what I said was an excellent report on the proposed Human Services (Enhanced Service Delivery) Bill 2007. That is the bill that covers the access card.

This report was a near-unanimous report. All members of the committee, except one government senator, agreed with the findings of the committee and the content of the report and supported the recommendation of the report. There was only one recommendation and that was that this legislation should be deferred or withdrawn and only brought back to the parliament as part of a consolidated legislative package to pick up the further tranches of legislation the government have said they are preparing and contemplating. But the report also went on to identify a range of serious concerns that the committee felt the government should consider in preparing that consolidated legislation. These
were concerns that were raised by witnesses during the three days of public hearing.

The arrogance of this government was there for all to see in the way that it handled this bill. The committee was given virtually no time—a couple of weeks—to consider this very important legislation and this very complex proposal. The minister today said that there had been an exposure draft released for public comment. It was released just before Christmas last year. Essentially, the public only had the period over the Christmas-New Year months to consider it. What arrogance to release such an important exposure draft at that particular time of the year.

I want to quote from the report. I congratulate Senator Mason on his recent appointment and also on his excellent chairmanship of our committee. The committee said:

With only the first tranche of the access card legislation before it, the Committee has also been put at a disadvantage in that it does not know the detail of key provisions and measures that are intended to be addressed in later legislation. That the provisions held over relate to critical matters such as reviews and appeals, privacy protections and oversight and governance measures does little to allay the Committee’s general unease with the adequacy of this bill. In essence, the Committee is being asked to approve the implementation of the access card on blind faith without full knowledge of the details or implications of the program. This is inimical to good law-making.

The committee further goes on—and this refers to the fact that the department already had out there in the marketplace calls for tenders, when this legislation had not been considered by a committee of the parliament or by the Senate itself:

In addition, two tender processes, one for the systems integrator, the other for card issuance and management, were running during the Committee’s consideration of the matter. This could be seen as undermining the authority of the Committee by creating the impression that passage of this legislation is preordained, rendering Senate oversight superfluous.

The committee goes on:

The Committee cannot accept that priority has been given to tender processes at the expense of reasonable time for the Parliament to scrutinise properly a complex piece of legislation.

And there are another 92 pages or so of the majority report that detail the very serious concerns raised during the committee’s public hearing.

Yet in the second reading speech on this bill, when it was put before the parliament, the minister referred to people who opposed this legislation as ‘friends of fraud’. We had the AMA, the Australian Bankers Association, Carers Australia, the Royal College of General Practitioners, Legacy and even the Office of the Privacy Commissioner appear before our committee and point out genuine concerns with this rushed legislation. This government arrogantly called them ‘friends of fraud’. The minister has done the right thing and accepted the committee’s report at last. (Time expired)

Senator FIFIELD (Victoria) (3.09 pm)—I have to say I am a little disappointed by the approach of senators opposite. As a member of the Senate Standing Committee on Finance and Public Administration which inquired into the access card, I was quite struck by the bipartisan and cross-party willingness to support the goals, the Human Services (Enhanced Service Delivery) Bill 2007 itself and the efforts to improve the legislation. I appreciate that it is an election year and that there is the strong temptation on the other side to reduce all issues to partisanship. I need to acknowledge that that temptation appears to have been succumbed to on this occasion by Labor senators.

I must put to bed some of the opposition’s assertions. The first is that the Senate finance
and public administration committee was damning of the government. Mr Deputy President, you would well know that the Senate’s and the committee’s job is to review legislation and to seek to improve it, and that is what the committee did. What is more, the government appreciated the report. The report actually supported the goals of the legislation. The report said:

... at the heart of the proposed access card system are two primary goals:

- Improving delivery of Commonwealth human services and benefits; and
- Combating fraud, particularly in relation to identity theft.

It went on to say at 3.2:

The Committee endorses goals to streamline the delivery of Commonwealth benefits and prevent fraud. The Committee supports any policy that will facilitate access to those who are eligible while forestalling access to those who are ineligible.

The report made one recommendation:

The Committee recommends that the bill be combined with the proposed second tranche of legislation for the access card system into a consolidated bill.

The government accepted that recommendation. The report listed a range of other matters for the government to take into account, and the minister has undertaken to take those matters into account. To portray the report as a scathing attack on the government is an unfair depiction. Some of the language was plain and frank, even robust, but the former chair of the committee, Senator Mason, is a very plain-speaking man. The government certainly did not take the report as an attack.

How do we know this? The then chair, Senator Mason, was promoted to parliamentary secretary four days later.

Labor are trying to have it both ways. Labor contend that the government through its majority in the Senate has trampled on the Senate, neutered its committees and nobbled its role as a house of review, and that we have a government that is arrogant and out of control. Yet here we have an instance where a committee has done its job. It is doing its job—it is reviewing legislation. It does not look to me like a neutered committee system. And here we have a minister whose response to the report was: ‘What a good report. I will accept the one recommendation and I will consider the suggestions.’ This is hardly the act of an arrogant government. It is hardly the act of a government hell-bent on ramming the legislation through. To senators opposite: you cannot have it both ways; you have to get your lines straight. The Senate’s systems and committees are either working, as you have claimed today, and reviewing legislation—in which case democracy has not ended, as was predicted, and the Senate has not been trampled on—or not working. You cannot have it both ways.

The access card, as all committee members agreed, is needed. We need it to combat welfare and health fraud, to make identity theft harder and to make accessing services easier for Australians. The access card will certainly do this. At the same time, and very importantly, we need to protect the privacy of the information about Australians which is held by the government. The access card will not and should not be a national ID card. It is not the government’s intention. No-one on the committee would support that. Senator Ellison’s quite sensible proposal to accept the committee’s recommendation to consider both bills together will help to ensure that public confidence in the access card is maintained. That is the objective of the government and the objective of the committee. I commend Minister Ellison on his willingness to consider the committee report, on his ready acceptance of the committee’s recommendation and on his undertaking to con-
consider the further matters which the committee recommended for consideration.

Senator Moore (Queensland) (3.14 pm)—It is genuinely encouraging to see that so many people here have read the report—although it seems to me that the people who are here were all on the committee. In his answers today the minister referred to the committee’s recommendation. The significant recommendation of our committee was that the bills be put together. It is genuinely encouraging to see that the minister has accepted that. We found that out by him telling us in this chamber—we have not had a formal response—and I would like to see a lot more of that.

In answering questions today, the minister once again—and I am going to quote Senator Fifield’s comment about taking things both ways—acknowledged that there were issues in this report on which all members of the committee agreed, and those issues were around the focus and intent of the legislation. There was never any question that any member of the committee had any problem with the intent of the legislation. That was restated consistently not just by members of the committee but by many of the people who came and gave evidence to our committee. There was no-one who took the time and effort in the extraordinarily restricted time frame to give evidence to our committee who said that they supported fraud in any way, shape or form in any part of government service delivery. That was agreed by everyone, and that was a really important starting point.

The third consecutive minister from this government who has had carriage of the legislation, when asked today quite reasonable questions about process, reverted to the same old attack. Anyone who had any opposition to anything, who had any questions about the extraordinarily ridiculous time frame in which the whole parliament was expected to consider this very complex legislation or who sought more information was immediately labelled as a friend of fraudsters. It is that old tactic of labelling first instead of debating: label first and then maybe get around to talking about the issues, as Senator Forshaw pointed out. The minister said that we should ask questions of ourselves about what our position on fraud is before we start asking questions about the access card. Let us get this really clear: there is no-one in this place who supports the defrauding of government services.

We have not seen this new combined bill. The only information which we had before us as a committee was the original bill. Most witnesses who came before our committee restated their concerns about the speed with which this committee was moving. They were concerned about the lack of detail that was provided to them in this very complex process and they wanted to have all the information before the parliament, and the whole Australian community were forced to live with whatever came out of the process. That is not too difficult a concept. That is, as Senator Fifield presented, the way that this parliament should operate. We should be able to effectively review legislation and improve it. That was the intent of the Senate Standing Committee on Finance and Public Administration. There were many points about which members of the community and people who represented different groups were concerned.

Senator Forshaw—And Professor Fels was one of them.

Senator Moore—you are quite right, Senator Forshaw. Professor Fels, the gentleman that the government appointed to head up the committee looking at the key issues around privacy and protection, was engaged with the committee in a very valuable discussion about the issues that were raised and...
about ways we could work together to improve them. The main issue, though, was the speed with which the government were moving. They were determined to push through this legislation. They had a three-day committee hearing. We were meeting on the last night until very late just to get some processes completed.

My questions today were about the process, about the letting of tenders and also about the speed of this process. The minister could not come up with a response to the issue of speed. He talked about the issue of tenders but did not answer the question about whether there had been any financial investigation into the possible cost of letting tenders before the infrastructure is clearly defined. We asked those questions and again we did not get answers. We hope that there will be an effective process put in place around this whole issue that balances the issues of privacy and accountability. Minister No. 3, do not accuse us of being friends of fraud.

(Time expired)

Senator FIERRAVANTI-WELLS—It is interesting to hear Senator Moore tell us that no-one supports fraud in this place. Perhaps Senator Moore will tell that to Premier Alan Carpenter. I want to put on record a report that appeared on the ABC in which it was revealed—

Senator Moore—Mr Deputy President, I rise on a point of order. The previous comment made by Senator Fierravanti-Wells breaches the Senate rules about reflecting on other people.

The DEPUTY PRESIDENT—Senator Fierravanti-Wells, it might be worth while withdrawing.

Senator FIERRAVANTI-WELLS—It was not my intention to reflect on someone. My intention—

The DEPUTY PRESIDENT—Withdraw.

Senator FIERRAVANTI-WELLS—I withdraw my comments. I want to refer the Senate to some reports that have appeared on the ABC relating to Ms Archer in Western Australia. It was revealed in a report of 12 March that Ms Archer was given a spent conviction 15 years ago for social security fraud and that she had not disclosed this to the Premier. The ABC report says that she was found guilty of receiving a single parent pension on 35 occasions when she was not entitled to one. This is the same Ms Archer who is under pressure over revelations that she acted as a go-between for former Premier Brian Burke to help him obtain information from ministers. The opposition has correctly accused the Premier of being weak for not demanding her resignation. All we are seeing here is the Premier saying that it is unlawful but not being prepared to do anything more. It is all very well to hear about people not wanting to support fraud, but this is the very sort of fraud that we need an access card to combat. I wanted that on the record. We all agree that we need to combat fraud and this is the sort of thing that the access card would address.

In the report of the Senate Standing Committee on Finance and Public Administration, I made some comments that were not in unison with the rest of the committee. I do believe that there is some benefit in the bill being combined with the proposed second tranche of legislation into a consolidated bill. It will enable the important concepts of security and privacy protections to be considered in their entirety. But I think that the report fails to give regard to the benefits of the access card in its proposed form in meeting its stated objectives.

I would like to make some comments particularly about the identity card concept. The government has specifically stated in the bill: … access cards are not to be used as, and do not become, national identity cards.
There are significant penalties in the bill to prohibit people from demanding the card for anything other than health, veterans or social security benefits. An ID card would be carried at all times and presented on demand, and penalties would exist for not possessing a card. The access card has none of these features. The access card would only be required in situations where the cardholder is accessing government services. The primary objective of the access card is to streamline and secure access to government benefits and services. I refer the Senate to extracts of a report by KPMG that were tabled. They estimated that efforts to eliminate welfare fraud would save taxpayers in the vicinity of $3 billion over 10 years. KPMG representatives told the Senate inquiry that they consider this estimate to be conservative. This is the sort of thing which probably would have caught Ms Archer, who on 35 occasions received a single parent pension to which she was not entitled.

One of the issues that have been raised is the photograph. The need for the photograph on the card is a key aspect of the access card. Without a photo on the card the system will still be susceptible to fraud and taxpayers will have to wear the cost. The photo on the card is needed to reduce fraud and system complexity. It will also increase customer convenience by providing a quick and convenient verification of the cardholder, providing a user-friendly and reliable method of accessing Commonwealth benefits, improving access to Australian government relief in emergency situations and permitting access card holders to use their cards for such other lawful purposes as they choose. A photo will allow a person to simply and quickly prove who they are to agencies when accessing Commonwealth benefits. It will also assist in correct identification when customers undertake transactions. *(Time expired)*

**Senator CONROY** (Victoria) (3.25 pm)—I want to respond to Senator Coonan who once again deliberately misleads—

**The DEPUTY PRESIDENT**—You will need to withdraw that.

**Senator CONROY**—I withdraw—the Australian public about the extent and coverage of broadband in this country. Here are the facts, and I will state them again. I have spoken on this issue before in the chamber. I want to make sure that Australians who are listening today understand the parlous state of the broadband network in this country. Here is what international organisations are saying about Australia’s broadband performance. The World Economic Forum ranks Australia 25th in the world for available internet bandwidth and Australia’s networked readiness at 15th in the world and falling. The OECD ranks Australia 17th out of 30 surveyed countries for the take-up of the ‘fraudband’ known as 256 kilobits per second entry-level broadband.

Despite growth off a low base, Australia’s relative position did not change in the previous two years. In fact, despite Senator Coonan taking a dorothy dixer from her own team to try to champion the state of Australia’s broadband infrastructure, ACCC figures released recently on the pace of Australian broadband take-up show that Australia’s broadband growth rate fell in every quarter of 2006. That is right: fell. Our growth rate is falling. Australia’s broadband growth rate in September 2006 was the slowest since 2002. But it is not just the Labor Party talking about this. Travel anywhere in the country. I have travelled to Bacchus Marsh, a new housing estate. Broadband is a critical piece of infrastructure for the survival of home businesses and small businesses in a modern economy. They could not get access to real, genuine broadband. This is a disgrace in a modern economy like Australia. I have trav-
elled to Hasluck in the outer suburbs of Perth and to the outer suburbs of Melbourne. I have been to Tweed Heads. I have been to Cairns and North Queensland.

Senator Minchin—‘I’ve been everywhere, man, crossed the deserts bare, man.’

Senator CONROY—Senator Minchin has joined in there, and I hope we can get his singing on the record. I have been to these places and the cry is the same: how can we be living in a modern economy when we have no broadband? I met with a lady who was trying to contact her husband using Skype, a voice over internet application. She needed broadband to speak to her husband, who is one of those brave Australian policemen on duty for Australia helping to stabilise the Solomon Islands. She could not get to talk to him. His children wanted to talk to him. Funnily enough, he could get reception in the Solomon Islands, but she could not get reception in Tweed Heads. That is how farcical our position on broadband is. You can go all over the country, Senator Minchin, and find stories like this.

If Senator Coonan would get out of Sydney and out of the government VIP jet that she uses to tour around the country and meet with people other than at stage-managed media photo opportunities, she would discover that the state of broadband is not as she recently stated on national television when asked: nobody in metropolitan Australia is complaining about their broadband speed? My office computer went into meltdown. The Fairfax website went into meltdown. The ABC website—Senator Coonan was appearing on The 7.30 Report when she said that—went into meltdown. People could not believe that such words were coming from the person responsible—the minister—for enabling this country.

Broadband is an enabling technology. If only the National Party and Senator Nash had had the courage to stick to their guns when that National Party think tank—I know it is an oxymoron—said that we need a fibre-optic network in this country. If only you had had the courage to win the fight—not just go for the cheap $2 billion slush fund, as Barnaby called it—this country would be better off. If only you had had the courage to win the fight, to stick to your guns. You were a signatory to that, Senator Nash. If only you had stuck to your guns—(Time expired)

Question agreed to.

Water

Senator SIEWERT (Western Australia) (3.30 pm)—I move:

That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to a question without notice asked by Senator Siewert today relating to water resources.

I am sure most senators know that tomorrow is World Water Day. The theme for this year is water security. What could be more pertinent for Australia than the theme of water security? I am very disappointed that the minister could not answer my questions, because the wetlands in South Australia are facing calamity. In my question I highlighted the fact that the South Australian water minister has announced that they will be cutting water supplies to a number of lakes, lagoons and wetlands. One of those, for example, is Lake Bonney.

Lake Bonney is already in a great deal of trouble: water levels are dropping and salinity is growing. If this lake is blocked off salinity will continue to increase in the lake and it is highly likely that if water were then returned to the lake it would have an adverse impact going back into the river. The concern is that if the lake is allowed to dry out it will be irretrievable. Therefore it is essential that the water level not be allowed to drop to a point where there is no return, which means
the water should not be cut off and we need to ensure that the lake has access to environmental flows. That comes to the point of my question at the time, which was: what is the government doing about protecting these wetlands; what is the government doing to ensure that these wetlands have an environmental flow? That means buying water, not waiting to buy water until water efficiency mechanisms are put in place.

I spoke last year and earlier this year about the need to ensure that the government are aggressive participants in the water market to ensure that water is available now, not a couple of years down the track once they have exhausted any opportunities in water efficiency. Water needs to be purchased on the market now or these wetlands and others like it will die. The South Australian government, as I understand it, has already cut off the water supply to a number of other wetlands that are not as significant as the ones that they are now proposing to cut off.

Yesterday we also had the report by the World Wildlife Fund which listed the Murray-Darling as one of the top 10 rivers in the world at risk. It is at risk from the threat of invasive species and from issues such as climate change and water allocation, which brings us to the next point that has been raised yet again—that is, the impact of climate change on the Murray River system.

Dr Wendy Craik was in the media today talking about the impact of climate change and the new investment that has been made into research on the impact of climate change. She also quoted one of CSIRO’s climate change experts, Dr Bryson Bates, who has suggested that this drought has the fingerprints of climate change all over it. I wonder if the Prime Minister is going to change his thoughts on the association between climate change and drought. As we know, he famously retracted his statements acknowledging the connection between climate change and drought and he thinks the jury is still out on that one. Obviously he is not reading the science. He is not reading what Bryson Bates has to say on the issue: he believes that there is a strong link between climate change and drought.

That puts into even more stark relief the failure of the federal government to act now to address the issues of these wetlands. I am looking forward to hearing—in my dreams!—an announcement on World Water Day tomorrow, 22 March, that the government has moved to purchase, for an emergency situation, water allocations to enable environmental flows to the wetlands that are at risk and at risk of dying. Lake Bonney has less than 12 months to exist if action is not taken now. If the South Australian government is forced to cut off the water supply to that particular lake, it will die. It is irretrievable. The government can deal with this issue by moving to address and to buy water allocations now. (Time expired)

Question agreed to.

PETITIONS

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

Kadek Suandewi Finlayson

Whereas

(1) Kadek Suandewi Finlayson had made application for a spouse visa in or about October 2005;
(2) Kadek Suandewi Finlayson paid $1800 for the visa application fee;
(3) The delegate of the Minister of Immigration refused her application to remain in Australia with her husband, Gregory James Finlayson without at any time interviewing her;
(4) Whereas the decision to refuse the visa was overturned by the Migration Review Tribunal and remitted for decision by the Minister;
(5) The Minister for Immigration is to date yet to reconsider that visa application;
(6) The particular visa class cannot be issued while Kadek Finlayson is outside Australia;

(7) Kadek Finlayson is now in advanced stages of pregnancy and unable to travel to Australia and when so able to travel will have no visa clearance to do so;

(8) By reason of great elapse of time and change of circumstances aforesaid the visa application is now unnecessary;

(9) And a written request has been made by Kadek Suandewi Finlayson to the Minister for a refund of the $1800 application fee;

(10) And the written request has so far gone unanswered by the Minister

I humbly pray that the Senate and/or the Parliament do resolve that the Minister do refund the fee in accordance with Migration Regulation 2.12.F(1) & 2.12.F(2)(a)

by Senator Calvert (from one citizen)

Information Technology: Internet Content

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 Calvert (from three citizens) and

Senator Ludwig (from 10,806 citizens)

Military Detention: Guantanamo Bay

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

The Petition of the undersigned draws to the attention of the Senate the continuing detention of Australian citizen David Hicks at Guantanamo Bay, despite the charges against him being dropped. The Guantanamo Bay detention centre exists in contravention of international law and has been widely condemned by the leaders of other Western nations, the United Nations, respected jurists, and religious leaders, among others.

Your petitioners believe:

a) the United States’ military detention facility at Guantanamo Bay exists in a jurisdictional void, denying detainees’ fundamental human rights;

b) those suspected of any crime, including terrorist-related offences, have a right to a fair trial, to allow them an opportunity to defend all charges against them;

c) the US Military Commissions Act 2006 will not allow detainees to receive a fair trial;

d) South Australian David Hicks has been detained at Guantanamo Bay since January 2002; and

e) Mr Hicks should immediately be granted a fair trial or repatriated to Australia.
Your petitioners therefore request the Senate urge the Government to ensure Mr Hicks immediately is granted a fair trial or repatriated to Australia.

by Senator Stott Despoja (from 87 citizens)

Military Detention: Guantanamo Bay

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

The Petition of the undersigned draws to the attention of the Senate the continuing operation of the United States military detention facility at Guantanamo Bay. This facility exists in contravention of international law and has been widely condemned by the leaders of other Western nations, the United Nations, respected jurists and religious leaders. The recent decision to release 134 detainees following a review by the US Department of Defense, 119 to their countries of citizenship, further highlights the illegitimacy of the facility’s operation.

Your petitioners believe:

a) the United States’ military detention facility at Guantanamo Bay exists in a jurisdictional void, denying detainees’ fundamental human rights;

b) those suspected of any crime, including terrorist-related offences, have a right to a fair trial, to allow them an opportunity to defend all charges against them;

c) South Australian David Hicks has been detained at Guantanamo Bay for more than four years, and it is unlikely he will be repatriated by the Australian Government in the foreseeable future, despite the repatriation of the citizens of nearly every other Western nation;

d) in the absence of any effort to ensure the human rights of detainees, and following allegations of outright violations of these rights, the facility must be closed.

Your petitioners therefore request the Senate urge the Government to support calls for the military detention facility at Guantanamo Bay to be closed.

by Senator Stott Despoja (from 478 citizens)

Pregnancy Counselling Services

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

The Petition of the undersigned draws to the attention of the Senate the lack of regulation of pregnancy counselling in Australia.

Pregnancy counselling services which do not charge for the information they provide are not subject to the Trade Practices Act, which means they are not prohibited from engaging in misleading or deceptive advertising.

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

Your petitioners believe:

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

b) Women have the right to know what sort of pregnancy counselling service they are contacting (ie anti-choice or non-directive) when they seek information about whether or not to continue a pregnancy;

c) The Federal Government should urgently move to regulate pregnancy counselling in Australia to ensure the counselling provided is objective, non-directive, and includes information on all three pregnancy options.

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

by Senator Stott Despoja (from 144 citizens)

Petitions received.

NOTICES

Withdrawal

Senator GEORGE CAMPBELL (New South Wales) (3.35 pm)—At the request of Senator Carr, I withdraw business of the
Senate notice of motion No. 1 standing in Senator Carr’s name for today relating to the reference to the Senate Standing Committee on Community Affairs to secure affordable housing in Australia.

Presentation

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

That the following bill be introduced: A Bill for an Act to provide for the disclosure of lobbying activities intended to inform and influence Members of Parliament, Ministers and other public officers, to make unlawful the holding and trading of shares by Ministers, and to regulate the post-Ministerial employment of Ministers, and for related purposes. Lobbying and Ministerial Accountability Bill 2007

Senator Ferguson to move on the next day of sitting:

That the Parliamentary Joint Committee on Intelligence and Security be authorised to hold two classified hearings during the sitting of the Senate on Friday, 23 March 2007, from 9.30 am, to take evidence for the committee’s inquiries into the review of administration and expenditure: Australian Intelligence Organisations – No. 5, and the review of the relisting of Tanzim Qa’idat al-Jihad fi Bilad al-Rafidayn (TQJBR) as a terrorist organisation under the Criminal Code Act 1995.

Senator Abetz to move on the next day of sitting:

That the order of the Senate of 7 December 2006 relating to committee groupings for estimates hearings, as amended, be modified as follows:

Group A:

Environment, Communications, Information Technology and the Arts
Finance and Public Administration
Legal and Constitutional Affairs
Rural and Regional Affairs and Transport

Group B:

Community Affairs
Economics

Employment, Workplace Relations and Education
Foreign Affairs, Defence and Trade.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes:

(i) that Thursday, 22 March 2007, has been designated World Day for Water 2007, and that this year’s theme is ‘Coping with Water Scarcity’,
(ii) that the South Australian Government has indicated that it will cut water flows to nine key lakes, wetlands and lagoons if its water allocation falls below 50 per cent or weir levels cannot be sustained, and
(iii) the comments by Murray-Darling Basin Commission Chief Executive Wendy Craik, that climate change will have significant long-term impacts on inflows into the Murray-Darling river system; and

(b) calls on the Government to ensure that:

(i) water allocations are acquired such that supplies to wetlands in South Australia, including Lake Bonney, Gurra Gurra Lakes, Horseshoe Lagoon, Ross Lagoon and Murbko South Wetland are maintained, and
(ii) water management plans in the Murray-Darling Basin are consistent with sustainable extraction levels and can take into account projections of reduced inflows into the basin due to climate change.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the listing of the Murray-Darling Basin in the WWF study ‘World’s top 10 rivers at risk’,
(ii) that threats such as invasive species, over-allocation and climate change are
the reasons the river system has been listed as ‘at risk’; and

(iii) the report’s recommendations that returning significantly greater environmental flows to the river will have major benefits in reducing the prevalence of some invasive species and improving river health; and

(b) calls on the Government to begin purchasing water licences without further delay in order to return environmental flows to the Murray-Darling river system.

COMMITTEES
Selection of Bills Committee
Report

Senator PARRY (Tasmania) (3.36 pm)—
At the request of Senator Ferris, I present the fourth report of 2007 of the Selection of Bills Committee.

Ordered that the report be adopted.

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

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE REPORT NO. 4 OF 2007

(1) The committee met in private session on Tuesday, 20 March 2007 at 4.48 pm.

(2) The committee resolved to recommend—
That the provisions of the Higher Education Legislation Amendment (2007 Measures No. 1) Bill 2007 be referred immediately to the Employment, Workplace Relations and Education Committee for inquiry and report by 1 May 2007 (see appendix 1 for a statement of reasons for referral).

(3) The committee resolved to recommend—
That the following bills not be referred to committees:
- Electoral (Greater Fairness of Electoral Processes) Amendment Bill 2007
- Farm Household Support Amendment Bill 2007
- Governance Review Implementation (Treasury Portfolio Agencies) Bill 2007
- Health Insurance Amendment (Provider Number Review) Bill 2007
- Marriage (Relationships Equality) Amendment Bill 2007
- Migration Legislation Amendment (Removal of Unjust Restrictions) Bill 2007
- Primary Industries and Energy Research and Development Amendment Bill 2007

The committee recommends accordingly.

(4) The committee deferred consideration of the following bill to its next meeting:
- Migration Legislation Amendment (Information and Other Measures) Bill 2007.

(Stephen Parry)
Deputy Chair
21 March 2007

 LEAVE OF ABSENCE

Senator GEORGE CAMPBELL (New South Wales) (3.37 pm)—by leave—I move:

That leave of absence be granted to Senator Sherry from 20 March to 29 March 2007, for personal reasons.

Question agreed to.

COMMITTEES
Economics Committee
Extension of Time

Senator PARRY (Tasmania) (3.37 pm)—by leave—At the request of the Chair of the Senate Standing Committee on Economics, Senator Ronaldson, I move:

That the time for the presentation of the report of the Economics Committee on the 2006-07 additional estimates be extended to 22 March 2007.

Question agreed to.
NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 3 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, proposing the reference of a matter to the Community Affairs Committee, postponed till 28 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 22 March 2007.

CRIMINAL CODE AMENDMENT (ANTI-CHILD ABUSE AND PORNOGRAPHY MATERIALS) BILL 2007

First Reading

Senator GEORGE CAMPBELL (New South Wales) (3.39 pm)—At the request of Senator Ludwig, I move:

That the following bill be introduced: A Bill for an Act to amend the Criminal Code Act 1995 to create new offences in relation to transmitting child abuse and pornographic materials by postal or like services, and for related purposes.

Question agreed to.

Senator GEORGE CAMPBELL (New South Wales) (3.39 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 GEORGE CAMPBELL (New South Wales) (3.39 pm)—I move:

That this bill be now read a second time.

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

Leave granted.
The second part of the bill enacts a range of new domestic offences which apply for the first time at Commonwealth level. As I said, those offences are not designed to override state and territory law but to give Commonwealth agencies the full range of options that they require.

There is no question that the correct action upon identifying deficiencies in the Federal criminal law is to enact new offences to ensure there are no gaps between federal and state laws that can be exploited by criminals, including paedophiles.

THE ISSUE

I will now give a brief précis of the federal criminal law in this area which will demonstrate the gap in federal legislation.

Telecommunications Offences for Child Pornography and Abuse Materials

Firstly, the approach of the Commonwealth criminal law in relation to telecommunications offences is to create specific offences against child pornography and child abuse materials.

The 2004 Telecommunications Offences and Other Measures Act mentioned above included offences of:

- using a carriage service for child pornography material
- possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service
- using a carriage service for child abuse material
- possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service, and
- failure of an internet service provider or internet content host to inform the Australian Federal Police on becoming aware that child pornography or child abuse material is accessible through their services.

Postal Offences of Child Pornography and Abuse Materials

Secondly, the approach of the Federal criminal law in relation to import and export also creates specific offences for child pornography and child abuse materials.

Export and Import Offences for Child Pornography and Abuse Materials

There is an offence (section 233BAB – Special offences relating to Tier 2 goods) under the Customs Act in which subsection (1)(h) lists child abuse and child pornography material as a Tier 2 good, and subsections (5) and (6) create the offence for import or export respectively.

Postal Offences of Child Pornography and Abuse Materials

But when we consider the third channel of distribution under federal control, that is postal and like services, we find that there is no corresponding specific offence for the use of a postal service to transmit or distribute child pornography or abuse material.

The closest similar offence is a general offence under the Criminal Code, s471.12, which states:

A person is guilty of an offence if:

(a) the person uses a postal or similar service; and
(b) the person does so in a way (whether by the method of use or the content of a communication, or both) that reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive.

Penalty: Imprisonment for 2 years.

This is another inconsistency as it creates essentially two tiers of offences for what is essentially the same action – mailing child pornography or abuse material. Under the existing federal law, if child pornography is mailed into or out of Australia, then an offence with a maximum penalty of 10 years imprisonment and 2,500 penalty units applies, yet if child pornography is mailed within the borders of Australia, then there is no specific offence, but a general offence applies (to a maximum penalty of 2 years imprisonment, see above).

In summary then, the federal law as it presently stands treats child abusers and child pornographers differently according to their chosen distribution channel:

- if the distribution channel is through import/export, the maximum penalty is 10 years and/or 2,500 penalty units (presently that is $275,000).
• if the distribution channel is through a carriage service (such as the internet), the maximum penalty is 10 years.
• if the distribution channel is by post within Australia, the maximum penalty is two years.

Labor believes this is not satisfactory for two reasons:

1. there is an expectation that like offences be treated alike in terms of penalties. This general mail offence carries only a penalty of two years, whilst its equivalent under the Customs Act (i.e. for importation) is 10 years and $2,500.

2. the penalty under the mail offence is itself manifestly inadequate considering the gravity of these types of offence.

The Bill therefore intends to correct these deficiencies.

Labor’s Position

Labor believes that these are loopholes that need to be closed. Because a specific offence for transmitting child pornography via a carriage service, and an offence for importing and exporting child pornography by post it is simply a matter of logical extension that a specific offence for transmitting child pornography via mail within the borders of Australia be created.

Standardisation of Penalties for Existing Offences

The Bill I am introducing also contains provisions to standardise the penalties across the range of Commonwealth offences relating to child pornography and child abuse material. There is a legitimate expectation amongst the public that like offences will attract like penalties. But, as I have already noted, there is a problem in that the only Commonwealth offence which might apply for the transmission of child pornography and child abuse material by post within Australia has a maximum penalty of two years imprisonment. Again, that is plainly inadequate.

However, there is also the additional problem that the penalties for the offences under the Customs Act and the offences under the Criminal Code do not align, being ten years imprisonment and 2,500 penalty units and ten years imprisonment respectively.

If like offences are to be punished in a like manner, there should be consistency across sentencing provisions. To that end, the Bill fixes that the inconsistency, and standardises the offences to ten years imprisonment and 2,500 penalty units, which is the higher penalty, under the Customs Act. This is also the penalty that is provided for in the new offences.

ISPs and Internet Content Hosts

Finally, the increase in penalties also extends to an offence relating to breach of obligations on Internet Service Providers. ISPs and internet content hosts are presently required (under the Criminal Code) to inform the Australian Federal Police if they have reason to believe that a person is using their service to access child pornography or child abuse material.

Failure to do so presently attracts a penalty of up to 100 penalty units. The proposed Bill will raise this to 2,500 penalty units. This increase, while substantial, reflects both the same level of financial penalty that applies to the offences of transmission of child pornography, and the overwhelming community disgust at not only those who produce and distribute this vile material, but also to those who wilfully turn a blind eye to it.

While I am positive that the majority of ISPs do what is right, the offence nonetheless stands as a deterrent for those who do not, for whatever reason.

The increased penalty therefore will strengthen the deterrence, and properly reflect community opinion. As a safeguard, and commensurate with the increase in penalty, under the Bill ISPs are granted access to the defences created by sections 474.21 and 474.24.

Conclusion

Labor believes these are loopholes that need to be closed. It should not be the case that there is a specific offence for transmitting child pornography via a carriage service, and an offence for importing and exporting child pornography by post but no specific offence for transmitting child pornography via mail within the borders of Australia.

The proposed Bill would introduce new offences (and update the old offences to increase the penalties) which would correct this situation.
The offences in this bill will operate alongside state and territory offences to give more flexibility to law enforcement agencies in identifying and pursuing charges against paedophiles and child abusers. The approach of having overlapping federal and state offences will ensure that there are no gaps between federal and state laws that can be exploited by paedophile rings.

I commend this Bill to the Senate.

Senator GEORGE CAMPBELL—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

SYDNEY HARBOUR BRIDGE

Senator HUTCHINS (New South Wales) (3.40 pm)—I, and also on behalf of Senators Faulkner, George Campbell, Stephens and Foreshaw, move:

That the Senate notes:

(a) the 75th anniversary of the opening of the Sydney Harbour Bridge;

(b) the efforts of the estimated 4 000-strong unionised workforce which contributed to the construction of the bridge over a period of 10 years from 1922 to 1932, whose legacy is now an icon around the world;

(c) the significant role unions played in securing fair wages and working conditions for bridge workers; and

(d) the 16 workers who lost their lives during construction of the bridge, Sydney Edward Addison, Francis Chilvers, Alfred Edmunds, Percy Poole, James Campbell, Robert Craig, Alexander Faulkner, Thomas McKeown, August Peterson, Nathaniel Swandells, Henry Waters, Henry Webb, William Woods, Frederick Gillon, Robert Graham and Edward Shirley.

Question agreed to.

MR DAVID HICKS

Senator STOTT DESPOJA (South Australia) (3.40 pm)—by leave—I move the motion as amended:

That the Senate—

(a) notes that:

(i) March 2007 marks the one year anniversary of Mr David Hicks’ solitary confinement,

(ii) in less than 7 days, Mr Hicks will be forced to front up to a military commission process that is a sham, and

(iii) the date for Mr Hicks’ Federal Court of Australia case against the Australian Government’s inaction to protect a citizen abroad has been set for 17 May 2007;

(b) recognises the urgency for the Government to investigate reports that Mr Hicks was sedated forcibly before being told of the sworn charges against him; and

(c) calls for independent health professionals to visit Guantanamo Bay immediately to assess, first hand, its conditions and the health of Mr Hicks.

Question put.

The Senate divided. [3.45 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 32
Noes............ 34
Majority........ 2

AYES

Allison, L.F.
Brown, B.J.
Campbell, G. *
Conroy, S.M.
Evans, C.V.
Forshaw, M.G.
Hurley, A.
Joyce, B.
Ludwig, J.W.
McEwen, A.
Milne, C.
Murray, A.J.M.
Polley, H.
Siewert, R.
Sterle, G.
Webber, R.

Bishop, T.M.
Brown, C.L.
Carr, J.
Crossin, P.M.
Faulkner, J.P.
Hogg, I.J.
Hutchins, S.P.
Kirk, L.
Marshall, G.
McLucas, J.E.
Moore, C.
Nettle, K.
Ray, R.F.
Stephens, U.
Stott Despoja, N.
Wortley, D.
Senator NETTLE (New South Wales)

(3.48 pm)—I move:

That the Senate—

(a) notes:

(i) the recent attacks and beatings of Zimbabwean opposition members, including Movement for Democratic Change leader Mr Morgan Tsvangirai and Movement for Democratic Change spokesperson Mr Nelson Chamisa,

(ii) the news that Zimbabwean President Mr Mugabe is importing up to 3,000 militia from Angola to help bolster the ability of his own police force to clamp down on the opposition,

(iii) that Mr David Coultard from the Movement for Democratic Change has urged more concrete diplomatic action from Australia to help resolve the democratic and humanitarian crisis in Zimbabwe, and

(iv) that former Zimbabwean Test Cricket Captain, Mr Andy Flowers, has in March 2007 called for sporting sanctions to be imposed on Zimbabwe; and

(b) calls on the Government to:

(i) convene diplomatic meetings with other Commonwealth nations to push for further diplomatic, financial, aid and trade measures against the Mugabe regime, and

(ii) consider compensating Cricket Australia for any losses imposed on them by the International Cricket Council if they cancel their scheduled tour of Zimbabwe later in 2007.

Question put.

The Senate divided. [3.49 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 32

Noes............ 34

Majority........ 2

AYES

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

NOES

Adams, J. Barnett, G.
Bernardi, C. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
Question negatived.

TASMANIA: PROPOSED PULP MILL

Senator MILNE (Tasmania) (3.54 pm)—I move:

That the Senate—

(a) notes:

(i) that Gunns Limited, proponents of Tasmania’s proposed Bell Bay pulp mill, abandoned the independent Resource Planning and Development Commission environment assessment process, accredited by both the Tasmanian and Commonwealth Governments on 14 March 2007, and

(ii) the Tasmanian Government’s fast-track process, approved by Gunns, will not include the public and will not assess impacts on threatened species;

(b) considers that commitment to due process is vitally important; and

(c) calls on the Government to establish a public inquiry into the pulp mill under the Environment Protection and Biodiversity Conservation Act 1999, specifically including its impacts on listed threatened species, such as the Tasmanian wedge-tailed eagle.
COMMITTEES
Community Affairs Committee
Reference

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.56 pm)—I move:

That the following matter be referred to the Community Affairs Committee for inquiry and report by 12 June 2007:

Allegations that the Exclusive Brethren, including its leadership, may have been involved in:

(a) breaching Australian Family Court agreements and denying access by ex-Brethren parents to their children;
(b) ex-communicating family members;
(c) prohibiting children from their Australian right to a university education;
(d) banning unions from Exclusive Brethren workplaces;
(e) discriminating against women in Australia;
(f) the use of public monies; and
(g) any related matters.

Question put.
The Senate divided. [3.59 pm]
(The Deputy President—Senator JJ Hogg)

Ayes…………....... 4
Noes…………....... 48
Majority………. 44

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

NOES
Adams, J. Allison, L.F. 
Barnett, G. Bernardi, C. 
Bishop, T.M. Boswell, R.L.D. 
Brown, C.L. Campbell, G. 
Carr, K.J. Colbeck, R. 
Crossin, P.M. Eggleston, A. 
Evans, C.V. Faulkner, J.P. 
Fielding, S. Fierravanti-Wells, C. 
Fifield, M.P. Forschaw, M.G. 
Hogg, J.J. Humphries, G. 
Hurley, A. Johnston, D. 
Joyce, B. Kirk, L. 
Ludwig, J.W. Macdonald, I. 
Marshall, G. Mason, B.J. 
McEwen, A. McGauran, J.J.J. 
McLucas, J.E. Moore, C. 
Murray, A.J.M. Nash, F. 
Parry, S. * Patterson, K.C. 
Payne, M.A. Polley, H. 
Ray, R.F. Ronaldson, M. 
Scullion, N.G. Stephens, U. 
Sterle, G. Stott Despoja, N. 
Troeth, J.M. Trood, R.B. 
Watson, J.O.W. Wortley, D. 

* denotes teller

Question negatived.

Senator MURRAY (Western Australia) (4.02 pm)—I seek leave to make a short statement concerning the previous vote.

Leave granted.

Senator MURRAY—I do not stand to confess my sins, Mr Deputy President! Concerning the previous vote, the Democrats have the view that, whilst the Exclusive Brethren may be seen to have transgressed some laws or matters that have concerned the Greens, that is a matter for the authorities. We have the view that inquiries into a specific religious movement are not desirable. As the chamber knows, we put a reference at the last sitting which stated our position with regard to these matters.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.02 pm)—I seek leave to make a short statement on the same matter.

Leave granted.

Senator BOB BROWN—The motion that was just lost because it was only supported by the Greens was to look into allegations about the Exclusive Brethren and its leadership on a range of social issues, not political issues, to do with discriminating against women, banning unions from Exclusive Brethren workplaces, prohibiting children from their Australian right to university
education, the excommunication of family members and the breaching of Family Court of Australia directions. These are all legitimate matters for us all to be concerned about, not of a political nature but of a social nature, and I am surprised that the Greens were not supported.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (4.03 pm)—I seek leave to make a short statement.

Leave granted.

Senator CHRIS EVANS—I indicate on behalf of the Labor Party that we also opposed the motion. I thought it was going to come on for debate, but we seem to be having the debate after we have defeated the motion—but so be it. I just want to indicate that we also opposed the motion on the basis that we did not think it was an appropriate exercise of the Senate’s powers to inquire into a particular organisation. We had this debate last year. We think the concerns—some of which I share—about any activities of the Exclusive Brethren need to be investigated by the appropriate authorities, pursued in places like the Human Rights and Equal Opportunity Commission or through the courts, as has been done by a number of members. We do not think a broad, wide-ranging inquiry into an organisation or their leadership is necessarily the best use of the Senate’s powers. I fear that people like Senator Abetz might well use the precedent in a way that I would not be comfortable with, given the government’s views about organisations that do not support the government view. But I also point out that the motion, in part, says:

Allegations that the Exclusive Brethren, including its leadership, may have been involved in:

… … …

(g) any related matters.

Really, if it were a motion moved by the government into an environmental organisation, it would be rightly described as a witch hunt. Clearly, it is not a precedent that I would like to see set, and that is why the Labor Party opposes it.

CARBON DIOXIDE EMISSIONS

Senator MILNE (Tasmania) (4.05 pm)—I move:

That the Senate—

(a) welcomes the decision by the European Union (EU) to cut carbon dioxide emissions by 2020 to 20 per cent below 1990 levels; and

(b) calls on the Government to match or better the EU’s target.

Question put.

The Senate divided. [4.07 pm]

(The Deputy President—Senator JJ Hogg)

Ayes………….. 7

Noes…………. 40

Majority……… 33

AYES

Allison, L.F. Brown, B.J.

Milne, C. Murray, A.J.M.

Nettle, K. Siewert, R. *

Stott Despoja, N.

NOES

Adams, J. Barnett, G.

Bernardi, C. Bishop, T.M.

Brown, C.L. Campbell, G. *

Colbeck, R. Crossin, P.M.

Eggleston, A. Evans, C.V.

Faulkner, J.P. Fielding, S.

Fierravanti-Wells, C. Fifield, M.P.

Forshaw, M.G. Hogg, J.J.

Humphries, G. Hurley, A.

Johnston, D. Joyce, B.

Kirk, L. Ludwig, J.W.

Macdonald, I. Mason, B.J.

McEwen, A. McGauran, J.J.J.

McLucas, J.E. McLucas, J.E.

Nash, F. Moore, C.

Patterson, K.C. Parry, S.

Polley, H. Polley, H.

Ronaldson, M.
Wednesday, 21 March 2007

MR DAVID HICKS
Senator NETTLE (New South Wales) (4.10 pm)—I move:

That the Senate—

(a) notes:

(i) that Mr David Hicks remains in Guantanamo Bay despite all British prisoners having been released by request of their government, and

(ii) the failure of the Howard Government to request that Mr Hicks be released; and

(b) calls on the Government to place a request with the Government of the United States of America for Mr Hicks to be released.

Question negatived.

MATTaRS OF PULibD IMPORTANCE
Iraq

The DEPUTY PRESIDENT—The President has received a letter from the Leader of the Australian Democrats, Senator Allison, proposing that the following matter of public importance be submitted to the Senate for discussion, namely:

(a) the Government’s emphasis on troops ‘staying the course’ and meagre contribution to rebuilding efforts are in contrast to the opinion of senior defence personnel and human rights organisations who believe the solutions lie in the pursuit of non-military strategies; and

(b) due to Australia’s contribution to the conflict we have a special responsibility to assist in the rebuilding of Iraq.

I call upon those senators who approve of the proposed discussion to rise in their places.

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

We note that that motion was not supported by either of the two major parties.

NOTICES
Presentation

Senator FAULKNER (New South Wales) (4.11 pm)—by leave—I give notice that, on the next day of sitting, I shall move:

That the Senate:

(a) notes that on 22 March 2007 Gough Whitlam becomes Australia’s longest-lived elected Prime Minister;

(b) congratulates Mr Whitlam on achieving this milestone; and

(c) acknowledges his outstanding contribution to Australian public life.

SENAToR NetTle—We note that that motion was not supported by either of the two major parties.
made to allocate specific times to each of the speakers in today’s debate. With the concur-
rence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator ALLISON (Victoria—Leader of
the Australian Democrats) (4.13 pm)—After
four years of mayhem and bloodshed, the
time has now come for a new strategy on
Iraq. Mr Downer said this morning that we
should give the surge—that is, the extra
20,000 American troops going to Iraq—a
chance. Mr Howard says that this is now a
fight against terrorists and will no doubt say
today that we must stay the course until the
job is done. What they do not say is that the
fight has been a miserable, terrible strategic
failure. The war on Saddam Hussein was
won four years ago by military might and by
destroying most of Iraq’s infrastructure and
at least 60,000 of its citizens. But the war
between longstanding Sunni and Shia ene-
mies and against the occupation cannot be
quelled by the military might of the United
States and the rest of the coalition by greater
fortification of the green zone or by training
more Iraqi troops in methods of suppression.
Like the so-called war on terror, there is no
clearly defined enemy. Civilians are the big-
gest losers and the conflict is complex and
ideological. Iraqis who welcomed Saddam
Hussein’s demise now say this occupation is
far more repressive.

Australia and the rest of the coalition mis-
judged this war in Iraq from the start. There
were no weapons of mass destruction. Iraq
was no threat to any other country, much less
Australia. The UN did not give its sanction.
The Australian parliament was not part of the
decision. They also took no account of the
internal forces that would be unleashed.
There was and still is no exit strategy. The
surge of 30,000 more soldiers will not work
while the morgues are full in Baghdad and the
hospitals are overflowing with people
injured in the violence. Prisons are overflow-
ing with insurgents. It will not work while
the two million Iraqis who fled Iraq and who
are trying to survive in Syria and Jordan re-
main there. At the present time 50,000 peo-
ple every month are leaving Iraq.

The United Nations Assistance Mission
for Iraq says that 15 million Iraqis are now
considered extremely vulnerable. Four mil-
lion people depend on food assistance and
only 60 per cent have access to the public
food distribution system, 80 per cent do not
have sanitation, 70 per cent have no water,
50 per cent are unemployed and 23 per cent
of children are chronically malnourished.
There is relentless insecurity and poverty in
Iraq. Senior US military officers admitted
last week that they were not able to stop
what they described as ‘smart, agile and
cunning’ insurgents from destroying heavily
armoured vehicles and aircraft.

The people of Iraq remember the abuses at
Abu Ghraib. Iraqis did not approve of their
parliament recently handing long-term con-
rol of Iraq’s oil to foreign multinational oil
companies. They see the Iraqi government as
a puppet of the United States. According to
the Pentagon’s latest report, Measuring sta-
bility and security in Iraq, the level of vio-
lence has reached the highest on record. At-
tacks on coalition forces as well as civilians
rose to almost 1,000 a week. The military
tactics of the 200,000 or so occupying forces
for repressing the violence are not stopping
that violence. This new war cannot be won
by shooting more people.

The government talks about staying the
course until the war is won. But the Prime
Minister does not say what winning means or
how long it will take. Military experts here
and elsewhere say that this war is exacer-
bated by our presence, and the Iraqis also say
they want us out. So just what should the
new strategy be? Firstly, we say that Iraqis
must be given a time frame for troop with-
Wednesday, 21 March 2007 SENATE 95

drawal, at least by the end of the year, Australian troops should come home at the end of their current tours of duty and control of the country must be handed over to the Iraqis.

Secondly, Iraq’s sectoral leaders and neighbouring countries such as Iran and Syria must be invited to the table and they must be invited by the United Nations. Agreement has to be reached on a way forward for Iraq. This should then be put to the Iraqi people. Thirdly, the United Nations should be brought into the reconstruction effort and many more countries around the world should participate. Iraq needs hospitals, it needs power supplies, it needs water, it needs sanitation, it needs food, it needs schools, it needs housing—and it needs much more. That will be a massive undertaking, but it will probably be a lot cheaper than what the occupation has cost. A report in the Australian the other day suggested that so far $3 billion has been spent by Australia on this war, including debts waived against Iraq.

Fourthly, the broader Middle East is part of this regional strife and a peaceful, fair, two-state solution must be found for Palestine and Israel. Fifthly, Australia must make its own decisions and it must engage with the United States in a much more robust manner on Iraq. And it should engage in that sense with Britain as well. Finally, Australia must never again attack another country without the support of the United Nations and the Australian parliament, and our law in this country should reflect that. The Democrats have in fact tabled a bill in parliament that would require Australia to seek the approval of the whole parliament before ever again attacking another country.

Senator SANDY MACDONALD (New South Wales) (4.19 pm)—I am very pleased to have the opportunity to contribute to this MPI on Iraq and the way forward because it is the future that is important, not the past. It is important for Iraq, it is particularly important for the Middle East and it is important for the world generally. Australia is committed to contributing to the security, stability, reconstruction and rehabilitation of Iraq. Our assistance is at the request of the Iraqi government, which assumed responsibility on 31 December 2005 following the elections. Our assistance is endorsed by United Nations Security Council resolution 1723, passed in 2006 and extending its mandate well into 2007.

What is entirely clear is that, if the United States-led coalition were to withdraw precipitately from Iraq, it would strengthen terrorists everywhere, damage the global fight against terrorism and abandon Iraqis, including the more than 70 per cent who voted for democracy in the December 2005 election. Unilateral withdrawal from Iraq, however appealing it may appear, is a dead-end policy. The political victory of Hamas in Gaza after the Israeli withdrawal is a recent, clear Middle Eastern example of this. The tragedy of the jihadists and others in Iraq is that they are not powerful enough to govern nor strong enough to defeat the United States but they are powerful enough to spoil. Australia cannot be seen to be, nor can it be, part of any move to strengthen their aims. As an aside I think it is worth making the point that the impact of the Middle East problems on Muslims everywhere cannot be underestimated, particularly in South-East Asia and in Australia’s nearest neighbour and our friend Indonesia, which is the largest Muslim state on earth.

The Senate would be aware that on 10 January 2007 President Bush announced a new surge policy. This comprised additional troops to assist with the security situation, particularly in Baghdad, and a package of over $11 billion in additional funds for reconstruction. The Australian government
strongly supports the new security plan. We consider it is the best hope for the Iraqi people. Our desire is that the Iraqi government be given the chance to step up to the plate with this historic opportunity to provide a better life for all Iraqis—and I mean that seriously. Not only should they be given the chance to step up to the plate; they should take it. I think there is some evidence that that is now occurring. To give this historic opportunity a chance, however, the Iraqi government requires the ability to secure itself from increasing criminal and sectarian violence.

What is the progress to date? Iraq now has a democratically elected government that includes representatives from the Shia, Sunni and Kurdish populations. The new security plan for Baghdad is designed, structured and led by Iraqis with US support. The crucial part of the plan is the provision of essential services, and the Iraqi government is expected to spend around $US11 billion on reconstruction and infrastructure projects. Though early in the process, there are some indications that the coalition is disrupting the planning and operations of the terrorists and sectarian militias.

Iraq recently hosted the neighbours conference—and I take up what Senator Allison said about the importance of Iraq engaging her neighbours. The neighbours conference was held on 10 March this year. It was attended by countries neighbouring Iraq as well as other Arabic representatives and the five permanent members of the United Nations. The conference was conducted in a positive atmosphere and resulted in the establishment of working groups to deal with security, refugees and fuel supplies. Further meetings are expected to take place possibly as early as April of this year. Regional cooperation is absolutely essential not just to finding a solution to the Iraq problem but also to balance the other competing major power in the region—namely, Iran.

Additional indicators of some of the progress being made in Iraq are that over 320,000 Iraqi police and soldiers have been trained and equipped. The Brookings Institution in New York says that per capita GDP has increased by over 20 per cent since 2002. Brookings also indicate that there has been a 27 per cent increase in the number of children enrolled at high schools since before the war—that is an incredible number. Nearly 3,000 schools have been re-established since the war; crude oil production is at 2.3 million barrels per day, which is about 7½ per cent higher this quarter; oil revenues are higher than projected and latest figures show that they exceeded annual targets by $US1.7 billion in terms of barrels; electricity generation averaged 11 hours per day over the quarter across the country, which is up by two per cent on the last quarter; and 5.3 million Iraqis—which is an increase of one million people since August 2006—now have access to potable water.

What role does Australia continue to play in Iraq? We have two roles: one is our aid project and the other is the role the ADF plays in supporting the Iraqi security forces, particularly in the training of those forces. The coalition continues to make progress in southern Iraq, with two of the four provinces now under Iraqi security control. Australian troops are providing overwatch in these two provinces through the Overwatch Battle Group, are continuing to engage with local leaders and are available as back-up to the Iraqi security forces. The ADF is confident that the battle group will continue to receive the coalition support it requires to safely conduct its operations after the UK partial drawdown.

The situation in Iraq remains of grave concern but progress is being made in devel-
oping Iraqi self-reliance. We are proud of the contribution the ADF is making as part of the coalition to establish security and stability. The ADF is playing an important role in training the new Iraqi security force, providing security for Australian diplomatic missions, conducting maritime interdiction operations and air surveillance patrols, and contributing to coalition operations. Australia is also making a strong and effective contribution to the humanitarian needs of the Iraqi people and the reconstruction of Iraq.

Since 2003, Australia has contributed over $173 million in aid: $66 million towards immediate humanitarian needs and $52 million towards reconstruction in the agricultural sector, water sanitation, food supply and distribution, human rights, and law and order. Australia has agreed to forgive some $US850 million in debt. A large part of the aid program is provided through multilateral agencies such as the World Bank and the UN, which have proven operations in Iraq; and Australia has supported them.

As I mentioned, the ADF in southern Iraq also provides assistance, including the provision of water supply, health clinics, power supply, agricultural assistance, upgrading printing facilities for local newspapers and road repairs. The Australian Federal Police also has a contingent deployed to Jordan to the international police training centre in Amman assisting with training new Iraqi police recruits.

This is a big effort for Australia in helping the Iraqi people build a secure and safe Iraq. There is no way we can look back; we must look forward. We must contribute in the ways that we are both in training the Iraqi security forces and in providing the aid that is necessary to reconstruct Iraq. It is a big effort, as I said. We will continue to do it, and there are signs that there will be a very hopeful and encouraging outcome as we move forward in the next few years.

**Senator CHRIS EVANS** (Western Australia—Leader of the Opposition in the Senate) (4.29 pm)—I indicate at the start that Labor does not support the exact wording of this matter of public importance, but it is useful that the Democrats have put the matter up for debate today. I want to make some remarks about Labor’s views. I would like to start with one of the things that Senator Sandy Macdonald referred to towards the end of his speech, which is the fact that, while there is political disagreement in this country about our engagement in Iraq, there is cross-party 100 per cent support for our troops there. We know they are operating in very difficult circumstances with a very high level of professionalism. They continue to do Australia proud. Our argument is with the political decisions that govern their deployment.

Let me reiterate from the outset what Labor have been saying for many months. Labor have always been opposed to the war. We voted against Australian participation. We spoke out against the government’s refusal to abide by the United Nations charter and its defiance of the United Nations Security Council resolution, and we strongly opposed the Howard government’s haste to involve our military forces in the war. Labor’s position, and that of the millions of Australians who oppose the war, has in part been vindicated by the horrific events that have occurred since the 2003 invasion.

However, I would like to stress that the debate on this matter is very important not just because it is the fourth anniversary of the invasion of Iraq but because the Howard government’s Iraqi policies continue to feed the civil war that we are now witnessing. The Howard government’s policies have to change. Indeed, the perspective of four years...
of violence since the invasion just reinforces how wrong the government’s decision has been. Remember the Prime Minister’s reasons for going to war in the first place? He submitted multiple reasons for the ill-conceived 2003 invasion, and each and every one of those reasons has been discredited.

The Prime Minister’s first reason for justifying the invasion was on the basis of eradicate Saddam Hussein’s weapons of mass destruction. That has been totally discredited. Weapons of mass destruction were not found—they did not exist—and the invasion occurred before the United Nations was permitted to conclude its weapons inspection program.

The second reason for the war was justified by the Prime Minister when he said that military force was necessary because the international sanctions regime had failed. The Prime Minister stated:

The old policy of containment is eroding. Saddam Hussein has increasingly been able to subvert the sanctions.

That has been discredited. It is pretty rich when you realise that the Australian Wheat Board was one of those most active in discrediting those sanctions. The Australian Wheat Board rorted the UN sanctions regime to the tune of $300 million and, furthermore, allowed Saddam Hussein to buy guns, bombs and bullets with the proceeds.

The third reason that the Prime Minister advanced was that we needed to save the Iraqi people, stabilise the country and bring about democracy in Iraq and in the wider Middle East. There is no evidence that that has been delivered either. Iraq is a security mess. There is a violent civil war in Iraq. Almost half of the total violent civilian deaths that have occurred in Iraq over the last four years have occurred in the last 12 months. Mortar attacks have quadrupled since the beginning of 2006. Massive bomb blasts, killing more than 50 people at a time, have nearly doubled in the last 12 months. Fatal suicide bombs, car bombs and roadside bomb attacks have also doubled in the same period. In February 2007, weekly civilian casualties averaged nearly 1,000 a week. The Pentagon’s own statistics show that weekly attacks have increased by 15 per cent since January 2006. The Lancet estimates that over 600,000 Iraqis are dead from the war and its effects. These are terrible statistics.

What is the result? According to the UN High Commissioner for Refugees, more than 1.6 million Iraqis have been displaced internally and more than 1.5 million have fled to Jordan and Syria. These are significant numbers from an Iraqi population of some 26 million. The security of the Iraqi people has been severely diminished.

The fourth reason the PM has given to justify our role in Iraq is to fight terrorists. Again, the rhetoric does not match the reality. What is disappointing is the reluctance of the Prime Minister to acknowledge what is happening right now in Iraq. Our Prime Minister continues to misrepresent what is happening on the ground. The United States Ambassador to Iraq recently said that the ‘principal force of instability for Iraq was sectarian violence’.

A recent US defence intelligence estimate concluded that parts of Iraq were in a civil war. The evidence is now overwhelming. The classic strategic indicators of a civil war are all present in Iraq: a weak political power of the central government, increasing refugee movements, a level of societal violence and a declining national economy. Iraqi society is enmeshed in a fight between the Shiite majority and the displaced Sunni minority for the geopolitical control of Iraq. That is why Iraq requires a political solution.

Achieving a political solution requires two things—neither of which the Howard gov-
ernment has addressed. First of all it requires the putting of pressure on the Iraqi government to make the necessary political compromises and start governing in the national interest rather than pandering to sectarian interests. There is little evidence that Nuri al-Maliki’s government is willing to take on the militias that have emerged. The Mahdi Army, for example, is his power base. His administration will need to cut links with the Shiah militia death squads and the equally compromising links with Tehran.

The primary way to put pressure on the Iraqi government is to initiate a phased withdrawal of troops that makes the government assume more responsibility for what is happening to Iraqi society. Filling the gap makes for real pressure. This is precisely why Labor endorsed the phased withdrawal strategy recommended by the expert and bipartisan Iraq Study Group, chaired by former Republican Secretary of State James A Baker.

The second way to achieve a political solution is through encouraging Iraq’s neighbours, the other states in the region—like Iran, Syria, Jordan and Saudi Arabia—to help stabilise the pressure on Iraq and take a responsible and proactive interest in bringing about a sustainable peace. This means Australia should have been engaged in the Baghdad security conference which was recently held over the weekend of 10-11 March. But, despite all its rhetoric about how important Australia’s role is in Iraq, the Australian government was not invited and did not attend. Note how little comment was forthcoming from Foreign Minister Downer on the Baghdad conference. It begs the question as to why Australia did not actively engage by participating. One would have thought that it would have been in the national interest to participate and protect the interests of the Howard government’s policy of military commitment.

Prime Minister Howard said back in May 2003 that Australia would be in Iraq for weeks and not months. He ruled out additional combat deployments during the 2004 election. Despite this, the Prime Minister has constantly moved the goalposts about the role of our commitment of troops in Iraq. First it was about dealing with weapons of mass destruction. Then it was about regime change. Then our engagement was about protecting the Japanese engineers in the al-Muthanna province. And then the role of our combat troops became one of ‘security overwatch’. The bottom line is that there has never been a clearly articulated mission statement for our military deployment, just as there was never the careful post invasion planning that is essential to all military operations.

Iraq has been a disaster. The cost in monetary terms of the Australian military commitment is now over $2 billion and rising. The cost to the Iraqi people can never be measured. It is they who have suffered, and it is they who will continue to suffer unless policies change. The Prime Minister in his speech today will again claim that Australia must stay the course in Iraq—whatever that means. But he will not say how it is in our national interest to stay the course in the middle of a civil war. He will not say how he is putting real pressure on the Iraqi government to find a political solution. He will not say what the mission statement for our combat troops is. He will not say what the contingency plan is if the surge strategy fails and the United States decides to begin withdrawing its troops. Australia does not need rhetoric about the past or the future. We need the government to acknowledge the realities. What is John Howard’s plan for our troops in Iraq? Who knows? Certainly Australians do not know. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.39
The Greens support this matter of public importance, and I go back to the period in 2002-03 when the Prime Minister of this country, on his own, made a decision to involve Australia in the illegal invasion of Iraq. He made no reference to the Australian parliament, and he ignored massive protest by people in the streets of Australia’s cities. One of the forecasts from international organisations at the time was that a war could lead to the deaths of up to 500,000 civilians. When I spoke about those figures in this place, government members rolled their eyes and laughed. But that is no longer the case, because the casualties, the sheer bloodshed, the terror, the awful inhumanity, the cruelty, the beheadings and the tortures in Iraq have exceeded anything in the Howard government’s experience under Saddam Hussein. And on it goes.

We now have President Bush saying that he will send an extra 20,000 troops to Iraq at a time when countries like Poland, Denmark, Spain and, more latterly, Britain have withdrawn and are withdrawing large contingents of troops from the country. The fact is that we have seen a political imperative to try to overcome increasing odds to win a hopeless war in Iraq. It is not going to happen. But we have President Bush, night after night, changing his position to try to accommodate his failed past pronouncements on the war and, extraordinarily enough, our Prime Minister simply following in his wake. It has been a blight on this nation and the independent regard that Australians hold themselves in that we have had a cipher of a prime minister—a sheriff, as President Bush described Prime Minister Howard when he was on his way to this parliament in 2003.

I remind members that when I spoke to President Bush in our parliament in 2003 about his need to uphold international law if he were to regain the respect of the world—and he broke that law in invading Iraq—the majority voted to have me removed from the chamber. How things have changed now. In 2007 a majority of people in Australia, a majority of people in the United States and a majority of Iraqis want the foreign troops withdrawn from Iraq. The repeated, almost bleating, statements by President Bush about democracy are denied by the hubris of people like President Bush, Mr Blair and Mr Howard, who deny what the public thinks. Mr Howard is worst of all, because he never referred his plans to send a contingent of Australian defence forces, good and true, to President Bush’s adventurism in Iraq to this parliament.

They had to do that in the United States. It was debated in the United Kingdom. But here, it was a decision made by the Prime Minister, arrogantly defying the better interests of this nation. Now, some four years down the line, he does not have the stature to say: ‘I made a mistake. I should bring the Australian troops home.’ Those Australian troops, who have served this nation so wonderfully, should never have been sent to Iraq for the political reasons that the Prime Minister had, and they should be brought home now for the national reasons that are in the best interests of this great country of Australia.

If you look at the upheaval and the insecurity in Iraq, you can see that one great promise that the Prime Minister made—which was that, by fighting in Iraq, we would make the world a safer place—has turned out to be blatantly untrue. Today, on a New South Wales radio station a child read out her essay marking the fourth anniversary of the Howard government’s misadventure in involving Australia in and sending troops to Iraq. In her essay she said that she and her friends felt less safe. They were worried that their bus might be blown up. They did not have a feeling of security. They have an increased sense of insecurity because of Prime Minis-
ter Howard and in the wake of President Bush and their failure as leaders to make decisions in the interests of their nation.

This world is a less safe place. Andrew Wilkie, from the Office of National Assessments, had the courage to leave that department, to sacrifice his job and his career—and an honourable career it was—to warn that there was no evidence of weapons of mass destruction in Iraq well before the invasion began. For his trouble, he was vilified by this Prime Minister and this government. And, in the event, it has been shown that the government was wrong and, along with the Bush administration, lied to the citizenry. It has also been shown that the evidence of weapons of mass destruction was false. Prime Minister Howard said that he would not take part in a war in Iraq to remove Saddam Hussein—that he was not about regime change. So he cannot use that excuse now. What a mistake he has made. (Time expired)

Senator PAYNE (New South Wales) (4.47 pm)—Today when we look at the nation of Iraq we see a nation in the middle of a significant transformation—a transformation after decades of neglect, corruption and oppression by a brutal regime. How and whether or not we act now will determine whether that transformation can be one to a nation that can stand up and move forward. It is vital in the context of this debate, and in the view of the Australian government, that Australian troops remain in Iraq to secure and protect that reconstruction process. No one pretends that it is a simple task or a small challenge, but it is one that we are prepared to meet where we can.

In contrast to previous speakers—excepting, of course, my colleague Senator Sandy Macdonald—I want to acknowledge some of the very important things that the Australian government, our troops and our representatives in Iraq are actually doing. As the head of the national coordination for provincial reconstruction teams, US General Eric Olson, retired, is reported in the Bulletin magazine of last week as saying: A withdrawal would be devastating for a province like Dhi Qar—one of the provinces where Australia is present—

The US has decided that it does not operate in Dhi Qar anymore because it has gone under provincial Iraqi control. If it weren’t for the Australian Army, I couldn’t have a provincial reconstruction team here and we’d lose all influence and virtually all presence here.

That is a pretty clear statement about the role that the Australian presence plays in Iraq right now.

The Iraqi government itself has only been in office for just over 10 months. It is operating in an extraordinarily difficult security environment, but that government is endeavouring to work for the improvement of the Iraqi people. It is managing a range of issues like security, political and economic challenges, national reconciliation and reconstruction. In that context, the assistance of governments like Australia’s comes at the request of the Iraqi government. It is endorsed by UN Security Council resolution 1723. Our commitment is contributing to the security, the stability, the reconstruction and the rehabilitation of Iraq—and it is a commitment from which we do not intend to walk away.

What is clear is that, if the coalition were to withdraw precipitously, it would embolden terrorists everywhere—not just in Iraq. It would damage the global fight against terrorism. Most importantly, as far as I am concerned, it would abandon Iraqis—70 per cent of whom chose to vote and to exercise a democratic right, which we hold so precious, in their elections in December 2005. I cannot countenance that abandon-
ment and I cannot agree with the proposition that we would help the Iraqis by leaving.

If you examine it critically, you see that the security situation for those in the two provinces of Anbar and Baghdad—where 54 per cent of the violence is occurring—is absolutely devastating. Has that been mentioned in the chamber this afternoon by those who speak in support of this matter and others? I do not think so. It is an important statistic that gets left out of the reporting time and time again.

Our commitment to Operation Catalyst in Iraq and more broadly in the Middle East includes the Australian Joint Task Force Headquarters of about 70 personnel; a security detachment of about 110 personnel, including ASLAVs, providing both protection and escort for government personnel who work in our embassy in Baghdad; and the Overwatch Battle Group West, based in the southern Iraqi province of Dhi Qar, which comprises around 520 personnel, a headquarters, a cavalry squadron, an infantry company, ASLAVs and Bushmaster vehicles.

The men and women involved in that job are extraordinary Australians doing an extraordinary job. The timetable for withdrawal of those people should be based on conditions on the ground, as the Prime Minister and the Minister for Defence have said, not on arbitrary calendar dates. No one who says that we should withdraw or that we should pursue other options, including some of those discussed here today, is able to draw a picture of where that leaves the Iraqis. Day to day, where does that leave them? Does it leave everything to militants and terrorists, whose only desire is to bring down any foreseeable democratic process in that country? Is that what we are supposed to do? Is that the alternative with which we are left? I think not.

Our troops have a very important role in training and supporting the Iraqi security forces—previously in Al Muthanna and now in Dhi Qar province. We have recently announced an additional 70 trainers to help rebuild the capacity of the Iraqi security forces, but we cannot take our eye off the main goal of that military commitment: it is a sustainable transfer of security responsibilities to Iraqis. It is about progression for Iraq.

In terms of the humanitarian focus to which this matter of public importance refers, it is not possible—in my view, in the view of many commentators and in the view of the government—to pursue a strong humanitarian focus without security. That is why our role is so important. I go back to the words of General Eric Olson, which I mentioned at the beginning of my remarks. Our contribution has been in humanitarian terms—from immediate humanitarian needs early after 2003, towards reconstruction in the agriculture sector, in water and sanitation, in food supply and distribution, in human rights, and in law and order. A large part of that commitment has been provided through multilateral agencies like the World Bank and the UN, which have proven operations in Iraq.

I think we should acknowledge it. I think we should talk about it more. I think we should let the Australian people know more about the importance of that focus, and about its importance to the humanitarian advancement of Iraqis. There are some real success stories in all of that, because work has been able to be carried out, particularly in areas where security has been addressed. Services have been restored in large areas of Iraq, despite repeated acts of sabotage by terrorists who seek to undermine the reconstruction.

In terms of basic health services, in 2005 alone emergency campaigns immunised 98 per cent of one- to five-year-olds against
measles, mumps and rubella—something we take completely for granted in Australia—and 97 per cent of children under five against polio. We have been training staff at community based health centres, in conjunction with the international effort. More than 600 primary health care centres have been provided with ‘clinic in a box’ kits of key equipment and furniture, and 2,500 primary health care workers have been trained to expand the availability of essential primary health care services to children under five. In the agriculture sector where we work, we have done extraordinary things in training in the safe use of pesticides to help develop agriculture.

I can do little better than conclude with the words of one of our soldiers on the ground in Iraq. Quoted in the Bulletin article was Major Jason Harley, an Australian CIMIC officer, who said:

I personally think Southern Iraq can be a success story. Nation-building is a big strategic operation and civilians do it a lot better than we do, but there can’t be any reconstruction if there’s no security. We’re here to facilitate that, but at the end of the day we’ll need to transition out and the civilians can come in for full reconstruction.

That is from a person doing the job on the ground. (Time expired)

Senator HUTCHINS (New South Wales) (4.55 pm)—Yesterday marked the fourth anniversary of the excursion into Iraq, and yesterday the leader of the federal Labor Party, Kevin Rudd, said that one of his first actions on becoming Prime Minister later this year would be to speak to President Bush and ask him for an exit strategy. I do not think that is an unreasonable request for one of America’s most loyal and longstanding allies to make. We have been allies with the United States formally since the 1950s, but we have had a long relationship with them. They should understand, as I am sure their administration does, that we may not necessarily agree all the time on the actions that they take. It is only right and proper that we seek and demand what the strategy to exit Iraq should be. It is only natural that we should expect it for a military excursion like this, which has been carried out finely by our troops in that part of the world.

The greatest effort by our armed forces since World War II was in East Timor. That is where we had probably the most of our armed forces committed in one single action. Are you telling me that, over in Russell Offices and DFAT, there were not scores and scores of committees and meetings held by those honourable public servants and military officers working on an exit strategy for East Timor? Are you telling me that they were not working out, chapter and verse, what would be the next step for our men and women to come home?

We still have a military presence in East Timor, but we do not have the thousands of troops, air men and women, and sailors that we did when we first went in there, because our people sat down and worked out how we were going to get back. We did that in Vietnam. Even before the Whitlam government was elected in 1972, our troops were on their way home, because those same public servants and military officers worked out what our exit strategy was going to be. So why shouldn’t we demand to know from the United States what their exit strategy is and what ours should be? We have an entitlement to do that.

Senator Payne talked about a ‘nation of Iraq’. Iraq was created after World War I at the peace conferences at Versailles. It is as much a nation, in that part of the world, as any of the other ones created after World War I—and we have seen the disastrous consequences throughout the Middle East and south-east Europe as a result of that. We are seeing a civil war that has been underway on
and off for some time, with divisions within the Shia and the Sunni Muslims—let alone the Kurds, who have been demanding their own independence, as they have for some time. So let us not get distracted by the notion that this is about the nation of Iraq. Iraq did not exist before World War I, and it is slowly crumbling now.

Let me also point out certain issues about the exit strategy. President Bush’s father has been criticised because the neo-conservatives claim that during the first Gulf War he should have not stopped at Kuwait but continued through and dealt with Saddam. I wonder why he and his military officers and civil servants did not do that. I imagine it was mainly because the Americans did not know what they were going to do once they got there. They did not have any exit strategy. Their strategy was to kick Saddam out of Kuwait and reinstate the government that had been overthrown. They knew what they were doing there—and it was a success. The state of Kuwait still exists, its government is still in charge there and, for all I know, it is still as antidemocratic as it was before Saddam’s time there.

That leads me again to the fact that government senators have got up here and talked about that part of the world and about America, saying that it is trying to put democracy into Iraq. I wish it luck, because what has happened as a result of America’s excursion into Iraq? For a start, it now has to have relationships with some of the most autocratic and antidemocratic regimes in the world. Where are its relationships with any of these democracies in the Middle East? Maybe Professor Trood will enlighten us when he gets the opportunity to contribute to this debate. It has no such relationships. It is dealing with the most autocratic and antidemocratic regimes in the world, trying to impose—

**The ACTING DEPUTY PRESIDENT (Senator Crossin)**—Senator Hutchins, I remind you that Senator Trood has the title of ‘senator’ in this chamber and I ask you to remember that.

**Senator HUTCHINS**—I will take note of that, I am sorry, Senator.

**Senator George Campbell**—Senator Professor Trood.

**Senator HUTCHINS**—Professor Trood. It is dealing with some of the most autocratic and antidemocratic regimes in the world. One of the other reasons for our support of the actions in Iraq is associated with an understandable reaction to terror. But is the world safer? Senator Bob Brown said today that young women are ringing up radio stations in Sydney, concerned that they cannot travel on buses. Is the world safer from terrorism now? Has what has happened ended terrorism? Do we have a situation now where most of the Muslim world thinks that America and its allies are not to be trusted or, in fact, where it despises them? Are we not in a situation now where all those belonging to Western nations are slowly seeing their civil liberties eroding as a result of this conflict with terrorism? Haven’t we also seen that religion is being used now as a vehicle in ethnic struggles in Russia, China and India?

This is the result of what is going on in Iraq at the moment, and we rightly demand of the government and of our ally the United States to know what exit strategy there is. As a result of the money that is being poured into trying to prop up this regime in Iraq—they still have poverty of enormous proportions in that country—how long do you reckon it will be before the American people say to their own government that this is no longer tolerable? Maybe it will be at the next election. When do you reckon they might work out that it is more important to say,
raise test scores in Washington DC or in any other part of the United States, because of the money being diverted to actions being carried out internationally that should be carried out domestically?

I think the situation that we are being confronted with is frightening because it may mean that one of the leading democratic powers in the world, the United States, will go back into the isolationism it went into after World War I. Do we really want to see that country no longer engaging in the world? There are plenty of instances where our great ally has done the right thing—where it has used military force against the interests of other people to ensure that there were humanitarian outcomes. I think merely of what it did in Kosovo, when Dutch peacekeepers looked on while Serbs massacred ethnic Albanians. The Americans went in there and bombed them. That made the Serbs stand up, listen and stop what they were doing. The Americans are in difficulty here and it is our difficulty as well—because if we let them withdraw from their international engagements, we as a nation will suffer, as will all democratic countries in the world.

Senator Payne finished on a quote and I would like to finish on one as well. Francis Fukuyama, who wrote an article entitled ‘The Neoconservative Moment’, said:

The poorly executed nation-building strategy in Iraq will poison the well for future such exercises, undercutting domestic political support for a generous and visionary internationalism, just as Vietnam did.

(Time expired)

Senator TROOD (Queensland) (5.05 pm)—I welcome the opportunity this afternoon to contribute to this matter of public importance debate on Iraq, particularly because it seems to be wholly ill conceived. It seems to proceed on a profound misunderstanding of the nature of Australian policy in Iraq. That policy, of course, is founded on the proposition that we are engaged in reconstruction, rebuilding efforts and non-military activities in Iraq at this time. The matter asserts that we have a special responsibility for assisting in Iraq-building. One wonders who denies this. The government acknowledges that it has special responsibilities in Iraq. It acknowledges that it is a principal party to events there. It is precisely because of this acknowledgement and its determination to fulfil its responsibilities in assisting Iraq towards a politically stable and economically prosperous future that it undertakes this role.

Despite counsel coming from just about every side of Australian politics, including what we have heard in this chamber this afternoon, that we should ignore our responsibilities, neglect our friends and leave the Iraqis to themselves—in other words, desert them—in their time of greatest trial, the government’s commitment is to assist the Iraqis towards a more hopeful, stable, democratic and prosperous future. The debate on this subject in the other place yesterday and in the chamber this afternoon has tended to be preoccupied—at least among those on the other side, but not among my colleagues—with the history of Iraq. This is a pointless exercise. We have to deal with the realities on the ground that exist in March 2007. There is no point debating the past. It is irrelevant to the circumstances with which we are now confronted.

The reality is that we are facing an inter-necine struggle, a conflict, between the Sunnis and the Shiites, a remnant of the Baathist regime that is trying to reassert its position in Iraq and, most importantly, elements of al-Qaeda and its fellow terrorist travellers. These are the very same parties, the very same fellow travellers, who were implicated in the bombings in London, Bali, Madrid and New York and are supporting the insurgent cause in places all around the world. In re-
cent years terrorist activities have taken place not just in the Western world but in parts of North Africa. That is the reality we are facing, and no-one doubts that this is a volatile mix. No-one suggests that it is anything other than a very difficult and challenging situation. No-one suggests—certainly not on this side of the house—that this is anything other than a very grave set of circumstances. And no-one doubts in that context that the Iraqis are suffering as a consequence of this very difficult situation.

But where in any strategic textbook do we find the proposition that you can improve a situation of the kind that exists in Iraq today by a premature withdrawal of forces? Where in any strategic culture is the idea, the thought or the suggestion that giving a notice of intention, as it were, to leave the battlefield—to withdraw at a certain time—is considered a sensible strategy? Where in any strategic textbook is that said to be a way of advancing a position? That seems to be precisely where the opposition is coming from on this matter.

Insofar as the opposition’s position is clear, the proposition it has put to us is that, once the federal election is held and should it win government, it will begin the process of withdrawal from Iraq. So the question arises: where in the annals of strategic thinking is there a proposition that you should yield a strategic advantage by telling the enemy ahead of time that you propose to depart? Where in Chinese strategic thinking, American strategic thinking, British strategic thinking, Persian strategic thinking or even European strategic thinking is that proposition stated? Of course it is not stated anywhere. Until this moment it had not existed in the context of Australian strategic thinking either. So a proposed Rudd government is putting to us a proposition to change strategic thinking that has existed for generations—thousands of years—that is, the importance of surprise and of maintaining the initiative. It will no longer support that proposition and, instead, we will yield the battlefield. It makes absolutely no sense.

We will withdraw from Iraq in due course. We will end our commitment in Dhí Qar province and Al Muthanna. As the government has made clear, it is not our intention to remain in Iraq indefinitely. The proposition has been put by those on the other side of the chamber today that the Iraqis want us to leave. The reality is far from it. Mr Maliki told the Prime Minister last week that he wishes that Australian forces will remain as long as they can to assist his country. We will withdraw our forces when conditions permit, and when we judge that we have assisted the Iraqis as much as we can to give them a secure future and the prospect of stability.

(Time expired)

The ACTING DEPUTY PRESIDENT—Order! The time for the debate has expired.

COMMITTEES
Scrutiny of Bills Committee
Report

Ordered that the report be printed.

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

Leave granted.

Senator GEORGE CAMPBELL—I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling speech in Hansard.
The statement read as follows—

In considering the bills that come before it, the Scrutiny of Bills Committee places considerable reliance on the explanatory material that accompanies each bill, in particular the explanatory memorandum. If this material does not clearly explain the operation and impact of the legislative proposal under consideration then the work of both the committee and the Senate is made more difficult.

In the Committee’s Third Report of 2007 both the Attorney General and the Minister for Justice and Customs agreed to amend the explanatory memorandum for the Bankruptcy Legislation Amendment (Debt Agreements) Bill 2007 and the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007 respectively, to address concerns raised by the Committee. On behalf of the Committee I would like to thank the Attorney General and the Minister for these commitments.

However the Committee remains concerned that it has to regularly seek information from ministers that should be included in explanatory memorandum. This includes information on delayed commencement provisions, despite the fact that the Office of Parliamentary Counsel Drafting Directions indicate that such provisions should be explained in the explanatory memorandum. The Committee also regularly seeks advice on issues such as retrospectivity, the rationale for absolute and strict liability offences, legislation by press release, the wide delegation of powers and the reversal of the onus of proof.

Examples are included in the Committee’s Third Report of 2007, whereby Ministers have provided explanations for retrospectivity, in the case of the ACIS Administration Amendment (Unearned Credit Liability) Bill 2007, and strict liability, in the case of the Aviation Transport Security Amendment (Additional Screening Measures) Bill 2007, that are acceptable to the Committee. Had these explanations been included in the explanatory memorandum to these bills the Committee could have satisfied itself that these provisions did not trespass unduly on personal rights and liberties, without recourse to the Minister.

The Legislation Handbook developed by the Department of the Prime Minister and Cabinet states that explanatory memoranda:

“should not simply repeat the words of the bill or restate them in simpler language. The notes should explain the purpose of the clause and relate it to other provisions in the bill, particularly where related clauses do not appear consecutively in a bill. Examples of the intended effect of the clause, or the problem it is intended to overcome, may assist in its explanation.”

Despite this direction, the Committee regularly sees explanatory memoranda that simply regurgitate words from the bill or fail to explain the purpose of potentially significant trespasses on personal rights and liberties, such as the imposition of absolute or strict liability.

If legislation is to be accessible to and understood by the Committee, the Senate and the community, it is essential that those preparing explanatory material include clearer and more fulsome explanations of provisions than currently occurs. The Committee urges Ministers to ensure that explanatory memoranda are put through a rigorous quality assurance process so that they can best meet their aim of assisting “members of Parliament, officials and the public to understand the objectives and detailed operation of the clauses of the bill.” (1999, Legislation Handbook)

Question agreed to.

Public Works Committee Report

Senator PARRY (Tasmania) (5.13 pm)—

On behalf of the Parliamentary Joint Standing Committee on Public Works, I present the committee’s 70th annual report. I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—

In accordance with Section 16 of the Public Works Committee Act 1969, I present the Committee’s Seventieth Annual Report. This Report gives an overview of the work undertaken by the Committee during the 2006 calendar year.
In addition to its Sixty-ninth Annual Report, the Committee tabled 19 reports on public works, with a total estimated value exceeding $969 million. Throughout the year, the Committee conducted 36 meetings, 17 of which were public hearings.

Issues of note arising from the Committee’s deliberations in 2006 included:

- changes to the Public Works Committee Act;
- introduction of a revised Manual of Procedures for Departments and Agencies;
- the Committee’s high workload;
- the timeliness with which public works are referred to the Committee; and
- the quality of evidence supplied by referring departments and agencies.

One of the most significant issues for the Committee this year was the changes to the Public Works Committee Act. The Committee welcomed an increase to the threshold value for works which must be referred from $6 million to $15 million. The new threshold is more realistic reflecting increasing costs associated with major projects that have occurred since the figure of $6 million was determined in 1985.

Public Private Partnerships (PPPs) remain an area of concern for the Committee with the absence of a legislative framework for the referral and scrutiny of works delivered through PPP arrangements. The change in the Act expanding the definition of a ‘public work’ to include works funded through PPP or similar arrangements will hopefully go some way to addressing the issue. The Committee considered its second PPP work with Project Single Living Environment and Accommodation Precinct (LEAP) Phase One and can foresee an increase in the referral of PPP projects in the future. Subsequent to the changes to the Act, the Committee revised its Manual of Procedures for Departments and Agencies.

2006 was another busy year for the Committee tabling 19 Reports, or roughly one Report every parliamentary sitting week. The changes to the Act occurred late in 2006 and did not have a great affect on the Committee’s workload. Whilst the Committee welcomes the changes to the threshold, it does not anticipate a significant drop in number of future referrals. For example, of the 19 works considered by the Committee in 2006, only three would fall under the $15 million threshold.

At times throughout 2006, the Committee was the recipient of criticism of for delaying the consideration of projects. The Committee wishes to remind agencies that the Section 17 of the Act specifically states that, “the Committee shall as expeditiously as practicable consider each public work that is referred to it...and make a report to both Houses of the Parliament”.

The Committee cannot commit to a public hearing date until a work has been referred. It is, therefore, the responsibility of referring agencies to ensure that they have allowed sufficient time in their project schedules for the full and proper execution of the Committee inquiry process.

In last year’s Annual report the Committee commented that there was a “high degree of variance in the quality of evidence submitted to the Committee”. During 2006 the Committee noted some improvement in the overall quality of evidence presented, however in several inquiries the absence of transparency in both oral and written evidence was a concern. The Committee reminds agencies that clear and concise evidence eliminate any unnecessary clarification and questioning subsequent to hearings.

I wish to express my gratitude to all of the members of the Committee for their continued hard work and support throughout 2006. I would also like to thank the secretariat, Hansard and Broadcasting staff, and those officers in the Department of Finance and Administration who play an integral role in facilitating references and expediency motions.

I commend the Report to the Senate.

Question agreed to.

Senators’ Interests Committee
Documents

Senator WEBBER (Western Australia) (5.13 pm)—On behalf of the Committee of Senators’ Interests, I table explanatory notes for statements of registrable interests as most recently amended by the Committee of Senators’ Interests, and I move:
That the Senate take note of the document.

The document I have just tabled is intended to provide guidance to all senators in completing their statements of registrable interests. It is an evolving document which has been carefully considered by the Committee of Senators’ Interests since its establishment in 1994 and is added to or revised as circumstances require. This latest edition contains new guidance on the requirement for certain gifts over the specified threshold values, from official or unofficial sources, to be registered. The notes now state:

The source of any gift should be identified by name.

Last September, I advised the Senate that the Committee of Senators’ Interests intended to look further at the definition of registrable gifts under the resolutions and whether it struck the appropriate balance between senators’ private interests and their public duties. This undertaking arose from the committee’s consideration of a particular case that had been raised with it last year.

The committee concluded that the definition itself should stand in its current form and not depart from the principles based formulation of all other categories of registrable interests defined in the resolution. As has been stated many times, final decisions on the appropriate interpretation of the resolution are the responsibility of individual senators. Senators are responsible for making their own judgements about whether a conflict of interest exists or may appear to exist. However, the committee did agree that the explanatory notes should make explicit what was already implicit in the terms of the resolution—namely, that the source of any gifts above the reporting thresholds should be identified by name. The Registrar of Senators’ Interests will be writing to all senators to inform them of the change, and the amended explanatory notes have been posted on the committee’s website.

Question agreed to.

Finance and Public Administration Committee
Report

Senator FIERRAVANTI-WELLS (New South Wales) (5.16 pm)—I seek leave to move a motion in relation to the report of the Senate Standing Committee on Finance and Public Administration on the provisions of the Human Services (Enhanced Service Delivery) Bill 2007, which was tabled yesterday.

Leave not granted.

COUNCIL OF THE NATIONAL LIBRARY OF AUSTRALIA

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—The President has received a letter from Senator Brandis resigning his seat as a member of the Council of the National Library of Australia.

COMMITTEES

Parliamentary Library Committee
Membership

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—The President has received a letter from Senator Brandis resigning from the Joint Standing Committee on the Parliamentary Library.

AIRPORTS AMENDMENT BILL 2006
First Reading

Bill received from the House of Representatives.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.18 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 JOHNSTON (Western Australia—Minister for Justice and Customs) (5.18 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—
The privatisation of Australia’s 22 federal airports has fostered a vibrant and dynamic industry and enabled these airports to grow as commercial ventures offering improved services with minimal call for public investment or intervention.

There has been significant investment and improvement in the management of Australia’s major airports since privatisation. Capital expenditure in the billions of dollars has seen the commissioning of new runway, apron and taxiway infrastructure to cope with increased traffic and new aviation technology such as the A380. It has also seen new, expanded and renovated airport terminals to cope with increased passenger demand and to provide for a more efficient, secure and user friendly experience for passengers.

Airports are not immune from industry fluctuations and external shocks such as September 11, the Bali bombings, or the SARS scare. In order to provide for the future development of Australia’s aviation network, today’s airports need a broader business model that will enable them to weather such shocks and continue to sustain investment in maintenance and upgrading of aeronautical infrastructure expenditure.

The Airports Amendment Bill 2006 does not propose changes to the broad policy framework for privatised airports, but contains measures to fine tune the regulatory scheme in the light of experience during the first ten years of operation.

The Australian Government will continue to control planning and development on the airport sites, which remain Commonwealth land. The airports continue to be an important element of our national infrastructure.

Under the Airports Act, the lessee’s proposals for development on airport land are considered by the Minister for Transport and Regional Services. The planning scheme includes consideration at various levels: the broad strategies for land use are considered in the approval of airport master plans and environment strategies, proposals for individual major developments are assessed separately as they arise, and all building work is assessed for compliance with the approved airport plans. Requirements for public consultation are built into the processes for developing master plans, environment strategies and major development plans. Developments have included non-aeronautical development on airport land where that is consistent with the long term development of the airport as an airport.

The Government is mindful that the planning arrangements for Australia’s leased federal airports have been an area of concern for the States and Territories and some local governments, who have responsibilities for planning and infrastructure provision in surrounding areas. Input from State planning authorities, local governments and the community at large are important for the operation of the airport regulatory regime, and the Government is committed to ensuring the consultation processes in the scheme are operated effectively and ensure genuine engagement.

The Australian Government has developed consultation guidelines which complement the amendments proposed in this bill. The guidelines have been developed in order to promote the meaningful exchange of information and views between the operators of the privatised airports and stakeholders on all land use, planning and development proposals. They were developed following extensive consultation with the operators of the leased airports, State and local planning authorities and a variety of Australian Government agencies. The Australian Government takes very seriously the views of the community in relation to airport development and through these guidelines and the amendments being proposed by this bill, expects airport operators to clearly demonstrate how they have had due regard to comments made during the public comment periods on master plans, major development plans and airport environment strategies.

Most of the proposed amendments in the bill arise from a comprehensive review of the Airports Act
1996 undertaken in 2003-04. In addition to public consultation, comprehensive discussions were held with the operators of the leased airports and affected Government agencies in developing these proposals.

A number of the proposed changes centre on improving the workability of the current planning and development approval provisions detailed at Part 5 of the Airports Act.

The bill proposes to reduce the statutory public comment and assessment periods for airport master plans, major development plans and environment strategies, bringing them more into line with State and Territory planning regimes. It also requires airport lessee companies to make their planning and development documents readily available in an electronic format free of charge. This not only provides for timely public access to these important documents but facilitates distribution between interested parties and assists in their analysis for example by allowing the use of electronic search tools to locate particular words and phrases in what are often substantial documents.

The changes to the public consultation periods are consistent with the Government’s commitment to reduce regulatory burdens on business, mirror the streamlining processes embraced by other jurisdictions, and recognise the maturing of both the airports in preparing these documents and the public in assessing them.

The bill also provides for the introduction of a ‘stop-clock’ mechanism where further information is required during the assessment of plans and strategies. This approach not only enhances the already transparent approval process of these important plans but will encourage airport-lessee companies to provide more comprehensive planning documents, in order that they may benefit from the streamlined approval process.

Recognising the significant increase in construction costs over the last decade, the dollar threshold for requiring major development plans is to be increased from $10 million to $20 million. For the purposes of the threshold, the costs of constructing a new building will include the costs of activities associated with the building’s construction (e.g. demolition, excavation, removal and site preparation and remediation). An appropriate cost inflator will be included in supporting regulations so the Airports Act does not have to be amended periodically to adjust the threshold.

Provision is also being made to ensure that public and local planning authorities are provided with improved information regarding aircraft noise exposure levels and indicative data as to the location of close-in flight paths used to develop noise exposure forecasts.

It is also proposed that where a proposed major development has been approved construction must be substantially completed within five years of the approval being given, or else the approval lapses.

Earlier this year the Productivity Commission commenced a public inquiry to examine the effectiveness of the price monitoring regime in place for airport services at the seven price monitored airports. To facilitate the timely introduction of any changes flowing from this review supported by the Government, an amendment is being made to the Airports Act that will provide for future monitoring arrangements to be addressed through amendment to regulations.

With the Federal Court of Australia recognising in February 2005 that contemporary airport developments can include both aviation and non-aviation uses, in the decision in Westfield Management Limited v Brisbane Airport Corporation Limited [2005] FCA 32, the bill clarifies the clear intention of Government to provide for non-aeronautical development on the airports, within the careful regulatory parameters of the Airports Act. Non-aviation developments can only be permitted where consistent with the airport master plan and do not prejudice the future development of the aviation uses at the airport.

The bill includes an amendment relating specifically to planning arrangements at Canberra Airport. Canberra Airport, unlike the other leased airports, has been subject to a dual planning regime involving both the Airports Act scheme and the planning provisions of the National Capital Plan under the Australian Capital Territory (Planning and Land Management) Act 1988. It is proposed to remove Canberra Airport from the operation of the National Capital Plan and place it on an equal footing with the other privatised airports.
Other minor technical amendments will:

- enable airport-operator companies to update their respective Airside Vehicle Control Handbooks, thereby allowing them to deal promptly with issues related to the operation of airside vehicles, rather than through the current regulatory amendment process;
- allow for scope in the future for additional providers of air traffic control and rescue and fire fighting services at the leased airports. Any such future provider would be subject to Civil Aviation Safety Authority regulatory approval and safety licensing; and
- enable the 5% limit on airline ownership at the non-core regulated airports to be removed to improve the pool of available investment funds.

These amendments and the consultation guidelines implement several recommendations arising from the Senate Committee Inquiry into the Development of the Brisbane Airport Corporation Master Plan.

The bill represents a balanced and measured package of changes which recognise the importance of aviation to national and regional economies while also respecting the rights and interests of those affected by airport development.

Senator JOHNSTON—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUDGET

Consideration by Legislation Committees Reports

Senator PARRY (Tasmania) (5.19 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports from standing committees, except the economics committee, on the 2006-07 additional estimates, together with the Hansard record of the committees’ proceedings and documents received by committees.

Ordered that the reports be printed.

ENERGY EFFICIENCY OPPORTUNITIES AMENDMENT BILL 2006

In Committee

Consideration resumed.

(Quorum formed)

The TEMPORARY CHAIRMAN (Senator Hutchins)—The committee is considering the Energy Efficiency Opportunities Amendment Bill 2006 and amendment (8) on sheet 5179, moved by Senator Milne. The question is that that amendment be agreed to.

Senator MILNE (Tasmania) (5.22 pm)—When the debate was adjourned for the lunchbreak today I was speaking on the need for Australia to establish an energy savings fund to look at providing funding to encourage energy savings and raise public awareness, to look at cost-effectiveness and to stimulate investment in innovative energy-saving measures. I consider it a completely unbalanced approach that the government is focused entirely on supply and not on reducing demand for energy.

For example, the government has recently announced its ban in relation to light globes. I am very pleased that we are going to see a transition to more energy efficient light globes. But what the government has not considered is the fact that many of the new varieties of light globes have mercury in them and also trigger epilepsy in a number of people. So there will be serious issues with the introduction of these. There will need to be some exemptions for people with medical conditions. Also, there may well need to be a deposit component so that you are required to take cradle-to-grave responsibility for these light globes.

If you had this kind of fund, it could fund the necessary research, policy development and so on for energy-saving devices, and there are endless numbers of them. There are
different ways of reducing energy. We are going to have the rollout of smart meters—to whatever extent that occurs. I am unsure as to the level of commitment the government has to them. And of course we have all the issues surrounding mandatory energy performance standards, changes to the building code and so on. If we had such a fund, a whole range of innovative measures and technologies could be looked at.

It is exactly the same principle as a low-emissions technology fund to look at the supply side. I propose such a fund to look at the demand and energy efficiency side. It is quite a straightforward proposition, and I would be interested to know why the government is opposing setting up a fund for energy efficiency when it has in principle agreed with the notion of setting up a fund to increase renewable energy. Even though that has been distorted, it is still an in-principle decision to support the supply side but not the energy efficiency side.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.25 pm)—The Democrats will support this amendment, but I do want to caution against this approach. It is our preference for there to be energy efficiency trading rather than a levy system, which would have its own particular problems. As someone who negotiated $400 million in the Greenhouse Gas Abatement Program, I frankly do not believe that it is reasonable any longer to ask governments to do this, or at least not some governments. This one has managed to spread that money over a very long time frame. Some of the money is being spent on administration. The projects that were funded were only low-risk projects. There has been lost innovation and very poor demonstration projects at the end of the day.

I do not know that it is the best way to achieve the outcome that we are looking for, but I think Senator Milne recognises that. In many ways it sounds a good kind of project, but in some respects it is the fault of what this government does—gives grants and handouts for things which are not necessarily universal and which do not deliver the change that more structural changes might. Having said that, we will not oppose the amendment, but I think that the history of such proposals shows that there are better ways of doing it.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (5.27 pm)—Likewise the government does not believe that a levy which effectively is an energy tax is the appropriate way to progress this matter and therefore will not be supporting the amendment.

Question negatived.

Senator Milne—Mr Temporary Chairman, can I have it recorded that both the Liberal Party and the Labor Party opposed that amendment, and that only the Greens and the Democrats supported it.

The TEMPORARY CHAIRMAN (Senator Hutchins)—You can have your votes recorded.

Senator MILNE (Tasmania) (5.28 pm)—I now move Australian Greens amendment (9) on sheet 5179:

(9) Schedule 1, page 4 (after line 25), after item 6, insert:

42 Review of operation of Act

Add:

(1) The Minister must cause an independent review of the operation of this Act to be undertaken as soon as possible after the fifth anniversary of the commencement of Energy Efficiency Opportunities Amendment Act 2007.
(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 fifth anniversary of the commencement of the Energy Efficiency Opportunities Amendment Act 2007.

This relates to an independent review of the operation of the act to be undertaken as soon as possible after the fifth anniversary of the commencement of the act. It requires that there be a written report of the review and that a copy of that review be tabled in each house of parliament within 12 months after the fifth anniversary of the commencement of the act.

There is a need for an independent review. We have had enough evidence over a decade of the government being in power—undertakings that were made that did not come to pass—to show that you need independent reviews of the operations of many of these pieces of legislation, as Senator Allison just indicated. We want to make sure that there is an independent review so that there is an honest appraisal of the effectiveness of this legislation. The government has refused to mandate implementation of energy audits and only requires that the audits be carried out, not that action has to be taken. As such, there has to be some assessment of the legislation’s effectiveness and of what energy savings have been made so that we can move to the next step. It is inevitable that there will be mandated implementation.

The independent review will occur after five years. Frankly, I would like to change it to a review after one year and would be happy to take an amendment to that effect if the government would support it. Five years is a very lenient time frame. We need to know who is right. The government is saying that you do not need legislation making it mandatory for companies to implement these audits. It is clear that both the Democrats and the Greens believe that you do. After 12 months or so, let alone five years, it should be obvious. Nevertheless, there is a strong argument for an independent review of the operation of the act.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (5.31 pm)—The government does not support the amendment. There is an evaluation time line in the explanatory memorandum of the act. The government sees this as an ongoing program that should be subject to continuous improvement. I agree with Senator Milne, though, that because of the public reporting that we talked about earlier it should be evident in a year or so how effective this measure has been in reaching the outcomes that we are seeking. There is public reporting of the outcomes on an annual basis, so there is effectively an annual review process of the effectiveness of this legislation. With the review and evaluation process that was noted in the explanatory memorandum, the government sees that it has the procedures in place to effectively consider the continuous improvement of this process and therefore does not support the amendment.

Senator MILNE (Tasmania) (5.32 pm)—I would like Senator Colbeck to clarify how the ongoing review—as he has described it—is going to let us have some insight into this. My understanding is that the review will be of compliance with the need to conduct an audit and not of what amount of energy savings have been achieved as a result of the audit being in place. The whole point here from my point of view is that we need to know whether conducting an audit is sufficient to change behaviour, result in investment and achieve outcomes in energy savings. We do not want a review that simply tells us that X number of companies con-
ducted their audit. That is an administrative detail. I would like to know from Senator Colbeck what we are going to be told. At the end of 12 months, are we going to be able to see exactly how much energy was saved as a result of the implementation of the audit?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (5.33 pm)—Companies, as well as reporting the efficiencies that they see might be achieved, are also required to report which energy savings they are going to implement. So there is a two-fold process there that provides for public disclosure of both the identified savings and the actioned savings.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (5.35 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a second time.

AIRSPACE BILL 2006

AIRSPACE (CONSEQUENTIALS AND OTHER MEASURES) BILL 2006

Second Reading

Debate resumed from 20 March, on motion by Senator Colbeck:

That these bills be now read a second time.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING AMENDMENT BILL 2007

Second Reading

Debate resumed from 20 March, on motion by Senator Coonan:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

(Quorum formed)

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.37 pm)—I table a supplementary memorandum relating to the government amendments to be moved to the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007 and a correction to the explanatory memorandum. The memorandum was circulated in the chamber on 20 March 2007. I seek leave to move government amendments (1) to (4) on sheet QS416 together.

Leave granted.

Senator JOHNSTON—I move:

(1) Clause 2, page 2 (table item 6), omit the table item, substitute:

| 6. | Sched- | The day after this Act receives the Royal Assent. |
|----|ule 1, | |
| to 57 | item 6A | Immediately after the commencement of item 56 of Schedule 1 to the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006. |
| 13 December 2006 |  | |
68. The day after this Act receives the Royal Assent.

(2) Schedule 1, page 8 (after line 32), after item 23, insert:

23A Paragraph 127(3)(b)

Omit “or 133”, substitute “, 133 or 133A”.

(3) Schedule 1, page 11 (after line 22), after item 40, insert:

40A At the end of Division 4 of Part 11

Add:

133A When the Director-General of ASIS may communicate ASTRAC information to a foreign intelligence agency

(1) The Director-General of ASIS may communicate ASTRAC information to a foreign intelligence agency if the Director-General is satisfied that:

(a) the foreign intelligence agency has given appropriate undertakings for:

(i) protecting the confidentiality of the information; and

(ii) controlling the use that will be made of it; and

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and

(b) it is appropriate, in all the circumstances of the case, to do so.

(2) The Director-General of ASIS may, in writing, authorise an ASIS official to access the ASTRAC information and communicate it to the foreign intelligence agency on the Director-General’s behalf.

Note: For variation and revocation, see subsection 33(3) of the Acts Interpretation Act 1901.

(4) Schedule 1, page 15 (after line 12), before item 58, insert:

57A Subsection 3(1) (at the end of paragraph (e) of the definition of non-reportable cash transaction)

Add “that occurred after the commencement of Division 3 of Part 3 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006”.

The government amendments are very straightforward. These are two substantive amendments: (1) and (4) are related and (2) and (3) are related. As I have said, amendment (1) is consequential on amendment (4). Amendment (1) amends the commencement clause table in clause 2 of the bill. The amendment relates to item 57A of the schedule to the bill. Amendment (1) will give amendment (4) retrospective commencement from 13 December 2006. I will explain the justification for this retrospective commencement when discussing amendment (4).

Amendment (2) is consequential upon amendment (3). Amendment (3) permits disclosure of the ASTRAC information under a new section 133A of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. Amendment (2) ensures that disclosure of the ASTRAC information under the new section 133A is an exemption to the prohibition on disclosure pursuant to the terms of section 127 of the act.

Amendment (3) inserts a new item, item 40A, into the amendment bill. Item 40A inserts a new section, section 133A, into the Anti-Money Laundering and Counter-Terrorism Financing Act, permitting the Director-General of the Australian Security Intelligence Service, ASIS, to communicate ASTRAC information to a foreign intelligence agency. ASIO has a similar power and we are simply mirroring that provision. This amendment is to ensure that ASIS, as a designated agency, can use ASTRAC information to fulfil its functions. As I said, proposed section 133A mirrors section 133, which
gives the Director-General of Security power to communicate AUSTRAC information to foreign intelligence agencies.

Amendment (4) removes the unintended outcome—and this is almost housekeeping—from the earlier amendment of the definition of ‘non-reportable cash transaction’ by item 56 of the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006. Item 56 of the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act narrowed the definition of ‘non-reportable cash transaction’ under the Financial Transactions Reporting Act to a transaction under that act. This was to ensure that there were not two identical provisions running at the same time. The restriction is not necessary, as the provisions of the Anti-Money Laundering and Counter-Terrorism Financing Act were not to commence until December 2008. Accordingly, an error has been made, and we seek to make the provision retrospective for the intervening months between December and now such that those offences will be offences pursuant to the Anti-Money Laundering and Counter-Terrorism Financing Act.

Amendment (1) thereby makes the amendment in amendment (4) retrospective. As I said, the reasons for that are set out in the supplementary explanatory memorandum that I have tabled. Retrospective application is justified because the offence of structuring was a pre-existing offence in the Financial Transactions Reporting Act. It was always intended that such conduct remain illegal, notwithstanding the provisions in the Anti-Money Laundering and Counter-Terrorism Financing Act being proclaimed as not to commence until December 2008. Retrospective application in those circumstances will remove any gap in time in the ability to prosecute such conduct, which was an unintended effect of the original amendment. The period of retrospectivity will only be for the period 13 December last year to the date of commencement of this bill, which we anticipate being not too long after it passes the Senate.

Senator NETTLE (New South Wales) (5.44 pm)—Thanks for going through that process. Hopefully, we can vote on the amendments separately because the Australian Greens do not have any objection to the technical corrections that the minister outlined but, as I raised in my second reading debate speech, we have questions about the power for ASIS to have access to AUSTRAC that is proposed in this legislation. So I have questions for the minister about how this has come to be in place. As I said in my second reading debate speech, ASIS was not mentioned at the time that we dealt with the first piece of anti-money-laundering legislation as an organisation to which it was intended to provide access to AUSTRAC.

My questions relate to when it became apparent that ASIS needed that access. There was no discussion at that time that ASIS needed that access. Now we have this proposal, but we have not had any explanation as to why there is this need for ASIS to have that access. Perhaps the minister is able to explain how this came about. Was it something that ASIS asked for? Was it something that the government identified?

As the minister also indicated—and as I mentioned in my second reading debate speech—ASIO and AFP already have access to AUSTRAC. I do not understand why, therefore, it is necessary for ASIS to have access to AUSTRAC as well. In all of the information that is available about ASIS—which is quite limited in the public realm—it is clearly indicated that their job is to be Australia’s overseas spy agency rather than spying on Australians. This has been the history.
of ASIS for a long time. The government’s reports on what the various different intelligence organisations do quite clearly indicate that ASIS is not a law enforcement organisation. With respect to the financing of terrorism, which we want to crack down on, the AFP is able to do that. So if the minister is able to indicate how it came to be that the government thought there was a need to add ASIS, that would be appreciated.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.47 pm)—The situation is that AUSTRAC is not a law enforcer; it is an intelligence-gathering agency and a regulator. In the circumstances of having ASIO have the information, there is a lot of synergy between ASIO and ASIS. ASIS carries out a number of similar functions. It was always intended that there would be a capacity to provide the sort of intelligence gathered by AUSTRAC through its monitoring and anti-money-laundering capability to foreign governments. In some circumstances, it is the case that ASIS has a better capacity to provide that intelligence and to utilise that intelligence. We are simply expanding the capacity and capability to disseminate the information to the benefit of fighting money laundering.

Senator NETTLE (New South Wales) (5.48 pm)—My question is not just about amendments (2) and (3) on the government sheet about communications to foreign intelligence agencies. In relation to that specifically, why is it necessary, given that under the present act ASIO, AFP and the Australian Crime Commission have access to AUSTRAC and the capacity to provide such information to a foreign intelligence agency? That is my understanding. Perhaps the minister can correct that. I understand that AFP, ASIO and the Australian Crime Commission, who already have access to AUSTRAC, can communicate that to foreign intelligence agencies. Perhaps the minister can check for me whether that is correct. If that is correct then why the need for ASIS to have access?

But my questions are more general than that because, whilst we are dealing at the moment with just these government amendments, a substantial part of the actual legislation that we are dealing with is about the granting to ASIS of access to AUSTRAC. That is a more general question that is not specific to these amendments. Why is that the case, effectively? How did this come into play?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.49 pm)—ASIS has a function to perform and has relationships with sovereign governments and the intelligence services of sovereign governments. The genesis of money laundering which would affect Australia occurs inside these sovereign nations. We have no capacity to carry out enforcement et cetera in such countries. ASIS simply provides the intelligence, and in order to provide the intelligence it has to have the same level of access as set out in 133. So we have given ASIS that power such that it may pass on the information necessary to enable that sovereign power to arrest—and I use that word generally—money laundering or the beginnings of money laundering using the information we provide.

Senator NETTLE (New South Wales) (5.51 pm)—I ask the minister: how can the government ensure that any information from AUSTRAC passed on by ASIS—or, indeed, by any of the agencies—to foreign intelligence agencies will not be used by such foreign intelligence agencies in the abuse of human rights? This is a question I have asked in a number of other realms. What systems are in place to ensure that any information from AUSTRAC, which goes to whichever of the intelligence organisations that then passes it on to foreign intelligence agencies,
will not be used in the abuse of human rights overseas? I accept what the minister is saying. Your answer was, ‘We have no control over what they do.’ What about the information that we pass on about the finances of Australians or Australian businesses? How can we make sure that that is not used in human rights abuses overseas?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.52 pm)—If we tailored all of the legislative framework that we seek to enact such that we can monitor and assist sovereign nations upon the basis that they will not exercise their sovereign power, rightly or wrongly, we will receive no benefit from these enactments. Whether they will choose to use the information in the abuse of human rights—which I think, with great respect to Senator Nettle, is extraordinarily remote, given that this is about money accounts and flows of money to the protection of Australia—I think is a question which is extraordinarily moot and obscure. If the senator would like to give me an example, I am sure I can take you through it. But the point of the exercise is that this intelligence agency is going to receive information from AUSTRAC pursuant to the terms of the act and provide it in the intent of protecting Australia from money laundering. I am not sure that the purview of human rights comes into that question at all, and I would be interested to hear an example of how you anticipate that would apply.

Senator NETTLE (New South Wales) (5.53 pm)—I will explain it. I understand what the government is proposing in terms of passing over information around financial transactions of Australians or Australian businesses. The question is about when that information is handed over to foreign intelligence agencies; it is about how they use it. I am not making a claim about how Australians may use that information; I am talking about when it is handed over. As we know, there are a whole range of different types of foreign intelligence agencies of varying degrees which Australia would support or raise questions about, so it is about that. I suppose it is in a number of defence arrangements with other countries—for example, we might put in provisions to say we are going to export this equipment but it will not be used in the abuse of human rights. The government has sought to do that in a range of circumstances, and this question is about whether there is anything in place to ensure that could occur with the information that is handed over. I am not questioning the Australian authorities; I am talking about when a foreign intelligence agency has been provided with information from Australia. Are there any guidelines in place about how that information is used? Maybe the answer is no. I am just asking and trying to understand because we have that capacity in other arenas—such as with defence. Can we do it in this arena?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.55 pm)—I am obliged to the departmental officers who have provided me with two basic explanations for that. As an intelligence service, ASIS is controlled by the Intelligence Services Act 2001—and I am sure Senator Nettle is well aware of the provisions as to how that intelligence service conducts its operations, as to how the privacy of Australians is protected and as to how it uses the information that it obtains in the nature of doing its business. The second aspect is that the Intelligence Services Act also controls and prescribes obligations on the agencies with whom ASIS does business. Under section 13, the approval of the foreign affairs minister is required before ASIS can cooperate with authorities of other countries—you will have to forgive me; my knowledge of that act is not as good as it should be. It seems to me it is very unlikely that the for-
eign minister is going to empower ASIS to hand information over in circumstances where there is likely to be some abuse. Again, I would be interested to hear some examples. I think your defence example, with respect, is not entirely relevant to information or intelligence relating to the movement of moneys.

Senator Nettle (New South Wales) (5.56 pm)—Thank you to the minister for raising the issue of the Intelligence Services Act because it was an issue that I addressed in my second reading debate speech and I have some questions on it. Section 11(1) of the intelligence act talks about the functions of ASIS—and this is what I talked about in my second reading debate speech. It says they are:

... to be performed only in the interests of Australia’s national security, Australia’s foreign relations or Australia’s national economic well-being and only to the extent that those matters are affected by the capabilities, intentions or activities of people or organisations outside Australia.

My question is: will the foreign minister have to amend, or make any new rules regarding ASIS’s use of information about Australians through their financial transactions as proposed in this legislation, this section of the Intelligence Services Act? Perhaps I can flag the two sections for the officials and the minister: section 11(1) of the Intelligence Services Act and section 15, which I mentioned in my second reading debate speech and I have got questions about now. The first question is about section 11(1) of the Intelligence Services Act. Will the foreign minister need to make any new rules regarding ASIS’s use of the information that is being proposed in this legislation under the Intelligence Services Act?

Senator Johnston (Western Australia—Minister for Justice and Customs) (5.58 pm)—To go on with your issue of safeguards generally, before agreeing to the communication of AUSTRAC information to overseas agencies, the Director-General of ASIS—and this is within the legislation itself—would need to be satisfied that the foreign intelligence agency has given appropriate undertakings for protecting the confidentiality of the information, controlling the use that will be made of it and ensuring that it is only used for the purpose for which it is communicated. In addition, the director-general would need to be satisfied that the communication of the information is appropriate in all of the circumstances of the case.

Further to this, there is oversight by the Inspector-General of Intelligence and Security, IGIS. As you well know, Senator Nettle, this is an important accountability mechanism which operates independently of government and has extensive investigative mandatory powers. Further to that, the Parliamentary Joint Committee on Intelligence and Security is another oversight body and accountability mechanism for ASIS.

I note that you have suggested in the past that the IGIS is underresourced and understaffed. In recent years the government has considerably enhanced the appropriations for those bodies, particularly ASIS and the IGIS. There has been a substantial boost in the resources of the office of the inspector-general in line with its increasing function and the operational intensity of the agencies it oversees.

It is quite untrue to suggest that the inspector-general has to wait for complaints in order to be an effective oversight and accountability mechanism. My understanding is that the inspector-general is very proactive in this area. He is an independent person who is completely separate from the agencies and, as I said, from government. He takes his role seriously and provides independent assurance to the Australian government, the par-

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liament and the community that the security intelligence agencies conduct their activities according to the law, behave with propriety, obey ministerial guidelines and directives, and respect human rights. In the scheme of what I have asked you to explain—the mischief—I feel very comfortable that there is no problem with respect to this aspect of your complaint.

Senator NETTLE (New South Wales) (6.00 pm)—I will move on to the Intelligence Services Act, which the minister raised. The question that I asked was: under that act, will the foreign minister have to make any amendments or new rules regarding ASIS’s use of information under this legislation? You raise the issue of the Inspector-General of Intelligence and Security, IGIS. My understanding is that the access to AUSTRAC information by not only ASIS, under this legislation, but also ASIO, under the previous legislation, is not something that a person knows is occurring. If those agencies have access to information, through AUSTRAC, about somebody’s financial transactions, it is secret in the sense that that person or that business does not know that it is occurring. The way I understand the role of IGIS is that people can make complaints to IGIS about the activities of ASIO. If they do not know that ASIO or ASIS is accessing information about their financial transactions then how can they make a complaint to IGIS? If the minister could address that, that would be appreciated.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.02 pm)—With respect to the foreign minister, I think the answer to your question is that there is no need for any legislative amendment that would enable him to further carry out those powers. He is able to do that on the basis of the legislative framework as it now stands. If, Senator Nettle, you think that notice should be provided prior to accessing accounts, I suggest that your opposition to the bill is so fundamental as to mean that you do not agree that we should be pursuing anti-money laundering at all. That is the essence of what you seem to be saying.

Senator NETTLE (New South Wales) (6.03 pm)—I could give my speech from the second reading debate again if the minister wants to hear what the concerns of the Australian Greens are. I note that in the minister’s contribution to the second reading debate he did not address any of the issues that I raised. In my speech I said that the Greens do not have a concern. Obviously we do not—and I have said this many times before. Everyone wants to ensure that we do not have the financing of terrorism going on, but we want to ensure that any legislation that we bring in to implement that proposal is designed to deal with the financing of terrorism.

We have raised concerns before about the definition of terrorism that is used, because we think it is too broad. Our concern in relation to this legislation is something that I dealt with in the debate on the first round of the anti-money-laundering legislation, which was that it allows the banks to set up a system of risk management. It is their responsibility to make sure that they are not involved in the financing of terrorism. It outsources that responsibility to the banks. Then the banks are exempt from antidiscrimination legislation, which means that they can set up a system whereby anybody who has an unusual or ethnic sounding name can legitimately be caught up in the banks’ risk management assessment and the assumption can be made that they are financing terrorism.

I have raised examples of this before. One was the Iranian woman who was running a restaurant. The banks assumed, because she had regular payments going to Iran—to get dates for her restaurant that she runs here—
that she was financing terrorism. The assumption was that she was financing terrorism. The other example that I raised was the record store in Melbourne which is called the Shining Path—the same name as the Peruvian organisation. The owner’s finances were shut down and frozen for months. It was only when he went to the media that he could get any action from the government to unfreeze those resources. Nobody is saying that we do not want to ensure that we stop the financing of terrorism, but we want to have laws that are designed specifically for that purpose. Our concern has been that these laws are not narrow enough. That is the general concern that I have had about both this piece of legislation and, most importantly, the earlier anti-money-laundering legislation.

My concern about this legislation, which I addressed in my speech in the second reading debate, was why ASIS should now have access to AUSTRAC. There are 30 other organisations that have access to AUSTRAC. That happened under the previous legislation. This piece of legislation has been billed by the government as being technical amendments. Apart from this issue, they are technical amendments, and the Greens are happy to support them. We think that the changes to do with liability are an improvement, but our question is: why does ASIS have access to AUSTRAC? This is a technical amendment bill. Were they forgotten? Was it intended that they would have access or has it been requested subsequently? Given the information that is available in the public realm and given the fact that—as you have said yourself, Minister—they are an organisation for spying overseas, not for spying on Australians, how does that responsibility link in with having access to the financial records of Australians? It is not obvious, and that is why I am asking the questions.

In answer to the question on IGIS, in these circumstances the government’s response is often that we can ensure that things are operating properly because of IGIS. I accept what the minister says about the capacity for IGIS to initiate an inquiry. If the minister were able to elaborate on that at all, that would be appreciated.

One of the other rationales that is often put up is that people can complain to IGIS. But if you do not know that you are being treated in this way then you are not able to complain. So this is my question: how can IGIS provide that genuine oversight if people cannot make complaints to them because they do not know? I am not saying that they should not be able to; I am questioning the government’s logic around saying that IGIS is a safeguard. How can IGIS be the safeguard if people do not know that they are the subject of intelligence organisations’ scrutiny and therefore able to make a complaint to IGIS? That is the way IGIS has been proposed: as a complaints forum. How can that operate if you do not know and therefore are unable to make a complaint?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.08 pm)—Senator Nettle, if a person comes under the scrutiny of AUSTRAC and the movement of the money is legitimate, they will probably never know because they will never be charged. If they do know, how are they any better advanced? The end result is that this system depends upon the capacity to record data. AUSTRAC intelligence will be used in criminal investigations by a range of law enforcement agencies, including the Australian Taxation Office, the Australian Securities and Investments Commission, the Australian Prudential Regulation Authority, the Australian Security Intelligence Organisation and now ASIS et cetera. Its information will not support a prosecution. At best, it will lead to a further investigation. So this is an intelligence-gathering mechanism. If you disclose that you are gathering intelligence, it
ceases to have any meaningful contribution to the overall inquiry; I suggest to you.

With respect, I have told you of the safeguards. I have sought to allay your fears, and I know that you have raised these issues before. Mr Temporary Chairman, I suggest to the senator that her opposition is to the fundamentals of this bill, given that it provides for ASIO to do the same thing already and that we are simply completing the circle of intelligence services that can utilise AUSTRAC information and provide it to other sovereign powers to our benefit. If the senator cannot come to terms with those matters, I respectfully suggest that she is opposed to the fundamentals of the collection of data in the fight against money laundering. I am still waiting to hear of an example in which the human rights issue has occurred or there has been some abuse. The senator can attend committee meetings and the senator can ask questions at question time on these matters. I note that I do not think any of that has occurred. I suspect, with respect, that we are taking a point here that is so obscure as to really suggest, Senator Nettle, that you are simply opposed to the direction and object of the bill.

Senator NETTLE (New South Wales) (6.11 pm)—As I have indicated, there were two examples that I gave in my speech in the second reading debate on the first tranche of the anti-money-laundering legislation. I will briefly, off the top of my head, outline what they were. There is a record store in Melbourne which is called the Shining Path. They have the same name as a Peruvian group. The store had all of their finances frozen and they were not able to access those finances for many months when they were going through a process of trying to get government agencies to unfreeze them. They were a record store, and I suspect that with some investigation it would become reasonably obvious how they had come about. They had all of their finances frozen, and there was no process for going to government agencies to get them to reopen and unfreeze the finances of the record store so that the small business operator could continue on with his business.

In that instance, it was months later and only when he went to the media that he managed to get the government agencies that he had been dealing with to unfreeze his small business finances so that he could continue on with his record store. That is one example that I am interested in. What are the safeguards, what are the mechanisms in place, for people with legitimate business activities who get caught up in this legislation? As I have raised before, we have concerns about the net being thrown too wide. I want to make sure that there are safeguards for those people with legitimate businesses.

The other example that I gave was in the media. It was in the Sydney Daily Telegraph at the time of the discussion around the first tranche of legislation. It was of a woman who was from Iran and who ran a number of restaurants. She was importing food from Iran, so she had regular payments going to Iran. She went through a similar circumstance with her bank. It is understandable that her bank made the assumption, because the way the legislation is designed is that the risk is put on to the bank so they need to prove that their customers are not financing terrorism. The whole system is designed so that the banks need to make sure that they are covered. They are exempt from antidiscrimination legislation, they can make an assumption and then it is up to the person to prove that it is not the case.

They are two examples of people with legitimate business activities who have been caught up by this legislation because, as the Greens say, the net has been thrown too wide. We are very happy to be involved in
stopping the financing of terrorism; everyone is. But if you throw the net too wide and you catch legitimate people, where are the safeguards for them? How do they get through the maze to get their finances unfrozen so that they can continue with their operations?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.14 pm)—I am obliged, as always, to my departmental officers. The Shining Path assets, in the example that the good senator raises, were frozen under part 4 of the Charter of the United Nations Act, which was inserted by the Suppression of the Financing of Terrorism Act, implementing UN Security Council resolutions. Neither ASIS nor ASIO was involved. The list of names that are subject to that act are published by the Department of Foreign Affairs and Trade. That is not a matter that falls under the umbrella of what is intended by this legislation. It is an intelligence-gathering mechanism. What is done with the intelligence is not within the purview of this legislation.

Senator NETTLE (New South Wales) (6.15 pm)—I am just trying to make sure that I have it clear. The minister’s comments about intelligence gathering relate to ASIS—except this model of legislation has 30 organisations being able to have access to AUSTRAC and using it.

Senator Johnston—Yes.

Senator NETTLE—I accept what you are saying about ASIC being intelligence gathering. I absolutely accept that. But some of those other organisations—

Senator Johnston—AUSTRAC.

Senator NETTLE—I thought your comments about intelligence gathering related to ASIS. The Australian Federal Police, for example, who have access to the AUSTRAC records, are a law enforcement body. So, under this or other legislation, their activities may see people having their bank accounts frozen, because the assumption is that they are financing terrorism. What safeguards are in place through this legislation around anti-money laundering for legitimate people who get caught up—not through the intelligence but through the criminal investigation, or it could have an element of intelligence in it as well—and have their bank accounts frozen because the assumption is that they are financing terrorism? If they are a legitimate business, what do they do?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.16 pm)—The question is not one for this legislation; the question is one for the provisions of other legislation. We have a chain of resources. AUSTRAC gathers and monitors the information. It is used by all 30 agencies for intelligence purposes. Under the legislation now before the chamber, no information that is provided by AUSTRAC can freeze accounts. What the enforcement agencies do with the information is a matter for them. I am sure the senator knows of the powers and the abilities of the enforcement agencies—from the Australian Federal Police to the Australian Crime Commission et cetera.

This legislation simply says that the information obtained by AUSTRAC can be passed to ASIS. I have suggested to the senator the safeguards as to what happens with the information then. The Minister for Foreign Affairs must approve it and the director-general of the agency must be satisfied that it is reasonable. Your question is about the next step beyond this legislation. This is simply about the raising of intelligence and its dissemination.

Senator NETTLE (New South Wales) (6.18 pm)—I thank the minister for that explanation. In an earlier comment that the minister made, he talked about ASIO already having access to the AUSTRAC information and said that the idea behind this is to in-
clude ASIS. I think ‘complete the circle’ was the language that he used in including ASIS in this. Maybe the minister can explain something for me. My understanding is that ASIO and ASIS are different. ASIO’s purview is to spy on Australians and ASIS’s job is overseas activities.

Senator Johnston interjecting—

Senator NETTLE—I am going on the public guidelines. We do not have very much information about what ASIS do. But if you look on the website, you see that it says, ‘ASIS is Australia’s overseas human intelligence collection agency.’ The legislation that defines what ASIS do talks about ASIS operating outside of Australian territory. So they are different. So, on what we have in the legislation about ASIO already having access to that information, it is their job to spy on Australians. I am using simple language because I think it helps us understand what we are talking about. If ASIS’s job is to spy outside Australia, why do they need this access? I see them as different and I would like an explanation as to why we have ASIS involved in the legislation. In a nutshell, the reason is that there is an awful lot of intelligence relating to money being moved offshore.

Senator NETTLE (New South Wales) (6.21 pm)—I thank the minister for the answer. In the existing Anti-Money Laundering and Counter-Terrorism Financing Act, section 127(3)(a) allows ASIO officials to disclose information obtained from AUSTRAC if:

(a) the disclosure is for the purposes of, or in connection with, the performance of the official’s duties …

Does that, as it currently stands in the existing AMLCTF legislation, allow ASIO to disclose information to ASIS for the purposes of, or in connection with, the performance of the official’s duty?'

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.22 pm)—The senator needs to look at the ASIO legislation. I think I have mentioned to her the Intelligence Services Act; I think the answer would be found there. But may I say that it is not a question that is relevant to this legislation.

Senator NETTLE (New South Wales) (6.22 pm)—I believe it is relevant to this legislation, because the existing anti-money-laundering legislation allows ASIO access to AUSTRAC information. This legislation that we are dealing with right now is about giving ASIS access to AUSTRAC, and you have given explanations around circumstances in which you think that that may be appropriate.
I am going to what is currently there, which is about ASIO’s existing access to AUSTRAC, whereby ASIO can disclose information that they got from AUSTRAC to other people for the purpose of their work. If what is currently there allows ASIO to disclose information they got from AUSTRAC to ASIS officers, then why do we need, in this next piece of legislation, to specifically give ASIS access to AUSTRAC information? That is what I am trying to understand. What I read in the existing legislation is that they can already do that. Perhaps I am wrong. If they can already do that, why do we need to give ASIS specific access to the AUSTRAC information? They can already get it, when they need it, through ASIO.

Senator LUDWIG (Queensland) (6.24 pm)—I might be able to help with some of this. If you think about it in a broad sense, ASIS looks after the external—in other words, not Australian citizens. They effectively look after intelligence offshore. ASIO looks after intelligence onshore. Therefore, the remit of ASIS is for offshore intelligence gathering, and the remit of ASIO is for onshore intelligence gathering. It would then be inappropriate if you had ASIO, dealing with onshore intelligence, supplying intelligence to an offshore intelligence-gathering organisation. So you could understand why ASIS would want access to AUSTRAC and its intelligence about transactions that are going offshore. It would then make sense. It would be, in my view, inappropriate for ASIO to be the conduit for offshore. You would then have ASIO effectively operating outside their remit, because they would then be dealing with offshore intelligence gathering, which they are not entitled to do. Therefore, the need for this amendment is clear. ASIS does require access to AUSTRAC and the various money information and financial intelligence that AUSTRAC has.

The other point that was not raised is that there is independent oversight by the inspector-general. They do not have to act on complaint; therefore, they do have the ability to go in and look at the procedures, the safeguards and all those matters that ensure that they both are operating within their respective remits in that area.

While I am on my feet I might as well deal with the technical matters that are referred to in the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2007, which Labor supports. They are clearly matters that need to be addressed, as is the amendment dealing with ASIS. Clearly, it is necessary for ASIS to have access to AUSTRAC and the information that AUSTRAC has, but I will be following that up, perhaps a little later this evening—but not in the vein of what we have been pursuing to date.

The other matter that you raised was the Shining Path; I think that has been dealt with. It is not within this. The minister did make the point that AUSTRAC looks after intelligence. Under this act it also has a wider remit, as we know. It now has both an intelligence remit and an enforcement remit, but that is obviously under another act as well. AUSTRAC is not only a body that gathers financial intelligence; it also has an enforcement role under another act. I hope that helps.

Senator NETTLE (New South Wales) (6.28 pm)—That contribution raises a couple of things for me. One is about ASIS being the overseas spy agency and ASIO doing the work here. Senator Ludwig said that ASIS are not spying on Australians, which has been an issue of contention before, but it was actually out of the royal commission when Gareth Evans said, ‘But they do keep records and files on Australians,’ and that is an issue of concern for Australians.
With respect to the explanation that ASIS should have access to the AUSTRAC records so that they can be involved in overseas activities rather than going through ASIO, you could extrapolate from that argument that this amendment we are dealing with right now is about giving foreign intelligence agencies access to information through ASIS. If the argument is that it should not go from ASIO through to ASIS, you could mount an argument to say the foreign intelligence agencies should have that direct access rather than going through ASIS, as is proposed.

Minister, in the explanations that have been given in the chamber to date, would it be appropriate to limit ASIS’s access to AUSTRAC to that information which relates to overseas financial transactions? If the idea is that we have ASIO and AFP doing the domestic transactions, with oversight under the existing legislation, and ASIS is for overseas, why then not just limit ASIS’s access to AUSTRAC information to overseas transactions?

**Senator JOHNSTON** (Western Australia—Minister for Justice and Customs) (6.29 pm)—I am not sure that the senator understands how the legislation works. AUSTRAC information covers transactions in or coming into Australia by Australians and/or foreign nationals. It is a mistake to assume that AUSTRAC information is used only to detect money laundering by Australians. If the senator understands that ASIO deals with internal transactions and that ASIS would receive information relating to money that originates in or has come into Australia but has a nexus to a foreign sovereign power, she can understand that is why the information goes to ASIS. ASIS is not told of onshore Australian-to-Australian transactions. ASIS is never advised of Sydney-to-Melbourne transactions unless there is some nexus, because it would be a completely vestigial and futile exercise to disseminate intelligence that was not relevant to an ASIS agency in any particular country. There has to be a nexus. To some extent, Senator, it is a matter of common sense and logic.

**Senator NETTLE** (New South Wales) (6.31 pm)—I thank the minister for that. Can you point me to any piece of legislation that states that ASIS is not told of transactions between Sydney and Melbourne unless they relate to an overseas activity? Can you point me to where that is?

**Senator LUDWIG** (Queensland) (6.32 pm)—While the minister prepares to do that, it might be worth reflecting that ASIO then would not act as the clearinghouse for ASIS. It may not know what ASIS wants because it may not be part of the overall plan or investigation; it may just be providing information. However, do not forget also that, under the anti-money-laundering and counterterrorist financing legislation, the Director-General of Security may communicate AUSTRAC information to a foreign intelligence agency, which is at 133. The Director-General of Security may communicate AUSTRAC information to a foreign intelligence agency if the director-general is satisfied that the foreign intelligence agency has given appropriate undertakings for—these are some of the matters that you were concerned about earlier—protecting the confidentiality of the information, controlling the use that will be made of it and ensuring that the information will be used only for the purpose for which it is communicated to the foreign country and it is appropriate in all the circumstances of the case to do so. That provides that scheme.

**Senator NETTLE** (New South Wales) (6.33 pm)—I wonder whether the minister could help with the earlier comment, which was that ASIS is not told of transactions between Sydney and Melbourne unless they relate to some overseas investigation that it is
involved in. Can the minister point me to where that is in either of these two pieces of legislation or in any other piece of legislation?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.34 pm)—The information must fall within—we have heard the word ‘remit’ used by the learned opposition spokesperson; I would use the word ‘jurisdiction’—the jurisdiction of ASIS. In order for it to fall within the jurisdiction of ASIS, you need to understand the objects, powers and duties of ASIS, as described in its enacting and enabling legislation. If there were a foreign element that would trigger those thresholds in a Sydney-Melbourne piece of information, that piece of information would lawfully fit within the remit or jurisdiction of ASIS. Subject to what my learned friend on the other side has said with respect to section 133A, AUSTRAC would then appropriately be able to provide information to a foreign intelligence agency and then authorise it as an authorised communication to such agency from AUSTRAC via ASIS.

I think it is very clear that there is a clear legislative framework here that has as its basic motivation plain old common sense. We would not wish to provide information or to burden an intelligence service with information unless it was relevant to the functions and powers of that service, as described in its enabling legislation.

Senator NETTLE (New South Wales) (6.35 pm)—I do not have the Intelligence Services Act with me to enable me to understand who decides whether it is within the purview of ASIS. Perhaps the minister can run me through how that would work. Does it have access to all of the AUSTRAC information and then make a decision about whether it falls within its purview? I just want to understand that explanation. I think you are saying that it looks at it only if it is within its jurisdiction. Who decides that it falls within its jurisdiction? Does it decide that itself? In a practical sense, does that work such that it has access to all the information around AUSTRAC and then it decides what of that information is relevant to its jurisdiction and then its investigations?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.36 pm)—I remain indebted to my departmental officials. I can say to Senator Nettle that section 126 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 provides that the Australian Transaction Reports and Analysis Centre’s CEO may authorise specified officials or classes of officials of a specified designated agency to have access to AUSTRAC information for the purpose of performing the agency’s functions and exercising the agency’s powers. This is in line with the point I was endeavouring, albeit unsuccessfully, to make, with respect.

The AUSTRAC CEO must exercise this discretion for the purposes of the legislation and must exercise his discretion competently and without negligence by reference to the normal rules of lawful decision making. Section 126(3) provides that the AUSTRAC CEO may only authorise access for specified state and territory designated agencies if the officials of the designated agencies comply with the information privacy principles set out in section 14 of the Privacy Act. It is a criminal offence under section 127(2) of the act for an official from a designated agency to disclose AUSTRAC information unless the disclosure is in connection with the performance of the official’s duties or the disclosure is authorised by, or in connection with, communicating AUSTRAC information for official purposes.

That is an onshore example, but the same applies with respect to ASIO. It has to be a
matter that falls within the agency’s function and the exercising of the agency’s powers. So there has to be that nexus between money in, money out or money movement with the function and power of ASIS in a particular country before it would be a legitimate piece of information going to ASIS. I think that is clear. I think that is a logical evaluation of the legislative framework.

Senator Nettle (New South Wales) (6.38 pm)—Thank you for pointing that out in legislation. Does the AUSTRAC CEO determine whether it falls within functions of ASIS and its exercise of power? I want to understand in a practical sense how it works. Does the AUSTRAC CEO make that decision? It just seems weird that the AUSTRAC CEO will make that decision. Presumably, they would then need to be given an understanding of all the activities of ASIS in order to make those kinds of decisions. Is that the way that it would work? Would the AUSTRAC CEO make the decision about whether it fits within the purview of ASIS? How would that work in a practical sense? What information would they be given access to? I imagine that, if the AUSTRAC CEO is the person who is deciding this, they are not going to know the bounds of the investigation. Does the AUSTRAC CEO decide whether it fits within the jurisdiction of ASIS? How does the handing-over of information work in a practical sense? Do they hand over all the information? I cannot imagine that they would be able to have access only to what relates to their investigation, because the AUSTRAC CEO is not going to know what the ASIS investigation involves.

Senator Johnston (Western Australia—Minister for Justice and Customs) (6.40 pm)—The answer is that both have to be satisfied. In carrying out its obligations under its own legislation, the requesting agency—in this example, ASIS—also has to be satisfied. I believe that in seeking the information the CEO or the senior official has to certify that it is acting in furtherance of its powers. Each of those officers from the requesting agency is himself bound to ensure that the information is properly used by them in the performance of the functions of that agency. So there is a duality of responsibility here. The requesting agency has to ensure that the information is relevant to its functions and powers, and obviously that would convert to a current investigation. The providing CEO of AUSTRAC has to be satisfied that that information is such that it triggers, as we say, section 126(3) of the act where he may only authorise access for specified state, territory or designated agencies. So each of the officials in the interaction that Senator Nettle has discussed has to be satisfied that they are acting within their powers.

Senator Nettle (New South Wales) (6.41 pm)—Minister, thank you for that answer. The next part of the question is: how does it work practically? If you are getting access to information that relates to your jurisdiction, do you get access to all of the information of AUSTRAC and pull out what is relevant to your investigation? Is that the way that it would work? I presume that would have to be the way that it would work, otherwise how will the AUSTRAC CEO know what is relevant to your investigations? If they decide your investigation is correct, you and they both decide that it is appropriate under your powers. How in a practical sense does that work? Do they give you access to all of the information and then you—ASIO, ASIS or whichever intelligence organisation it is—determine what information you need? In a practical sense, how would that work?

Senator Johnston (Western Australia—Minister for Justice and Customs) (6.42 pm)—The requesting agency would designate the information it seeks and it would then, through that designation, seek to satisfy
AUSTRAC that in so designating it is within its powers. AUSTRAC would then respond specifically to the designation, and information held relating to the designation would then be disclosed to the requesting agency—in this example, ASIS.

Senator NETTLE (New South Wales) (6.43 pm)—I have two other questions following on from that. ASIS needs to work out what is within its purview and to know its act. It seems like a pretty big ask for the AUSTRAC CEO also to understand the full purview of the ASIS act and its jurisdictions. What is in place to ensure that they have all the information that they need to make an assessment about whether or not an ASIS request is legitimate and within their powers? ASIS people can argue the powers of ASIS in determining that; it is probably something that someone like the Inspector-General of Intelligence and Security also knows quite well. What is in place to ensure that the AUSTRAC CEO is in a position to have that information and to make the decision about whether the request from ASIS is an appropriate one within the powers of ASIS?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.44 pm)—In terms of practical operation, I am advised that what happens is that each instrument of authorisation specifies the class of AUSTRAC information that will be available for a specified class of official. Access is only granted for the purpose of performing the agency’s functions and exercising the agency’s powers, as I have said, on the specific request. The AUSTRAC CEO determines whether access is appropriate having regard to all the circumstances considered in the negotiation process and in the authorisation process. So each of the officers understands that they are only entitled to give and/or receive information directly within the statutory powers of the agency—namely, the objects, functions and powers as set out by the legislation. There is a scrutiny process. Information that is outside or irrelevant to that specific designation of information cannot be provided.

Senator NETTLE (New South Wales) (6.45 pm)—Thank you for that answer in relation to the practical aspect. I just go to the other question. It is a big job for the AUSTRAC CEO to determine whether or not the ASIS or other intelligence agency request is within the purview. What information do they have to assist them in making the assessment about whether the request from ASIS is appropriate?

I accept the answer you have given about how it would work in a practical sense, but it is a big job to have them do. What information and expertise does the AUSTRAC CEO have in order to make the assessment about whether or not the ASIS request is appropriate to the purview of ASIS?

Senator LUDWIG (Queensland) (6.46 pm)—I was interested in giving you a practical way of looking at it, and perhaps even a recent example. The UN or the US government—we will call it the Volker inquiry—says, ‘We’re interested in the Australian Wheat Board arrangements and money that has gone from Australia overseas’—or money that has gone from overseas to Australia, more generally, if we use AUSTRAC as an example. So ASIS asks AUSTRAC to take the name ‘Australian Wheat Board Ltd’ and run it through the AUSTRAC database, or use a data-mining software to query the various databases that they may have and see what matches come out the other end.

Had it been in place at that time, the match might have come out the other end to show that there was a figure of $300 million being transferred. That is the practical application of it and that is how you can use it for financial intelligence information. It holds
financial intelligence. Why they want to run a particular company, financial institution or person through the system will sometimes be unknown to the AUSTRAC CEO. They put those things in place to ensure that they know that there is a relationship and the AUSTRAC CEO has an entrusted official in place. You can see how they could use the information advantageously. It would have been very helpful if that had been run back then, but it was not, as far as we are aware—or as far as we are told. That is the practical way these things work.

It does not necessarily mean that ASIS might be swimming around in AUSTRAC’s database unguided. But in this instance—if we can use the example—ASIS would be conducting an investigation into those overseas transactions and then use the names and various information it has in place to create a picture by searching the database in a variety of ways using a variety of analytical tools to come up with answers. Those answers then fit into a bigger picture of the money trail—where the money has gone, how the money has gone, who the money has gone with, and who the entities are that it might be associated with. That is the purpose of it. That might help.

Progress reported.

**DOCUMENTS**

Consideration

The government documents tabled today and general business orders of the day Nos 14 to 18 relating to government documents were called on but no motion was moved.

**ADJOURNMENT**

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—Order! There being no consideration of government documents, I propose the question:

That the Senate do now adjourn.
about the bush? What about rural and regional areas? There is going to be no money left—not one single bit. It is those rural and regional communities that are going to miss out in the proposal that has been put forward today by Labor.

What about the carriers that are currently providing telecommunications services? I saw Senator Conroy come out with his grand plan today. What happens to all those existing providers that are already rolling out services right across this nation? I wonder what happens to them. I understand it is going to be a tender process. Interestingly, Telstra has most of the infrastructure around this nation. So I wonder what is going to happen when it goes to tender and carriers other than Telstra wants to put forward their bids—interesting! I wonder how good Telstra is going to be at giving up part of its network if somebody else happens to win the tender. They just have not thought it through. This is about a cash grab to try and win over the electorate with some grand plan that has not been thought about at all—not one single bit.

What is absolutely fascinating about today is that those on the other side opposed the sale of Telstra all the way, from beginning to end. They said: ‘We shouldn’t be selling it. Government shouldn’t be selling it.’ We knew we should be selling it because government is not in the business of delivering telecommunications, and neither should it be. The things that are going to deliver real services out there are things like competition and infrastructure. But, no, the whole time the opposition were saying, ‘We can’t possibly privatise Telstra,’ until today, when we magically saw them say, ‘Oh, gosh, let’s privatise Telstra.’ The only reason they want to do that is so they can get their hands on a bucket of money to try and buy votes. It is already being done; telecommunications services are already being rolled out.

There is another absolutely fascinating thing about the grab for the $2.7 billion out of the Future Fund. I understand that the member for Lilley in a doorstop interview on 15 August 2005 said about the Future Fund:

... we have no guarantee this will be a Future Fund which is a locked box. It will be another pork-barrelling institution ... If you’re going to have a Future Fund it has to be a locked box.

Guess what—somebody just sprung the lock today. Obviously it no longer has to be a locked box, according to Labor; it can be a very open box, so that they can get the funds out and roll out more money into the capital cities, where it is not needed.

This government has made some very good decisions about telecommunications. That, combined along the way with strong economic management, means that it is this government that has $600 million on the table so that we can get better infrastructure and better services out to rural and regional areas. It is this government that has just put an extra $160 million into Broadband Connect, which, by the way, the opposition want to get rid of. On top of that, we have the $2 billion Communications Fund to guarantee services for rural and regional Australia into the future. That is what this side has done. That side want to spring open the box and get some money with a cash grab, and it is not going to do this nation any good.

Let us have a little walk down memory lane. A bit more than 11 years ago, the opposition had a $96 billion debt. The only reason that they can even think about trying to put $4.7 billion on the table is because of this government’s strong economic management. There is no way in the world under their government that they would have had any funding to do anything like what this government has done for rural and regional services and services right around this nation.
They can only talk about spending that money because of our strong economic management and the hard decisions that this government has had to take to pay off that debt and be in a position where we can do things like improve telecommunications services around this nation.

It is a shameless grab for dollars. It is an old proposal repackaged under a new leader—that is all it is. The real shame about this is that it is rural and regional Australians who are going to be the big losers. It is interesting to note that this proposal is called ‘fibre to the node’. I can tell those on the other side—and Senator Conroy, whose bright brainchild this probably is—that there are no nodes where I live out in the central west and that there are no nodes anywhere near where thousands of people in regional Australia live. They are not there. This plan will not work. We will have to start referring to Senator Conroy as ‘no nodes Noddy’ because he does not understand that out there this plan will not work.

The opposition refer very slightly to rural and regional Australia. They are talking about 98 per cent coverage. The carriers that are currently doing it are already moving towards 98 per cent of coverage without one cent of taxpayer dollars. It is already happening. What I find fascinating in this enormous policy document is the bit that says: The remaining two per cent of Australians in regional and rural Australia not covered by the FFTN network will have improved broadband services.

That is it. That is all it says. It does not say anything at all about how, why and where, and it does not say anything at all because there is not going to be any money left to do anything. Their fund will be gone, the box will be open—Pandora’s box will be well and truly open—and there will be no money for rural and regional Australia.

It is interesting also to note that Korea spent $40 billion rolling out fibre to the node on a smaller land mass than we have here. The opposition is talking about spending a bit over $4 billion for a larger land mass. You do not have to be Einstein to figure out that it is not going to work. The thing that really gets to me in all of this is that it is rural and regional Australians who are going to miss out. This is entirely pitched at the big end of town, where the competition is rolling out the services anyway. This is about Labor stealing from the Future Fund—opening up that box that they said should remain locked forever—so that they can get their hands on some money to try and win some votes. They are pitching this at the big cities to the detriment of rural and regional Australia. It is this government that will do the right thing not only by rural and regional Australians but by people right around this nation in terms of telecommunication services.

**Military Justice**

**Senator MARK BISHOP** (Western Australia) (7.03 pm)—Tonight I would like to make a few comments to the Senate on government attempts to reform elements of the military justice system, returning to a familiar topic that I know is of great interest to a lot of people who follow this particular debate and discussion. After some 12 or 18 months, it is fair to come to some conclusions about those government attempts to reform the system. My own assessment at this stage is that progress has been slow but also—trying to be objective—satisfactory. Why has it been slow and satisfactory? That is almost entirely due to the Chief of the Defence Force’s determination to fix the military justice system. I respect his efforts and accept that much is being done. Fewer miscarriages of military justice have come to public attention over the past two years. I hope that this means a reduced incidence of complaints and particularly a reduced inci-
dence of suicide. Evidence given to the Senate Standing Committee on Foreign Affairs, Defence and Trade on recent progress is indeed encouraging. I thank the CDF for both his candour and his commitment.

There are several indicators of that progress. A key indicator is the handling of the grievance process, where the backlog of complaints has been significantly reduced. The process has improved after added resources and a restructure of the institution. Then there has been the creation of a new military court—although there are some legal issues about the status of this court that were of great concern to the Senate committee as it reviewed the then proposed legislation. But the legislation was amended by the government consistent with a range of recommendations made by that committee. Also, the audit of the military police, which endorsed the criticisms of the committee, has been completed. It must be said, however, that this took a long time.

The greatest single regret about the delay is that in the meantime we saw the botched investigation into the death of Private Kovco in Baghdad. There were several reasons for this, but the bottom line was that the military police were not capable of conducting that investigation. As they themselves admitted to the board of inquiry, they did not have the manpower, the equipment or the forensic and ballistic skills to do the job. Evidence gathering was a disaster, as was the preservation of the death scene. The latter, though, was hardly their fault. Officers in command—for a range of reasons—ignored the rules. The unsatisfactory outcome of the board of inquiry can be attributed to those particular deficiencies.

From evidence by the Chief of Army at the committee’s last hearing, I believe that my misgivings are shared. The fact that the New South Wales police were called in to conduct a separate investigation, unknown to the military police, says it all. The chain of command did not have confidence in the military police. The board of inquiry transcript is rich with references to the poor reputation of the military police. The pity is, it took the Senate committee to bring a long-known defect to a head.

Sadly, an overhaul of the military police came too late for the investigation into the death of Private Kovco. Worse still, it will take a long time to implement the findings. Steps are in place to install a new single investigatory capacity. It will have the necessary skills and resources across the three services, which is indeed a welcome development. There will also be cooperative exchanges with state and federal police. Recruitment and training plans are also being developed. But, as the CDF concedes, it will take five years before full effectiveness is achieved. But at least a start has been made.

On a separate matter, the report into the culture of training establishments has been completed and delivered. In large part, the recommendations of the latter are now being processed. Already there are some positive signs. Changes are being made to the way in which young recruits are treated, but again one must add the caveat that this is not without some challenges from the old hands. Their culture—a tough approach to initial training as a sorting-out process—is deeply ingrained. It seems that the top brass now appreciate that the hard days of the unrelenting bullying at boot camp had a long-term cost. Indeed, one of the biggest deterrents to recruitment has been the failure of military justice—especially for recruits—so it is pleasing to see the momentum of reform proceeding.

Yet the biggest single issue in military justice continues to be the culture of the armed forces. It was not just the culture of training
establishments that should have been put under the microscope. The poor culture surrounding military justice pervaded every part of the Australian Defence Force. It was not confined to Duntroon, the Australian Defence Force Academy, Kapooka or Singleton. In these places young people are initially exposed to military life and are ‘broken in’. The committee’s focus on military justice was on the entirety of the Australian Defence Force. Bastardisation and bad behaviour were long associated with certain units. It is an attitude which was accepted as a part of life because everyone had to experience it. That is why the recent audit is so equivocal in its findings.

Reading that report, underneath all the human resource management jargon, one sees that serious concerns clearly remain. The key concern is the slow-changing nature of that culture; it is deeply ingrained. I wish the Chief of the Defence Force the very best in his efforts to continue to root it out. Doing that ought to include weeding out some of the perpetrators. This is something which rarely seems to occur. Inquiries find that causal matters are breaches of guidelines, which are promptly rewritten. Redress, though, is infrequent. At worst, it amounts to a severe beating with a feather. Even in the most serious cases, some including death, no single person ever seems to be accountable.

This applies to the death of Trooper Lawrence in the Northern Territory. There, the Federal Court found Defence breached its duty of care. It will shortly be fined substantially for that breach. This may well be considered a case of industrial manslaughter. In this case, young men were forced out into the bush. It was midsummer and they had to undertake exhausting work. This exercise persisted without regard to the previous year’s outcome of extensive heat exhaustion. There was also a warning, evidence of which was accepted by the Northern Territory coroner, that this might happen again. Before the Federal Court, Defence did not have a defence. Existing guidelines were breached, and with that the duty of care for the health of employees. In a repeat of the previous year, many young men suffered serious heat exhaustion. Sadly, Trooper Lawrence died. According to the Northern Territory coroner, those guidelines were breached knowing the consequences of sending young men out on exercise in the intense heat. Yet it is clear that, for those making the decision, there is not—or there does not appear to be—the slightest accountability. It is almost as if the entire death was an innocent accident.

The most galling point I have found in pursuing this case, however, has been the evasion of accountability. It seems that, in the face of the hefty fine to be paid, the confession that guidelines had to be rewritten and the negative finding of the Northern Territory coroner, there was no fault on anyone’s part. It beggars belief. This represents a culture which, at its worst, sought to deny an obvious breach of military justice. Wouldn’t it be refreshing to hear more frequently the honest but humble mea culpa? The coroner and the Federal Court said the Army got it wrong, but still the Army insisted that no-one was at fault. It seems to resolve to a dispute between two different parties: firstly, a subordinate officer’s warning of the likely risk, which was accepted by the coroner; and, secondly, what the senior officer accountable heard. Needless to say, the Army hierarchy seems to have accepted the senior officer’s position. That is because the prevailing cultural attitude is one of protecting those responsible.

Look at any serious matter where a complainant has been vindicated in a serious complaint. Now ask the question, ‘What happened to the perpetrators?’ Ask that question of each of the young suicides. Ask it of Lieutenant Commander Robyn Fahey, Air
Vice Marshal Peter Criss and others who have been compensated for serious breaches of process but who have also lost their careers. This culture of covering up needs to cease. Labor wants to change the Caesar unto Caesar doctrine which prevails. *(Time expired)*

**Press Freedom**

Senator MURRAY (Western Australia) (7.13 pm)—Last week the Reporters Without Borders website reported that Australia had slumped to No. 35 on their press freedom index. I am not sure of the history and credibility of the index, and Australia’s ranking seems to have swung wildly from 12th in 2002 to 50th in 2003 and to 35th now. The index seems to be based on perceptions—which can, of course, vary from year to year—but even the greatest critic of the Howard coalition government would not believe that freedom varies that much over a short period.

The only information I can find about the organisation, apart from that on its own website, is from Wikipedia. It is unclear when the organisation began, but it has been publishing its worldwide press freedom index since 2002. The index is based on responses to a questionnaire sent to people with a working knowledge of the press freedom situation in one or more of the countries—for example, journalists or foreign correspondents.

Nevertheless, this index does lead into a nagging concern in Australia about less openness and more oppression. On 15 March 2007 the *Australian* reported a speech by Warren Beeby, chairman of the Australia section of the Commonwealth Press Union and group editorial manager of News Ltd. The *Australian* reported the AFP trying to subpoena a reporter’s notes on the sources of a leak on the McManus and Harvey contempt case for refusing to divulge their sources, on ‘alarmingly regular incursions into newsrooms to unearth journalists’ sources’ and on restrictions on media access to court documents. Mr Beeby said there is:

... an attempt to deter journalists from breaking news out of Canberra, but also as a bid to intimidate public servants ...

He went on to say:

... at the same time, federal and state governments employ spin doctors in their hundreds to ensure only approved versions of stories see the light of day, and to keep reporters off the scent of adverse or controversial stories.

The *Australian* and News Ltd have been at the forefront of campaigns to get behind government secrecy, so it is no surprise they are aggrieved. There is government legislation designed to keep probing eyes from the processes of government, meaning difficult times will continue for the fourth estate.

As well as governments being focused on management and control, there is a problem with proprietors being focused more on business than freedoms. Even when they could be, proprietors and editors are not always on the case. Some might argue that the recent revelations concerning politicians and lobbyists are proof of a robust investigative press. Well, exposure of Mr Burke came via the WA CCC, not the editors and journalist groupies who have long cosily lunched and coffeed with Mr Burke and the rest. Federally, many revelations are not the result of digging by journalists but come from hints dropped by disgruntled party members or from factional infighting. Still, those failings are as nothing to the virtues of a free press.

Australia does not have a constitutionally entrenched right to freedom of the press. I know that there are the High Court cases recognising a right to political communication, which is often referred to as protecting the rights of a free press, but it can hardly be compared to the express article in the United
States constitution. We do not have a legis-
lated charter of rights either. In Australia
press freedom is a convention of our democ-
racies, not a constitutionally or legislatively
entrenched right. Press freedom can be and is
undermined by legislation.

Even in that environment, courageous and
determined proprietors and editors can make
a difference. The best guarantee for a strong
independent media is for there to be a genu-
ine diversity of significant voices, employing
journalists able and willing to investigate and
report on all aspects of government, the judi-
ciary, politics and society without being part
of the spin machine. Reducing news and in-
vestigative resources and substituting a pack
approach to news and current affairs will not
really advance democracy much. On that
front, the obsession with scalps and scandal,
with political titillation, has been full-frontal
recently, with little serious consideration of
how you can actually permanently lift politi-
cal standards and political governance.

The passage of the new media framework
in October last year has seen the beginning
of a major reduction in Australian media di-
versity. The minister for communications
says that diversity is retained because of the
internet. She knows that that is not true. She
knows that research shows the majority of
people obtain their news and current affairs
from traditional sources or from internet
websites attached to traditional sources.

Convergence is the name of the game and
the large media companies are ensuring that
their message is transmitted loud and clear
across a diversity of platforms—TV, pay TV,
internet, newspapers—but that does not make
for a diversity of messages. The pipes
may be different but the message down the
pipes stays the same.

In Australia there is reduced coverage of
matters of importance because of legislation
that curtails the ability of journalists to do
their jobs. I am not saying that many do not
try. I realise how hard it is for journalist em-
ployees with a mortgage and kids to stand up
to their employers or to stand up against
government sanctioned impediments, espe-
cially when there is a possibility that they
could end up in jail or that people giving
them information could end up in jail.

How much fearless reporting do we actu-
ally get? How many journalists are allowed
by media entities to invest time and money
to probe deeply into complex questions and
find out exactly what is behind the spin? The
Australian Press Council lists a number of
reasons for the reduction in press freedom in
Australia today, which may explain Austra-
lia’s position on the Press Freedom Index.
The council mentions the 2005 antiterrorism
laws which curtail free reporting on ASIO
activities. The broad nature of these laws
means that journalists are unable to investi-
gate the activities of ASIO or query them in
the public arena. Security reasons are given
for this, but the effect is that the powers of
seizure and interrogation under the antiter-
rorism legislation are designed to make any-
one think twice before they question the role
of ASIO in any matters. This type of legisla-
tion has a deterrent effect on investigative
reporting. Any journalist who wants to make
their mortgage repayments is hardly likely to
do an investigative story which might jeop-
ardise their family. It is much easier to re-
gurgitate a press release from a government
department while sitting at your desk—
desktop reporting.

Another piece of legislation which acts to
gag journalists is the FOI Act’s conclusive
certificates and the way in which the free-
dom of information principle has been per-
verted by ministers and bureaucrats to allow
obstructive behaviour. These certificates stop
journalists from getting to the bottom of bu-
reauocratic decision making. The High Court
is no help. Its conservative decision in the
McKinnon case last year has ensured that where a conclusive certificate has been issued there is no way for the court to investigate matters which may lie behind the issuing of the certificate.

The government likes the limitations inherent in this interpretation of freedom of information legislation. Even though the Australian Law Reform Commission and the Commonwealth Ombudsman have pointed out the major problems with the FOI Act, the government shows no inclination to amend it. I have previously introduced the Freedom of Information (Open Government) Bill, which includes the ALRC recommendations. But, due to lack of support, this has not proceeded. The Archives Amendment Bill is scheduled for debate, and I will be moving FOI amendments to that bill in an attempt to make departments more open and accountable for their decisions and so that journalists can investigate matters.

The government pays lip-service to whistleblowers and has tightened Public Service regulations and diminished protection for whistleblowers so that leaks to journalists run the risk of contempt of court charges, as were laid against Mr McManus and Mr Harvey. Public Service regulations are so stringent that anybody would think twice before blowing the whistle on maladministration or corruption, in the public interest, because of fear of the consequences, even a jail term. If the revelations that came out of the CCC in WA had been matters involving the federal Public Service and a public servant had reported them to the media, they would not have been treated as a hero but as someone to be investigated and prosecuted.

There are increasing restrictions on journalists’ access to a variety of people in the public arena. There was public outrage recently when access to some cricketing personalities was barred because of exclusivity deals. I am sure cricket is important, but there was only muted outcry by comparison when, for substantially different reasons, access to asylum seekers in detention centres was also restricted.

The government is corralling areas so that they are outside scrutiny by the fourth estate. They are controlling the information flow between their offices, their departments and journalists. The reduction in the number of journalists at major news outlets, not to mention budget cuts at public service broadcasters compared with the increase in spin doctors, ensures that the questioning of government action is not all it should be.

Because Australia has no constitutionally or legislatively entrenched protection of press freedom, if no-one is willing to battle the slow and subtle reduction of it, Australia risks falling further down any press freedom index. When Australia loses the top spot in cricket there is an outcry. Isn’t maintaining our position in the top 10 of the press freedom index at least as important as maintaining our sporting status?

Defence Materiel

Senator FAULKNER (New South Wales) (7.23 pm)—Nearly four years ago the government finally acknowledged it had a problem with defence materiel acquisition and management and initiated the Kinnaird review to fix the problem. Even before the Kinnaird review, the 2003 Senate inquiry into Materiel Acquisition and Management in Defence identified several areas for improvement. It is about time to look at the government’s record on implementation of the Kinnaird review’s recommendations and the findings of the Senate inquiry. Overall, the scorecard is poor: failures in major acquisitions continue and the capability plan is in a mess.

The government’s actions and decisions following these comprehensive reviews have
failed to fix the problems in major Defence acquisitions. Kinnaird recommended, and the government accepted, a two-pass approval process for major acquisitions. The first pass, usually involving substantial time and cost, aims to produce a more reliable basis for the investment decisions to be taken in the second pass. The government has apparently ignored its own commitment to a rigorous two-pass system with its recent decisions on tanks, on airlift capability and perhaps on the Super Hornet. These decisions were taken with an absence of the rigour that, after all, is their own requirement. How can the government expect to improve its major acquisition performance when it reverts to the same old slack practices?

The Senate review and Kinnaird also recommended increased visibility for acquisition project status and performance and effectiveness of through life support. The Australian National Audit Office has also recommended that Defence report annually to the parliament on all major projects. Clearly this has not been addressed by the government. To adapt a common saying from the business world to which the DMO aspires: what you don’t measure and report won’t get managed. It is all about transparency and the inherent responsibility that comes with having to disclose what is happening.

Kinnaird recommended increased formal participation by the service chiefs and their staff in monitoring the process by which weapons systems were being acquired and proposed an ongoing role for project governance boards in through life support, or sustainment as it is now known. The Australian Strategic Policy Institute, in its special report of January 2007, states that:

... the services have been separated from the direct control of many of the resources necessary to manage the delivery of capabilities for which they are normally responsible.

Government is ignoring the need for clear alignment of accountability with authority and responsibility.

Again demonstrating a typical lack of rigour, the government decided to act in apparent haste on the one key point of difference between Kinnaird and the Senate inquiry. The Senate inquiry said: do not set up a separate agency; Kinnaird said the opposite with equal conviction. I quote from the Senate report:

Notwithstanding some strong representations to the effect that a corporatised DMO would enhance its capacity to work with Australia’s defence industries, the committee finds that such a proposal is not in the best interest of key relationships between the DMO, the three services and other relevant sections of the defence organisation.

While I can reconcile most of Kinnaird’s recommendations as logical extensions to the change process identified during the Senate review, the matter of a separate agency was surely a significant decision with wide ranging implications that would have warranted more debate and thoughtful consideration by government.

I applaud the Kinnaird review’s premise of a holistic view of development and maintenance of capability. However, Kinnaird appears to temper that position with his recommendation 6: that the DMO should become an executive agency. But the government decided to establish the DMO as a prescribed agency. The Kinnaird review supports its position on the basis that:

It would provide the DMO with a clear separate role and identity from the department—and

... It is essential for the DMO to establish its own identity, separate from defence, to ensure it is able to rapidly transform its culture and develop the Commercial focus it needs. A cultural shift in the DMO can underpin and help drive a new focus on performance and outcomes, and lead to improved
procurement and support practices and better results for government.

I do not believe that Kinnaird was saying that the remainder of Defence, other than the DMO, need not be focused on performance and outcomes. It costs money to establish and maintain a separate agency, and organisational arrangements impact on the capability development and acquisition process. After three years, the government should be able to point to financial and/or operational improvements as a direct result of its decisions on Kinnaird.

Efficient organisations reduce the number of organisational boundaries in the interests of efficient process. They do not install artificial fences. Efficient organisations not only install end-to-end processes but also implement integrated, not separate, systems that support their business processes. Separation of the DMO from Defence seems to be opposite to contemporary business practice. But the separation suits the government: it gives the government the opportunity to meddle, to play politics and to divide and conquer.

The complexity of the process of acquiring and maintaining defence capability should not be underestimated. I know of no other practical model than to have capability development tightly connected to acquisition. However, the government has come nowhere near the seamless integration that it claims to seek. The Australian Strategic Policy Institute, in its special report of January 2007, states:

... the Defence Capability Plan has degenerated into a list of future investment projects.

The government has failed in its DMO reforms. It has failed to fix acquisition problems, it has failed to keep the platforms and weapons systems working to maximum availability and it has wasted money focusing on organisational issues instead of addressing the major acquisition problems that were on the table at the time. I say again that the government has failed, and is still failing, to deliver the capability that the ADF needs. It has failed, and is still failing, to manage the Defence budget prudently and competently. It has failed, and is still failing, to meet the defence and security needs of our country.

Senate adjourned at 7.32 pm

DOCUMENTS

Tabling

The following government documents were tabled:


Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 113/06 to 118/06 and 119/07 to 125/07—Commonwealth Ombudsman’s reports.

Commonwealth Ombudsman’s reports—Government response.

National Health and Medical Research Council—Strategic plan 2007-09.

Tabling

The following documents were tabled by the Clerk:


Product Rulings—Erratum—PR 2006/147.


Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2006—
Statements of compliance—

Families, Community Services and Indigenous Affairs portfolio agencies.
Treasury portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Exclusive Brethren
(Question No. 2531)

Senator Bob Brown asked the Minister for Communications, Information Technology and the Arts, upon notice, on 4 October 2006:

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

Senator Coonan—The answer to the honourable senator’s question is as follows:

No

Aviation: Regulator
(Question No. 2658)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Is the Minister aware of the statement made by Mr Bruce Byron, the Chief Executive Officer of the Civil Aviation Safety Authority (CASA), in CASA’s annual report for 2005-06, that Australian aviation does not require a prescriptive regulator.

(2) Does the Minister endorse this view of CASA’s role.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Mr Byron’s statement was “the modern aviation industry does not need a heavy-handed and prescriptive regulator…” and the comment was made in the context of developing rules that focus on safety risks and outcomes. The Australian Government is supportive of measures that enhance the identification of safety risks and improve safety outcomes.

Civil Aviation Safety Authority: Chief Executive Officer
(Question No. 2662)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

With reference to the answer to question on notice no. 1471 (Senate Hansard, 9 May 2006, p. 185), concerning the terms of appointment of the Chief Executive Officer of the Civil Aviation Safety Authority, Mr Bruce Byron:

(1) Do the current terms of appointment require Mr Byron to spend ‘an average of two to three days a week in Canberra and the remaining days in Melbourne, with an increase in the number of days in Canberra during the Parliamentary sitting period if required’; if not, when and how have the terms of appointment relating to the number of days Mr Byron must spend in Canberra each week been varied.

QUESTIONS ON NOTICE
(2) For each of the following financial years 2003-04, 2004-05, 2005-06 and 2006-07 to date, how many days has Mr Byron spent in Canberra in: (a) non-sitting weeks; and (b) sitting weeks.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes. There has been no formal change to the terms of appointment since they were agreed with the then Minister in late 2003. In discussions with former Ministers, it was understood that Mr Byron would modify his working arrangements to best suit CASA’s needs, particularly given that the original arrangements did not take account of the level of contact and consultation with industry Mr Byron has been required to maintain.

(2) Days in Canberra.

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* from 1 December 2003.
# to 21 February 2007.

Civil Aviation Safety Authority: Maintenance Regulations Project Team
(Question No. 2665)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Can the names of all members of the Civil Aviation Safety Authority (CASA) Maintenance Regulations Project Team be provided.

(2) If the composition of the project team has been varied since its formation, can details of these variations be provided.

(3) Have any aviation community representatives on the project team been subject to regulatory action by CASA; if so, can the following details be provided:
   (a) the name of the project team member;
   (b) the date of appointment;
   (c) the regulatory action to which they or their aviation business were subject;
   (d) the timing of the regulatory action;
   (e) the outcome of the regulatory action; and
   (f) whether the CASA Chief Executive Officer, Mr Bruce Byron, was advised that the appointment was inappropriate in light of the regulatory action.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) This question was asked and answered by CASA officers during testimony to the Senate Rural and Regional Affairs and Transport Committee on 1 February 2007.

(2) The following members left the project team since commencement:
   CASA: Mr Patrick Dodgson; Mr Rick McMaster; Mr Joe Tully.
   Industry: Mr Rob Tassini.

   Mr Nicholas Ward and Mr Michael Broom (both CASA) were added to the project team during 2006.
(3) This question was asked and answered by CASA officers during testimony to the Senate Rural and Regional Affairs and Transport Committee on 1 February 2007.

**Civil Aviation Safety Authority: Chief Executive Officer**

(Question No. 2686)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Can the Minister confirm that the remuneration of the Chief Executive Officer of the Civil Aviation Safety Authority (CASA) increased from $213,010 in the 2003-04 financial year to $364,531 in the 2004-05 financial year to the $385,000 – $399,999 band in the 2005-06 financial year.

(2) Why does the CASA annual report for 2005-06 fail to report the actual remuneration of the Chief Executive Officer for the 2005-06 financial year, unlike the CASA annual report for 2004-05 which reports the actual remuneration for the Chief Executive Officer for the 2004-05 and 2003-04 financial years.

(3) What actual remuneration did the CASA Chief Executive Officer receive in the 2005-06 financial year.

(4) Can the Minister confirm that CASA’s operating result declined from an operating surplus of $12.5 million in the 2004-05 financial year to a deficit of $2.5 million in the 2005-06 financial year.

(5) What was the justification for the significant increase in remuneration of the CASA Chief Executive Officer in the 2005-06 financial year.

(6) What total remuneration will the CASA Chief Executive Officer receive in the 2006-07 financial year.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) The CASA Chief Executive Officer commenced his appointment on 1 December 2003. The remuneration shown in the 2003/04 Annual Report is therefore only part-year and does not represent his contract remuneration for a full year. In 2004/05, the remuneration of the CEO was $364,351. In 2005/06, the remuneration of the CEO was in the $385,000 - $399,000 band.

(2) At Note 13 to the Financial Statements, the CASA 2005/06 Annual Report states that the actual remuneration of the CEO in 2005/06 was $392,374.

(3) The actual remuneration received by the CASA CEO in 2005/06 was $392,374.

(4) Yes.

(5) The Remuneration Tribunal increased the remuneration of the CASA CEO by 4.1 per cent with effect from 6 July 2005. The increase was the result of the Remuneration Tribunal’s annual review of salary bands in the Principal Executive Officer Classification Structure. Mr Byron was also provided a 3.6 per cent performance bonus by the Minister.

(6) In 2006/07, the CASA CEO is expected to receive total remuneration of $375,100, plus any personal performance payment for which he may qualify.

**Civil Aviation Safety Authority: Regulatory Reform Program**

(Question No. 2722)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

With reference to evidence by the Civil Aviation Safety Authority (CASA) Chief Executive Officer, Mr Bruce Byron, to the Senate Rural and Regional Affairs and Transport Legislation Committee on 13 Feb-
ruary 2006, that he had ‘set specific deadlines and introduced a new approach to the management and delivery of the regulatory reform program’.

(1) Can the Minister outline the: (a) specific deadlines; and (b) new approach to the management and delivery of the program.

(2) When did the regulatory reform project commence.

(3) What has been the cost of the project to date, by year.

(4) What outcomes can be attributed to the project to date.

(5) Has the CASA restructure announced in February 2006, enhanced or diminished CASA’s capacity to meet Mr Byron’s specific deadlines for the regulatory reform project.

(6) What is the estimated total cost of the project.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (a) The maintenance suite of regulations, the rules relating to aerial work application and the sports aviation suite will be progressed during 2007, along with rules relating to aerial application work and the sports aviation suite. Work on the Operational rules (Parts 91, 121, 135, 119) will also continue through 2007.

(b) In November 2005 CASA established the Planning and Governance Office (PAGO), which is responsible for coordinating and communicating CASA’s corporate and operational strategies and plans. PAGO includes a Regulatory Development Management Branch which is responsible for managing the Regulatory Reform Programme (RRP). The Branch is also responsible for managing consultation with the aviation industry on regulatory development proposals through the issue of Discussion Papers (DPs), Notices of Proposed Rule Making (NPRMs) and Regulation Impact Statements (RIS). The Branch also liaises with the Office of Best Practice Regulation (formerly the Office of Regulation Review) in relation to new regulatory proposals. Prior to the establishment of PAGO, the RRP was managed through the Aviation Safety Standards section of CASA.

To develop safety regulations under the RRP, CASA forms small combined industry/CASA teams to establish the direction of the regulations and their detail. Wherever appropriate, these new rules are to be based on overseas regulations to ensure harmonisation and Australian competitiveness. These new rules will be written expressly to address safety outcomes.

(2) The RRP was initiated in December 1999 and was launched at the beginning of 2000.

(3) RRP costs cannot be distinguished from other costs associated with the CASA area responsible for the activity.

(4) During the period 2000 – 2006:

- 15 Civil Aviation Safety Regulations (CASR) Parts were made and commenced: CASR Parts 11, 13, 39, 45, 47, 60, 65, 67, 92, 101, 139, 143, 171, 172, 173.
- 57 Advisory Circulars were issued.
- 9 Manuals of Standards (MOS) were issued.

Examples of secondary outcomes are aircraft registrations, aerodrome certification/registration, navigation approvals granted and airworthiness directives issued as a result of the CASR Parts being made under the RRP.

(5) PAGO provides a focal point for coordination and project management of the RRP but relies on subject matter experts from other CASA offices for the policy and regulatory development work to
be completed on a timely basis. The RRP under PAGO should be more successful than under the old Aviation Safety Standards section but progress will depend on the availability of subject matter experts from other parts of CASA.

(6) See (3).

**Civil Aviation Safety Authority: Metroliner Aircraft**

(Question No. 2756)

*Senator O’Brien* asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 November 2006:

With reference to the Civil Aviation Safety Authority (CASA) Airworthiness Bulletin 02-017 concerning ‘the increasing trend of leaking fluid lines (oil, fuel, hydraulic, anti-ice, bleed or exhaust) on Metroliner SA226/SA227 aircraft’:

(1) Can the Minister confirm that the Transair aircraft VH-TFU that crashed at Lockhart River in May 2005 was a Metroliner SA227 aircraft.

(2) Can the Minister identify all reports, since 1 July 2001, relating to the leakage of fluid carrying lines and pipes concerning: (a) the Transair Metroliner aircraft VH-TFU; and (b) other Transair Metroliner aircraft.

*Senator Ian Campbell*—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) It is not considered appropriate at this time to address these detailed questions about the operator of the aircraft involved in the Lockhart River accident (*Lessbrook Pty Ltd* trading as *Transair*).

The Lockhart River accident is currently the subject of an ongoing investigation by the Australian Transport Safety Bureau (ATSB) in accordance with the provisions of the Transport Safety Investigation Act 2003. The draft report is presently with Directly Involved Parties for comment in accordance with the statutory provisions of the Act. The ATSB’s final report on the accident is expected to be released by March 2007. It is understood that a coronial inquest into the accident is likely to be held in 2007.

**Environment Protection and Biodiversity Conservation Act: Referrals**

(Question No. 2812)

*Senator Chris Evans* asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 20 November 2006:

With reference to referrals for assessment and approval lodged in the 2005-06 financial year under the *Environment Protection and Biodiversity Conservation Act 1999*:

(1) Of these referrals: (a) how many did the department recommend that the action was not controlled under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.

(2) Of these referrals: (a) how many did the department recommend that the action was controlled under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.

(3) Of the referrals that were determined to be controlled actions: (a) how many did the department recommend be approved without conditions under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.

(4) Of the referrals that were determined to be controlled actions: (a) how many did the department recommend be approved with conditions under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.
(5) Of the referrals that were determined to be controlled actions: (a) how many did the department recommend not be approved under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.

**Senator Abetz**—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

1. (a) A total of 268 referrals were recommended as not controlled actions or not controlled actions if taken in the specified manner in the 2005-06 financial year.
   
   (b) The Minister did not overturn any of these recommendations.

2. (a) A total of 63 referrals were recommended as controlled actions in the 2005-06 financial year.
   
   (b) The Minister did not overturn any of these recommendations.

3. (a) No referrals were approved without conditions under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) in the 2005-06 financial year.
   
   (b) No.

4. (a) A total of 6 referrals lodged in the 2005-06 financial year were approved with conditions under the EPBC Act in 2005-06.
   
   (b) The Minister did not overturn any of these recommendations.

5. (a) The department did not recommend any referrals not be approved under the EPBC Act in the 2005-06 financial year.
   
   (b) No.

**Bald Hills Wind Farm**

(Question No. 2813)

**Senator Chris Evans** asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 20 November 2006:

With reference to the decision by the Minister to settle the dispute over the Bald Hills wind farm on 4 August 2006:

1. How much of the applicant’s legal fees did the Commonwealth agree to pay.

2. What were the total legal fees directly incurred by the Commonwealth in relation to this matter.

3. Has the Minister or the department previously agreed to pay the legal costs of another party in the settlement of a matter; if so: (a) how many times has this occurred; and (b) when has this occurred.

**Senator Abetz**—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

1. $150,000.

2. $105,492.04 (GST exclusive).

   
   (a) On two occasions; and
   
   (b) (i) Grissell v Commonwealth – April 2005; and
   
Transair
(Question No. 2816)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 November 2006:

Did any representatives of Transair, the operators of the aircraft that crashed at Lockhart River in May 2005, attend the Civil Aviation Safety Authority’s 3 day safety summit held in Cairns in April 2005.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

No Transair representatives were identified amongst the 84 people in attendance.

Marnic Worldwide Pty Ltd
(Question No. 2834)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 November 2006:

(1) Can the Minister confirm that Mr Alan Bradbury, an employee of Minter Ellison, sent an e-mail to Mr Steve Prothero, an officer from the Australian Quarantine and Inspection Service (AQIS), on 11 November 2004 relating to a claim for compensation by Marnic Worldwide Pty Ltd.

(2) Can the Minister confirm that Mr Bradbury requested that all records relating to the above import permit be identified and secured: (a) if so: (i) how many files were located, (ii) did these files include records of e-mails and telephone contacts with Marnic, (iii) how were they secured, and (iv) where were they secured; and (b) if not, why not.

(3) Did Mr Bradbury request that any AQIS staff that had discussions with Marnic should make sure they have detailed records of their conversations for the AQIS file.

(4) Can the Minister confirm that all AQIS staff that had discussions with Marnic made detailed records of their conversations with the company: (a) if so: (i) how many records of conversation were recorded, (ii) were all these records lodged in the appropriate file, and (iii) what period do the records cover; and (b) if not, why not.

(5) Were officers employed by Biosecurity Australia also required to make records of conversations with Marnic: (a) if so: (i) how many records of conversation were recorded, (ii) were all these records lodged in the appropriate file, and (iii) what period do the above records cover; and (b) if not, why not.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Yes. (a) (i) 2. (ii) Yes. (iii) In a DAFF registered file. (iv) DAFF file registry.

(3) Yes.

(4) No. (b) We have no way of verifying that every telephone call had a file note.

(5) The advice provided by Minter Ellison to AQIS was not provided to Biosecurity Australia. However, a record of a phone conversation with Marnic on 9 November 2004 was made and is available from the Senate Table Office.

QUESTIONS ON NOTICE
Marnic Worldwide Pty Ltd
(Question No. 2835)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 November 2006:

(1) Did Ms Jane Parlett, an officer of the Australian Quarantine and Inspection Service (AQIS), send an e-mail to Dr Robert Heard, an employee of Biosecurity Australia, at 8.58 am on 12 November 2004, concerning a claim for compensation by Marnic Worldwide Pty Ltd.

(2) Was the subject of the email ‘Never use frozen sea foods, daphnia, tubifex etc, which had not been irradiated by gamma-rays’.

(3) Did the e-mail refer to an article that, according to Ms Parlett, made it clear that marine worms may contain pathogens.

(4) Did the e-mail refer to the website www.seame.com/uk/illness.html.

(5) Was the information contained on this website the basis of the science used by AQIS and BA to cancel the Marnic permit to import marine worms.

(6) Can the Minister confirm that: (a) this website is an Internet shop for aquarium and pond products; (b) the marine worms referred to on this site are aquarium blood worms; (c) these worms are the larvae of the midge fly and are used as aquarium fish feed; (d) tubifex worms are earth worms that are also used as aquarium fish feed; (e) daphnia are water fleas; and (f) none of the worms referred to by Ms Parlett, which all require irradiation by gamma-rays because of disease risk, has any relevance to the worms Marnic sought to import which were to be used for recreational fishing.

(7) If there was advice based on scientific evidence, other than the above website referred to by Ms Parlett, that led to the cancellation of Marnic’s import permit and related specifically to the species of marine worms identified in the original import permit provided to Marnic by AQIS: (a) when was that advice prepared; (b) who prepared the advice; (c) what form did that advice take; (d) to whom was that advice provided; (e) when was it provided; and (f) can a copy be provided of that advice.

(8) If there was advice based on scientific evidence, other than the above website referred to by Ms Parlett, that led to the cancellation of the Marnic permit that did not relate specifically to the species of marine worms identified in the original import permit provided to Marnic by AQIS but related to another species of worms: (a) what species of worms; (b) when was that advice prepared; (c) who prepared the advice; (d) what form did that advice take; (e) to whom was that advice provided; (f) when was it provided; and (g) can a copy be provided of that advice.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) No. The title was “Never use frozen sea foods, daphnia, tubifex etc., which have not been gamma-ray irradiated.”

(3) Yes.

(4) Yes.

(5) No.

(6) (a) Yes. (b) No. (c) Not applicable. (d) Tubifex worms are not earthworms but may be used as aquarium fish feed. (e) Yes. (f) Ms Parlett referred to an article on the Website.
QUESTIONS ON NOTICE

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 November 2006:

(1) Can the Minister confirm that Ms Patricia Thornhill, an officer of the Australian Quarantine and Inspection Service (AQIS), was contacted by representatives of Marnic Worldwide Pty Ltd by telephone on 21 October 2004, to discuss amendments to an import permit issued to that company in February 2004.

(2) Can the Minister confirm advice in the answer to question on notice no. 1633 paragraph (2)(a) (Senate Hansard, 10 May 2006 p. 170) that Marnic submitted a request to vary the competent authorities listed on the above permit to AQIS on 22 October 2004.

(3) Can the Minister confirm advice in the answer to question on notice no. 1633 (2)(b) that the above request was forwarded by AQIS to Biosecurity Australia (BA) on 26 October 2004.

(4) (a) When did AQIS first contact BA in response to the Marnic request on 21 October 2004; (b) who made that contact; (c) in what form was the contact made; and (d) what was the name of the BA officer contacted.

(5) Can the Minister confirm that an email was sent by Ms Thornhill, Senior Assessing Officer, Biological Unit, AQIS to Dr Robert Heard in BA on 8 November 2004.

(6) Did Ms Thornhill advise Mr Heard that she planned to retrieve the original file relating to the Marnic permit application in order to determine whether any advice had been sought from BA about the permit application.

(7) Did Dr Heard respond to this email; if so: (a) when did he respond; (b) how did he respond; and (c) what was the nature of his response.

(8) (a) Can the Minister confirm that Ms Kylie Challen, an officer of AQIS, emailed Dr Heard at 3.09 pm on 8 November 2004, advising that there was no evidence on the Marnic file of advice from BA; and (b) did that email provide a list of the species of worms covered by the import permit.

(9) Did Dr Heard respond to this email; if so: (a) when did he respond; (b) how did he respond; and (c) what was the nature of his response.

(10) On what day, and at what time, was the AQIS Marnic file provided to Dr Heard.

(11) On what date was the Marnic import permit formally revoked.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) No, we cannot confirm that Ms Thornhill was contacted by telephone by Marnic Worldwide Pty Ltd on 21 October 2004.

(2) Yes.

(3) Yes.

(4) (a) AQIS contacted Biosecurity Australia on 26 October 2004, as detailed in responses to questions 1633(2)(b) and 2177(2). (b) An assessing officer within the AQIS Biologicals Unit. (c) The correspondence register does not indicate the form in which this communication was made. (d) A Veterinary Officer within Biosecurity Australia.
Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 November 2006:

1. Can the Minister confirm that Ms Parlett, an officer of the Australian Quarantine and Inspection Service (AQIS), sent an email to Dr Robert Heard an employee of Biosecurity Australia (BA) at 8.58 am on 17 November 2004.

2. In that email did Ms Parlett seek advice from Dr Heard in relation to a decision by AQIS to amend an import permit issued to Marnic Worldwide Pty Ltd to import marine worms, to require irradiation by gamma-rays at 50kGy based on advice from BA.

3. Why did Ms Parlett seek clarification of the basis for amending the Marnic import permit from Dr Heard.

4. Is it the case that the permit had been amended to require irradiation by gamma-rays on 8 November 2004, based on advice from Dr Heard in an email sent to Ms Kylie Challen from AQIS, and copied to Ms Parlett, at 4.03 pm on that day.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

1. Yes.

2. Yes.

3. To confirm that AQIS had correctly interpreted the advice from Dr Heard.

4. No. The permit was re-issued on 9 November 2004.

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 November 2006:

1. Did Minter Ellison write to the legal firm Talbot Oliver on 19 November 2004 in relation to the claim by Marnic Worldwide Pty Ltd for compensation following the withdrawal of a permit issued to that company by the Australian Quarantine and Inspection Service (AQIS) for the importation of marine worms.

2. Did that letter say that AQIS had been informed that marine worms could be irradiated without loss of their consistency.
(3) Was the advice to Marnic based on information provided to AQIS by Steritech Pty Ltd, a company that provides gamma irradiation services in Australia.

(4) Did the above advice from Steritech Pty Ltd refer AQIS to a website for a British company called Tropical Marine that provides fish food.

(5) Can the Minister confirm that the species of worms Marnic was seeking to import, and the purpose to which those worms were put, did not relate in any way to the marine products to which Steritech Pty Ltd referred.

(6) Can the Minister confirm that the marine worms to be imported by Marnic were for use by recreational fishers but the worms, and other marine products, being gamma irradiated by Steritech Pty Ltd were for use as aquarium fish feed.

(7) If the advice to Talbot Oliver by Minter Ellison that marine worms could be irradiated without a loss of consistency was not based on information provided by Steritech Pty Ltd: (a) what was the scientific basis for that advice; and (b) who provided that advice to AQIS.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Yes.

(3) Yes.

(4) Yes.

(5) No, we cannot confirm the purpose to which the worms were put.

(6) AQIS was seeking advice from Steritech on the effect of gamma irradiation on worms.

(7) Not applicable.

Defence: Staffing
(Question No. 2848)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 28 November 2006:

With reference to the department and all agencies in the Minister’s portfolio:

(1) How many staff are engaged under a Certified Agreement (CA).

(2) How many staff are engaged under the provisions of an Australian Workplace Agreement (AWA).

(3) Does the department or portfolio agency have any staff engaged under the provision of a common law contract; if so: (a) by level, how many staff are under these contracts; and (b) for what reason has the department or agency determined that common law contracts are preferred employment instruments over either CAs or AWAs.

Senator Ellison—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

(1) and (2) Defence: Refer to Defence’s Annual Report 2005-06, Table 6.11 (Volume One, page 290); and Table 5.16 (Volume Two, page 93.

Defence Housing Australia: 400 (CA) and 314 (AWA).

(3) Defence: Yes.

(a) As at 10 November 2006, there was 2,223 cadet staff.

(b) The Australian Defence Force Cadets is a youth program run in partnership between Defence and the community. Cadet staff volunteer to participate as adult instructors. They are not em-
ployees under the *Public Service Act 1999* or the *Defence Act 1903*. Rather, those cadet staff, who are not also members of the Defence Force, are considered to be employed by the Commonwealth under a common law contract of employment because, among other things, of the level of control that Defence exercises over their performance. While the employment relationship arises under the common law, the terms of the relationship are found in the relevant legislation which applies to cadets. This arrangement reflects the particular nature and role of cadet staff.

Defence Housing Australia: No.

**Transair**

(Section No. 2863)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 November 2006:

With reference to the Enforceable Voluntary Undertaking (EVU) entered into by Transair on 4 May 2006: did any of the undertakings listed in the EVU relate to matters not mandated by aviation safety regulations; if so, can details be provided.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

No. All of the undertakings related to regulatory requirements.

**Private Jacob (Jake) Kovco**

(Section No. 2865)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 28 November 2006:

With reference to the answers given at the supplementary estimates hearings of the Foreign Affairs, Defence and Trade Committee on 1 November 2006 (Committee *Hansard*, p. 35) concerning the chartered Airbus aircraft:

1. What freight and/or personnel did the aircraft carry on each leg of the trip in which the body of Private Kovco was repatriated.
2. What was the total cost of that return flight.
3. Was that flight called a ‘high speed’ flight; if so, why.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. The A330 Airbus aircraft that returned Private Kovco’s body was undertaking a scheduled sustainment run to the Middle East area of operations. On the return leg, in addition to the casket, the aircraft transported 15 passengers and 2,100kg of cargo between Kuwait and Darwin. Three passengers and 326 kg of cargo were offloaded in Darwin prior to the aircraft proceeding onto Sydney.
2. The round trip cost of the sustainment flight to and from the Middle East was $1,038,217.
3. The flight was ‘high speed’ in that it was flown at the most effective altitude and fuel burn on a direct route that did not require re-fuelling stops. The flight was also given VIP status by Sydney Air Traffic Control so that it arrived in Sydney at around 7.30 am, in order to link with the reception arrangements that had been planned for that morning.
QUESTIONs ON NOTICE

Private Jacob (Jake) Kovco
(Question No. 2866)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 28 November 2006:

(1) With reference to the answers given at the supplementary estimates hearings of the Foreign Affairs, Defence and Trade Committee on 1 November 2006 (Committee Hansard p. 36), given the confirmation that the Minister did telephone the Middle East a number of times concerning the mix-up in the repatriation of Private Kovco’s body: (a) who did the Minister telephone; (b) at what time; (c) for what purpose; and (d) why was this administrative matter such that normal administrative contact was considered inadequate, requiring direct ministerial intervention.

(2) Among the telephone calls made by the Minister, can the Minister confirm: (a) that he called the Consul in Kuwait (Mr Adams), at the time of the initial body identification on 24 April 2006; and (b) the evidence given to the Kovco Board of Inquiry by Mr Adams that the Minister advised Mr Adams that ‘we have to make absolutely sure’ (p. 889); if so, how does this reconcile with the evidence given at the above supplementary estimates that ‘…the Minister did not become involved in any calls to the Middle East until we had the problem with the wrong body arriving in Melbourne’ (Committee Hansard p. 36).

(3) Is the Minister aware of the finding by Brigadier Cossen that one of the causes of the mix-up in the repatriation of the body of Private Kovco was undue haste and that the Brigadier is quoted as saying ‘…the repatriation process … within four days from his death is too short a timeframe within which to properly risk manage and execute a complex and highly sensitive situation’; if so, did the Minister or anyone in the Minister’s office either instruct, urge or request that everything be done to return Private Kovco by ANZAC day.

(4) Can the Minister confirm that the aim of returning Private Kovco to Australia by ANZAC day was a common understanding within the Australian Defence Force, as attested to by statements to the Board of Inquiry by defence personnel.

(5) (a) When will the report of the Kovco Board of Inquiry be made public; and
(b) what is the cause for delay.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) and (2) I made a statement on 4 July 2006 in relation to the Kovco Board of Inquiry about my discussions with various senior Defence officials around the time of the error in repatriating the body of Private Kovco. I do not propose to elaborate on that statement.

(3) I am aware of the finding. No.

(4) See response to part (3).

(5) (a) The report was released on 1 December 2006.
(b) The Board of Inquiry report was released expeditiously following the development of a Defence plan to implement its recommendations.

Defence: Act of Grace Payments
(Question No. 2868)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 28 November 2006:

(1) What is the status of the consideration being given to the class action against the department by the parents of recent suicide victims seeking act of grace payments.
QUESTIONS ON NOTICE

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) I assume that the honourable senator is referring to the claims made by Slater and Gordon on behalf of the Hayward, Satatas, Shiels and Williams families. I am unaware of any class action. The claims that have been made have been referred to by Slater and Gordon as ex gratia claims, and not act of grace claims.

(2) It is unclear precisely how many claimants there are.

(3) Defence is dealing with this matter.

(4) No.

(5) The former Minister for Defence, Senator the Hon Robert Hill, responded to the legal representatives on 16 November 2005. A further letter has been sent to the legal representatives by the Minister Assisting the Minister for Defence on seeking further information sufficient to enable the request for payment to be further considered. I am unable to provide a firm date when a final response will be made. The application of discretionary financial remedies raises issues of broad government policy and requires careful consideration.

Defence: Complaints
(Question No. 2875)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 29 November 2006:

With reference to Table 5.3 on page 253 of the department’s annual report for 2005-06: (a) of the 14 complaints of unprofessional and unethical conduct against the Service Police, what was the: (a) substance of the complaint in each case, and (ii) outcome of each investigation; (b) what was the outcome of the investigation into the 14 complaints on victimisation/ threats/intimidation; (c) what were the outcomes of the 16 complaints of denial of natural justice; and (d) what disciplinary action was taken in each of the above investigations.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) (i) and (ii)

<table>
<thead>
<tr>
<th>Substance of Complaint</th>
<th>Outcome of Investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alleged incident involving physical contact of an unwelcome nature</td>
<td>Individual failure of military justice</td>
</tr>
<tr>
<td>Alleged altering of a witness statement</td>
<td>No failure of the military justice system</td>
</tr>
<tr>
<td>Alleged fraternisation</td>
<td>No failure of the military justice system</td>
</tr>
<tr>
<td>Alleged failure to refer possible sexual assault to civil police</td>
<td>Systemic failure of the military justice system</td>
</tr>
<tr>
<td>Alleged fraudulent behaviour</td>
<td>Under investigation</td>
</tr>
<tr>
<td>Alleged victimisation</td>
<td>Under investigation</td>
</tr>
</tbody>
</table>
QUESTIONS ON NOTICE

Substance of Complaint | Outcome of Investigation
---|---
7 Alleged coercion in the making of a witness statement | No failure of the military justice system
8 Alleged abuse of investigative process | Under investigation
9 Alleged domestic assault | Returned to the Navy for further investigation – decision taken by the Navy not to proceed.
10 Alleged bullying and abuse of investigative process | No failure of the military justice system
11 Alleged fraudulent behaviour | Investigation complete – referred to the Director Military Prosecution
12 Alleged coercive behaviour in the course of conducting interview and deprivation of liberty | Investigation complete – under legal review
13 Alleged coercive behaviour in the course of conducting interview | Investigation complete – under legal review
14 Alleged coercion in the making of a witness statement | No failure of the military justice system

Note: As stated in the Defence’s Annual Report 2005-06, the outcomes of complaints dealt with by the Inspector General Australian Defence Force are described in terms of whether or not the matter disclosed a failure of military justice and, if so, whether the failure was individual or systemic.

(b) The outcomes were:
- Two findings that there was an individual failure of military justice;
- Eight findings that there was no failure of military justice;
- One matter was referred back to the Army for further investigation, which found that the behaviour of the respondent was not inappropriate; and

In three matters, the investigations are complete. One of these investigations has been referred to the Director Military Prosecution, and the other two are under legal review.

(c) Of the 16 complaints of denial of natural justice, two are still under investigation. The outcomes or status of the other complaints were:
- One finding that there was a systemic failure of military justice;
- Three findings that there was an individual failure of military justice;
- Nine findings that there was no failure of military justice; and
- In one matter, the investigation is complete and is under legal review.

(d) In its broader sense, disciplinary action can take the form of sanction under the Defence Force Discipline Act (DFDA) 1982 or adverse administrative action. There were six instances of an individual failure of military justice, which potentially raise the issue of disciplinary action. One of those matters has resulted in the preferring of charges under the DFDA. Of the others, the nature of the failures were not such as to warrant disciplinary action.

Royal Australian Navy and Royal Australian Air Force: Unacceptable Behaviour

(Question No. 2878)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 29 November 2006:

(1) With reference to Chart 5.10 and 5.11 on pages 268 and 269 of the department’s annual report for 2005-06 relating to unacceptable behaviour: (a) why is the Royal Australian Navy (RAN) significantly over represented in comparison with the other services; and (b) why are complaints increasing in the Royal Australian Air Force.
(2) With reference to the RAN, what is the categorisation of unacceptable behaviour complaints, as shown in Chart 5.10 on page 268 of the annual report.

Senator Ian Campbell—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) The RAN has an effective and accurate reporting system in place that allows for the reporting of all levels of complaint. This system is well briefed to members of the RAN. The Workplace Equity and Diversity Annual Report 2005-06, page 25, paragraph 5 noted: ‘Navy was particularly noteworthy for its consistent diligence in reporting’. If the Navy appears to be over represented regarding unacceptable behaviour, it is due to this diligence in reporting.

(b) There is insufficient historical data to determine accurate trends in unacceptable behaviour in the Royal Australian Air Force (RAAF), independent of trends in reporting. The figures indicate the results of better education, achieved through mandatory annual equity and diversity training; increased confidence in commanders’ and managers’ abilities to manage complaints; and increased efforts to encourage units to better manage and report unacceptable behaviour, rather than an increase in incidents. Further work is being undertaken by the RAAF to gain a better understanding of the reported data.

(2) Chart 5.10 of the Defence Annual Report 2005-06 includes all categories of unacceptable behaviour. Total reported complaints for the RAN during 2005-06 represent 15 complaints per 1,000 RAN members. The 237 unacceptable behaviour complaints reported by the RAN in the period included harassment (103), workplace bullying (46), sexual offences (28), sexual harassment (28), inappropriate workplace relationships (15), discrimination (8) and abuse of power (9).

Defence: Advertising Budget
(Question No. 2880)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 29 November 2006:

(1) With reference to the department’s advertising budget, what was the purpose of: (a) $23 035 paid to Newspoll for polling; (b) $10 000 paid to the Southern Football League; and (c) $749 591 to Universal McCann for educational features.

(2) For the 2005-06 financial year, what was the total sum paid to: (a) HMA Blaze; and (b) each other advertising agency by name.

(3) What is the process by which: (a) advertising agents are chosen; and (b) work is distributed between them.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) To conduct public opinion polling to assist with recruiting and retention initiatives.

(b) To provide promotional material to the local community surrounding HMAS Cerberus.

(c) For educational features and inserts supporting career expos and recruiting into various metropolitan and regional newspapers.

(2) (a) and (b) Full details of the amounts paid to HMA Blaze and each other advertising agency is contained in the Defence Annual Report 2005-06, Table 6.35.

(3) (a) and (b) Advertising and media firms contracted by Defence are engaged using open or restricted tender processes in accordance with the requirements of the Defence Procurement Policy Manual and the Commonwealth Procurement Guidelines. Work is won through success in the tender process.
Defence: Incapacity Cases
(Question No. 2881)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 29 November 2006:

With reference to Table 4.16 on page 243 of the department’s annual report for 2005-06, is the dramatic downturn in incapacity cases reflected in Military Compensation Rehabilitation Scheme/Military Rehabilitation Compensation Scheme claims and payments; if so: (a) to what extent; and (b) with what savings.

Senator Ellison—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

In September 2004, Defence implemented a new incident report form which, consistent with reporting requirements under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, required that only incapacity in excess of 30 days be reported. The drop in the number of incapacity reports post 2003-04 is due to the removal of the 5 to 29 day incapacity category from the Defence incident reporting database, rather than to any significant change in actual incapacity figures.

Australian Defence Force: Recruitment
(Question No. 2887)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 29 November 2006:

(1) For the 2006-07 financial year to date: (a) how many recruits have signed up with the Australian Defence Force, by service, from each overseas country; and (b) what amount has been spent on recruitment in each of the source countries.

(2) (a) What evaluation has been conducted on the recruitment program developed to attract young people to the defence services; (b) what were the findings; (c) what was the final development cost; (d) how much has been spent since initial acquisition on further development; and (e) how much has been spent supporting the program.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) Nil. The Australian Defence Force (ADF) does not undertake programs to recruit, untrained military personnel (recruits) from overseas. However, under an agreement with the Department of Immigration and Multicultural Affairs and the Department of Employment and Workplace Relations, the ADF has a lateral transfer program, which is in response to foreign military personnel who make an enquiry direct to the Services.

(b) Nil. The ADF does not advertise the lateral transfer program process publicly.

(2) (a) Between May and September 2006 a comprehensive evaluation was carried out by Ernst & Young on Defence Force Recruiting Services. This evaluation investigated the ADF Recruiting service delivery model, processes, supporting technology and organisational and people issues.

(b) The 2006 evaluation found that ADF recruiting needs to be more focused on the candidate experience and less focused on the recruiting process. Changes to the service delivery model to meet this requirement were recommended to equip Defence to better meet increasing ADF recruitment needs. Clearer lines of responsibility and accountability between Defence and the Recruiting Services partner were also recommended.

(c) The evaluation of Defence Force Recruiting Services by Ernst & Young was performed for a total cost of $495,000.
A suite of initiatives delivering improvements to ADF recruiting are currently being implemented, and $371 million has been committed to these activities over the next ten years. As a result of the evaluation, Defence has designed a number of improvements to the ADF recruiting service delivery model. Additional funding for implementation has not yet been allocated.

The annual budget for Defence Force Recruiting is $86.824 million.

**Supporting Young Carers Project**

(Original Question No. 2888)

Senator Allison asked the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 29 November 2006:

With reference to the Supporting Young Carers Project:

1. Has an evaluation been made of the effectiveness of this program; if so, can the report of the evaluation be provided.
2. Has an assessment been made of the extent to which the $500 000 in annual funding is meeting demand; if so, can details be provided.
3. Is it the case that there is only one state in Australia that has been able to employ a full-time worker to implement the project.
4. Has the effectiveness of the project been compromised in other states where funding limits young carer workers to 1 or 2 days of paid work.
5. Given that the focus of the project is on young carers who are at risk of not completing secondary education or the vocational equivalent, has the Government assessed the needs of: (a) the 19-year to 25-year old age group; (b) the under 10-year old age group; and (c) those whose parents have a drug or alcohol dependency; if so, can details be provided.
6. Does the Government have data on the number of young carers who have already disengaged from education because of their caring role; if so, can that data be provided.
7. Does the Government consider it desirable to provide young carers with a support program that provides direct assessment plans to carers and their families that include counselling, information, respite, individual support such as case management and other programs tailored for young people; if so, what action is being taken to provide such a program.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The Australian Government has funded Carers Australia to provide young carers specific advice, information and referral services, including young carer counselling services. The funding supplements the existing capacity of the Commonwealth Carer Resource Centres including their counselling resources.

To date, no evaluation on the effectiveness or possible expansion of the program has been made.

Research data on young carers is limited. The ABS (Survey on Disability Ageing and Caring 1998) reported that there are 388,000 people aged 25 years or under who provide care. This represents 17 per cent of the total carer population and 6 per cent of all people less than 26 years of age. Some 18,800 young carers are primary carers. Only 4 per cent of young carers aged 15 – 25 years are still at school compared with 23 per cent of the general population. Carers Australia has advised that there are around 4,000 young (primary and secondary) carers registered with the state and territory Carers Associations.

**Air Paradise**

(Original Question No. 2895)

Senator O’Brien asked the Minister for Justice and Customs, upon notice, on 30 November 2006:
With reference to the answer to question on notice no.1881 (Senate Hansard, 6 November 2006, p. 230) concerning payment of the passenger movement charge (PMC) by persons who purchased tickets but did not travel due to the suspension of Air Paradise services in November 2005:

(1) Has the Government made any effort to establish how many affected persons paid the PMC; if so, how many; if not, why not.

(2) Has the Government made any effort to establish how many affected persons paid the PMC but have not received a refund; if not, why not.

(3) Has the suspension of services caused the Government to review the regime for collecting and remitting the PMC; if so, what is the outcome of the review.

(4) What is the nature of the authority that permits the collection of the PMC as part of the ticketed fare paid to an airline or ticketing agent.

(5) What are the details of the formal arrangements under which airlines remit the PMC to the Government.

(6) Under these formal arrangements, does the Government pay the administration costs incurred by airlines in collecting and remitting the PMC; if so, by year, what amounts have been paid to Air Paradise.

(7) Is it the case that section 9 of the Passenger Movement Charge Collection Act 1978 provides that a person is entitled to a refund of the PMC paid by the person if the departure in respect of which the PMC was paid does not take place.

(8) Is the Commonwealth liable for the refund of the PMC paid by persons who purchased tickets to travel on Air Paradise but did not travel due to the suspension of services; if not, why not.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) and (2) The Passenger Movement Charge (PMC) is one component of the fare paid (in advance) to the airline or its agent and this PMC component does not become due to the Commonwealth until the passenger has actually departed on the flight. Accordingly, in this case, the PMC was never remitted to the Commonwealth, as the flights did not take place.

(3) No.


(5) Customs administers the PMC legislation through contract arrangements with each carrier. The existing Arrangements for RPT airlines cover the period 1 July 2004 to 30 June 2007. Customs is currently well advanced in the development of new Arrangements to take effect from 1 July 2007 (upon expiration of the existing Arrangements).

(6) Airlines may seek recovery of their PMC administration costs from Customs. No administration costs have been paid to Air Paradise.

(7) Yes. The passenger is entitled to a refund of the PMC (paid to an airline or ticketing authority) if the departure did not take place. However the airline or ticketing authority would be required to refund that portion of the fare identified as the PMC component, as Customs does not receive the PMC, as stated in Question 1 and 2. A refund of the PMC from Customs is provided for where Customs directly collected the PMC from the passenger and then the passenger failed to depart Australia.

(8) The Commonwealth is not liable for the reasons stated in Questions 1, 2 and 7.
Passenger Movement Charge
(Question No. 2896)

Senator O’Brien asked the Minister for Justice and Customs, upon notice, on 30 November 2006:

(1) Can the Minister confirm that passenger movement charge (PMC) revenue collected for the 2005-06 financial year was $374.6 million.

(2) Can the Minister confirm that, based on the revenue projections provided in the answer to question on notice no. 1272 (Senate Hansard, 15 May 2003, p.11329), for the 2005-06 financial year, actual revenue exceeded projected revenue by $52.4 million.

(3) Can the Minister confirm that PMC revenue collected for the 2004-05 financial year was $363.8 million.

(4) Can the Minister confirm that, based on the revenue projections provided in the answer to question on notice no. 1272, for the 2004-05 financial year, actual revenue exceeded projected revenue by $51.3 million.

(5) For the financial years 2004-05 and 2005-06, why has actual PMC revenue exceeded estimated revenue by more than $103 million.

(6) For each of the financial years 2006-07, 2007-08, 2008-09 and 2009-10, what is the total amount of PMC revenue estimated to be collected.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) Passenger Movement Charge (PMC) revenue collections for the 2005-06 financial year were $374.6 million.

(2) Actual revenue exceeded the PMC revenue projection provided in the answer to question on notice no. 1272 (May 2003) for PMC collections in the 2005-06 financial year by $52.4 million.

(3) PMC revenue collections in the 2004-05 financial year were $363.8 million.

(4) Actual revenue exceeded the PMC revenue projection provided in the answer to question on notice no. 1272 for PMC collections in the 2004-05 financial year by $51.3 million.

(5) The projections for 2004-05 and 2005-06 provided in the answer to question on notice no. 1272 were based on passenger volume projections available at that time from the Tourism Forecasting Council. These projections reflected concerns related to the SARS and Iraq crises. The actual passenger numbers in 2004-05 and 2005-06 were in excess of the passenger volume projections available from the Tourism Forecasting Council at the time of providing the answer to question on notice no. 1272.

(6) Estimates in the Portfolio Budget Statements 2006-07 incorporate the following estimates for PMC revenue:
   06/07 - $406.4 million
   07/08 - $427.7 million
   08/09 - $449.2 million
   09/10 - $471.7 million.

Finance and Administration: Motor Vehicle Accidents
(Question No. 2925)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 7 December 2006:

QUESTIONS ON NOTICE
With reference to accidents involving motor vehicles leased or owned by the department for the department’s use or for use by other departments or agencies, for each of the financial years 2004-05 and 2005-06:

(1) How many accidents occurred on: (a) official business; and (b) during private use.

(2) How many people involved in these accidents who were injured and required hospitalisation were:
   (a) government employees, or (b) other persons.

(3) How many people involved in these accidents who died as a result were:
   (a) government employees; or (b) other persons.

(4) How many Comcare claims are:
   (a) finalised; and (b) pending.

(5) How many staff days have been lost as a result of these motor vehicle accidents.

(6) How many supplementary restraint systems were deployed in vehicles involved in these accidents.

Senator Minchin—The answer to the honourable senator’s question is as follows:
The Department of Finance and Administration (Finance) retains records of motor vehicle insurance claims relating to accidents involving the Government’s leased vehicle fleet. These records do not include whether there was an injury to the driver or whether the accident occurred while being used for business or private purposes.

Comcare retains records relating to claims from Commonwealth employees who have been killed or injured in motor vehicle accidents while working or travelling to/from work. These records do not include vehicle type, vehicle registration number or whether the vehicle was leased or owned by the Commonwealth.

Having regard to the above, Finance is not able to answer the question.

Regional Flood Mitigation Program
(Question No. 2927)

Senator Carr asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 7 December 2006:

(1) On what date was the RFMP abolished and incorporated into the Natural Disaster Management Program (NDMP).

(2) Can the Minister explain all the reasons behind this decision to close down a successful, long-term program that directly linked the Commonwealth Government with local government.

(3) Can the Minister explain the benefit of abolishing the RFMP which was a program directed toward long-term preventative and planning measures and incorporating its funding within the NDMP which is a program that is necessarily involved with many more reactive activities.

(4) Did the proposal to conclude the RFMP and incorporate it into the NDMP originate from a Commonwealth department or agency; if so, on what date; if not: (a) who made the suggestion; and (b) on what date.

(5) (a) Which agencies and individuals were consulted as part of the decision to abolish the RFMP; and (b) can a list be provided of all Commonwealth, state and local government organisations and agencies that were consulted.

(6) Were any other individuals or organisations consulted as part of this process; if so, can full details be provided.

(7) Can full details be provided of how it is proposed to integrate the two different programs in practice.

(8) Can the Minister guarantee that there will be no decline in funding for floodplain management as a result of the integration of these two programs.
(9) For each of the financial years 2002-03 to 2007-08, can a comparative table be provided, showing the real and notional (for 2007-08) allocations in New South Wales for floodplain management under the RFMP and more recently the NDMP.

(10) Can the Minister confirm that all projects currently under way, such as the Taminda Levee project at Tamworth, will be funded through to completion.

(11) Can the Minister confirm that all such current projects will receive Commonwealth funding equivalent to what they would have received under the RFMP.

(12) Since changes to the RFMP and the NDMP funding in 2000 that placed a greater financial burden on local government, how many councils have indicated that they could not afford their contributions.

(13) Is this the principal reason for the adoption by the Council of Australian Governments of ‘exceptional circumstances’ for financial assistance under these programs.

(14) What are the criteria for eligibility for assistance under these ‘exceptional circumstances’.

(15) What is the process by which these criteria have been developed.

(16) Who was involved in or consulted as part of this process.

(17) Who will determine when ‘exceptional circumstances’ apply.

(18) (a) Does an acceptance of ‘exceptional circumstances’ mean that a standard of relief will apply to all such applications; or

(b) will additional relief be provided on a case by case basis; if so, what measures have been put in place to ensure both transparency and equity in the application of ‘exceptional circumstances’.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator’s question:

(1) The Regional Flood Mitigation Programme (RFMP) will be amalgamated with the Natural Disaster Mitigation Programme (NDMP) on 1 July 2007. Activities funded by the RFMP will continue.

(2) The Government agreed to incorporate the RFMP into an enhanced NDMP, in line with recommendations of the August 2002 COAG report “Natural Disasters in Australia”. The decision will result in administrative efficiencies and also improve clarity for organisations seeking Australian Government natural disaster mitigation funding assistance.

(3) As outlined above, the RFMP has not been abolished. Funding will lapse on 30 June 2007 and RFMP activities will be incorporated into the NDMP. Activities that have been eligible for funding under the RFMP will continue to be eligible under the NDMP.

(4) The decision to amalgamate the two programmes was announced by the Government in the 2003-04 Budget context.

(5) Key state and territory stakeholder agencies have been repeatedly advised of the pending amalgamation since the decision was announced in May 2003.

(6) No.

(7) Applicants who would have submitted an application for flood mitigation works under the RFMP will, from 1 July 2007, submit an application under the NDMP.

(8) Funding for the NDMP in 2007-08 will be $30.6 million, comprised of $18.6 million for new projects and $12 million in committed but unspent funds re-phased from 2005-06. Individual project applications will be assessed at the state and territory level and prioritised consistent with existing criteria.
(9)  

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* NDMP funding is for all natural hazards.
** Assumed “real” means Ministerial approved values not adjusted to current dollars.

(10) The funding of ongoing components of previously funded RFMP projects will be treated in the same manner as has been the case under the RFMP. Applicants will need to reapply for each new component. In this regard, nothing will change from the current RFMP process.

(11) As outlined above, the assessment process for funding under the NDMP will be identical to that previously utilised for the RFMP. Funding for individual projects will be determined according to their assessed priority.

(12) Following the announcement that the Australian Government would fund up to one third of projects under the RFMP, a number of councils wrote to then Minister for Regional Services, Territories and Local Government, Senator the Hon Ian Macdonald, seeking a reinstatement of the previous 2:2:1 funding ratio. There are no records of councils advising that they were unable to meet their mitigation responsibilities.

(13) The COAG report of August 2002 recommended a one third each funding ratio across all three levels of Government in recognition of the responsibilities of each level of government. The exceptional circumstances waiver is applied as the exception to allow communities to participate in the programme that might otherwise be excluded.

(14) An exceptional circumstances waiver may be available for low capacity local councils, remote Indigenous communities or remote unincorporated communities. Requests for an exceptional circumstances waiver of the standard funding contribution and application and/or reporting requirements can be made by the local agency at the time of applying for funding. Requests should take into account matters included in the application form, such as: local agency rate revenue and capacity to raise funds; local agency expenditure; local agency service area; population affected; degree of risk and level of vulnerability of the affected community; level of risk protection achieved for the whole community in relation to the scale of the project; and other relevant issues.
COAG agreed to the criteria set out in (14) above following the August 2002 High Level Group review of Natural Disasters in Australia.

The High Level Group comprised representatives of the Australian Government, each State and Territory and the Australian Local Government Association.

Any application for an exceptional circumstances waiver is considered as part of the assessment process by each State Assessment Committee.

(18) (a) No. (b) Applications are considered on a case-by-case basis. Transparency and equity is provided under the State Assessment Committee review framework.

### Lancelin Training Area: Weapons Training

(Question No. 2935)

Senator Siewert asked the Minister representing the Minister for Defence, upon notice, on 8 December 2006:

With reference to the Royal Australian Air Force weapons training that took place over the Defence training area at Lancelin, Western Australia, on or about 21 November to 23 November 2006, and concerns raised by residents in the area about the unusual intensity and scale of the bombing during this training session:

1. What was the nature of the munitions used during this training; and (b) were any of these munitions: (i) used for the first time during this training session, and (ii) likely to have been specifically responsible for the reported elevated levels of noise and vibration reported by residents.

2. Is the training area approved for laser guided bombs.

3. What is the designation of airspace over the Ocean Farm subdivision, Nilgen.

4. Did the Australian Defence Force or relevant agencies receive any complaints from residents during or after this training session; if so: (a) how many complaints; and (b) what was the nature of the complaints.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. (a) The munitions used were Mk82 500lb high explosive bombs. The activity was a low intensity bombing practice with two waves of four F/A-18 aircraft carrying three Mk82 bombs, from 21 November to 23 November 2006. Aircraft also conducted gunnery practice with 20mm cannon using inert rounds.

   (b) (i) No.

   (ii) The Mk 82’s were configured for instant fuse so they would explode on impact, rather than exploding under ground. Instant fusing is used to minimise the environmental impact by lessening the ground disturbance and vibration; however, as a consequence the noise levels are slightly increased. The 20mm cannon using inert rounds would not have elevated noise or vibration levels.

2. Yes.

3. The Ocean Farm Subdivision lies entirely under the established Military Restricted Airspace R156. The northwest tip of the Ocean Farm Subdivision lies at the edge of Military Restricted Airspace R146A, which is periodically activated. The subdivision is also under the Civil Visual Flight Rules route 4, which is for traffic under 4000ft. This route is used by civil aircraft when the restricted airspace is not activated. Military aircraft operating within R156 will do so at altitudes between 4000 and 16,000 feet. R146A will usually be activated only if aircraft intend to conduct bombing runs within the Royal Australian Navy Impact Area. When conducting these practices, aircraft will fol-
low a flight path that approaches from the sea and passes directly over the Impact Area, which lies well within R146A and is over 11 km northwest of Ocean Farms.

(4) (a) Yes. Four complaints were received from two complainants.
   (b) The complaints were based on the level of noise created by evening exercises from F/A-18 aircraft from 21 to 23 November 2006. The complainants also indicated displeasure with defence operations within the LDTA. The complainants are members of the Lancelin Defence Training Area Action Group.

Cluster Munitions
(Question No. 2946)

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 15 December 2006:

(1) In which year, or over which years, did Australia decommission its stockpile of cluster munitions.
(2) If the decommissioning of Australia’s stockpile of cluster munitions took place during the term of the Howard Government, what was the motivation behind the decommissioning.
(3) Why has not the Government supported Norway’s call for an international treaty to ban cluster munitions.
(4) Will the Government attend a meeting to be convened by Norway in Oslo early in 2007 for the purpose of working towards an international treaty to ban cluster munitions.
(5) Which types of cluster munitions does the Government label: (a) legal; (b) discriminating; and (c) reliable.
(6) What types of cluster munitions does the Government label illegal under international humanitarian law.
(7) In what circumstances can a government legitimately use cluster munitions.
(8) What involvement, if any, has Australia had in the use of cluster munitions in: (a) Afghanistan; and (b) Iraq.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Australia has not acquired an operational stockpile of cluster munitions, and so has not decommissioned a stockpile of cluster munitions. Australia possessed limited stocks of cluster munitions between the 1970s and 1990s for testing purposes. Most were destroyed in 1993-1994, but Defence retained some inert cluster bombs and inert cluster sub-munitions for the purposes of training explosive ordnance disposal specialists in the identification and disposal of such ordnance.
(2) The cluster munitions were obtained for testing purposes and the project did not proceed any further.
(3) The Australian delegation to the Third Review Conference of the Certain Conventional Weapons Convention was authorised to support a proposal on cluster munitions if it received widespread support, as consensus is one of the fundamental principles by which the Certain Conventional Weapons Convention operates. In the event, Australia strongly supported the proposal by the UK, which was adopted by consensus, for a new discussion mandate on explosive remnants of war. This proposal involves a particular focus on cluster munitions, including the factors affecting their reliability and their technical and design characteristics, with a view to minimising their adverse humanitarian effects. The Government believes that the Certain Conventional Weapons Convention is the most appropriate international forum in which to address the issue of cluster munitions; its expertise includes a standing sub-group of military and legal experts.
(4) Australia was not invited to attend the meeting to be convened by Norway in Oslo in early 2007.

(5) (a) Cluster munitions are not illegal. Nevertheless, as with the use of other weapons by armed forces, the use of cluster munitions is subject to principles of International Humanitarian Law and the laws of armed conflict.

(b) Munitions designed for use against specific military targets and with an autonomous target detection capability are discriminating.

(c) Munitions which do not suffer high failure rates because of their design and technology features are more reliable.

(6) Cluster munitions are not illegal under International Humanitarian Law. Nevertheless, as with the use of other weapons by armed forces, the use of cluster munitions is subject to principles of International Humanitarian Law and the laws of armed conflict.

(7) Cluster munitions are not illegal under any arms control or International Humanitarian Law instrument, and they have legitimate military utility where properly targeted, reliable, discriminating, and deployed in compliance with International Humanitarian Law. Nevertheless, cluster munitions have the potential to pose humanitarian concerns when they are used in contravention of the International Humanitarian Law principles of proportionality and distinction, or fail to explode as intended and become explosive remnants of war. Defence recently made a substantial contribution to the funding of a discussion paper for the Certain Conventional Weapons Convention on the International Humanitarian Law concept of proportionality and its application to the creation of explosive remnants of war, including cluster munitions.

(8) The ADF does not presently use, produce or stockpile cluster munitions for operational purposes. Defence is not aware of any instances of ADF personnel being directly involved in the use of cluster munitions in either Afghanistan or Iraq. However, actions by non-Australian units in wider battles may have involved cluster munitions, and it is possible that ADF personnel have been involved in those operations.

Defence: Equipment Exports
(Question No. 2947)

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 15 December 2006:

With reference to defence equipment exports as defined by the Defence and Strategic Goods List, for each of the top 200 export approvals:

(1) What was the value.

(2) What equipment was involved.

(3) To what country or countries was the export made, or is planned to be made.

(4) What organisation, company or government department was the planned recipient of the approved goods.

(5) What assistance was provided for the sale by the department or Austrade.

(6) What safeguards in the form of end user certificates were obtained.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1), (2), (3) and (4) See my response to Senate Question on Notice No. 2904.

(5) This information is not recorded with export control data. Names of Australian companies are not passed to other agencies due to the Commercial-in-Confidence nature of the information. The Defence Materiel Organisation provides export facilitation assistance to Australian companies that
may wish to export defence goods. Similarly, Austrade provides an export service, but this infor-
mation is not shared with the Defence export control agency.

(6) Each export application is considered on a case-by-case basis. Safeguards are separately applied to
cases as required after consideration and a risk assessment by Defence. In some cases, this may
require end user certification and, in others, delivery verification may also be required. Checks
may be conducted with foreign governments or Australian officials (in location) may be requested
to verify the end user and or the end use.

**Defence: Albion Explosives Factory**

*(Question Nos 2951 and 2952)*

Senator Milne asked the Minister representing the Minister for Defence, upon notice, on
19 December 2006:

With reference to the site of the former Albion explosives factory at Deer Park, Victoria:

(1) Why were audit areas 17 and 18 not decontaminated to the same standard as other audit areas at the
site.

(2) Have residential houses been constructed on audit area 17; if so, why did the Government allow
their construction.

(3) Has a community park (public open space) been constructed on audit area 18; if so, why did the
Government allow the construction of the park.

(4) Were any sale conditions placed on the residential blocks (for example, restrictive covenants) at the
site.

(5) Given the statement made at a meeting of the Joint Parliamentary Standing committee on Public
Works of 11 April 1997, that no more funding would be allocated to remediation of the land, how
was the site re-audited in 2001 and certified.

(6) How can the land at this site be decontaminated if according to a federal government report on the
site, commissioned between 1986 and 1989, the land was so badly contaminated that it was too
costly to clean audit areas 17 and 18.

(7) What conditions were the areas south of the TNT plants left in after the department had disposed of
the factory.

(8) How was the land disposed of in the areas south of the TNT plants.

Senator Ellison—The Minister for Defence has provided the following answer to the hon-
ourable senator’s questions:

(1) The Albion Explosives Factory site was decontaminated in accordance with the Victorian Envi-
ronmental Protection Authority’s (EPA) Statutory Audit process.

Prior to remediation of the site, a comprehensive sampling survey was undertaken and the results
were used to design a remediation action plan for the site. The plan incorporated target permissible
contamination levels as agreed by the Independent Environmental Auditor.

These target contamination levels were based on the Victorian Environmental Protection Authority
guidelines, and were specified for each parcel of land, consistent with its intended use.

(2) and (3) In November 1997, Defence entered into a remediation and development agreement with
VicUrban, the Victorian Government’s urban development agency. Under this agreement, the for-
mer Albion Explosives Factory site has been decontaminated and remediated by the Common-
wealth, with ownership of the site then progressively transferred to VicUrban for development and
sale. Ownership of audit areas 17 and 18 were transferred to VicUrban after completion of reme-
diation and before development.

**QUESTIONS ON NOTICE**
In accordance with the November 1997 Agreement between Defence and VicUrban, the site was decontaminated and ownership progressively transferred. As such, VicUrban, as the interim owner of the site, would also be the initiator of any sale conditions as to use in the final sale process.

The total approved budget for remediating the former Albion Explosives Factory site is $28.635 million, including project contingency. The re-auditing of the site in 2001 and subsequent certification was funded by utilising the project contingency.

The original (1986-1989) assumption for remediating the Albion Explosives Factory site was that the whole site would be decontaminated to the highest level possible, such as agricultural or residential use, without reference to end use of any particular area of the site. Based on these assumptions, the report deemed the remediation to be too costly to action. Defence then re-examined alternative methods for decontaminating and remediating the site, with a new focus on end uses of different areas of the site.

All audit areas south of the TNT plants were decontaminated to the level required for their end use and in accordance with the Victorian Environmental Protection Authority’s Statutory Audit process.

The land to the south of the TNT plants was also subject to the remediation and development agreement entered into between Defence and VicUrban, the Victorian Government’s urban development agency (formerly the Urban Land Authority). Under this agreement, the site has been decontaminated and remediated by the Commonwealth and has been progressively transferred to VicUrban for development and sale.

**Customs: Court Case**

(Question No. 2953)

Senator Bob Brown asked the Minister for Justice and Customs, upon notice, on 20 December 2006:

With reference to the finding of the Federal Court of Australia (FCA) in *Eberle vs Chief Executive Officer of Customs* (N 2504 of 2003) where the FCA ordered that the appeal be upheld and that the decision of the Administrative Appeals Tribunal (AAT) given on 21 November 2003 be set aside

1. Was an error made by the AAT in its original findings; if so, what was the error.
2. What error, if any, was made by the Australian Customs Service.

Senator Ellison—The answer to the honourable senator’s question is as follows:


**Asia-Pacific Economic Cooperation Task Force**

(Question No. 2954)

Senator Chris Evans asked the Minister representing the Prime Minister, upon notice, on 22 December 2006:

With reference to Asia-Pacific Economic Cooperation 2007 taskforce on travel expenses:

1. Of the $683 000 spent by the taskforce on travel between July 2005 and May 2006, how much was spent on: (a) domestic travel; and (b) international travel.
2. With reference to the spending on international travel in paragraph (1): (a) which countries were visited and on how many occasions; (b) how many staff travelled on each trip; and (c) what was the class of air travel.
3. Of the $524 000 spent by the taskforce on travel between June 2006 and October 2006 (inclusive), how much of this total was spent on: (a) domestic travel; and (b) international travel.
(4) With reference to the spending on international travel in paragraph (3): (a) which countries were visited and on how many occasions; (b) how many staff travelled on each trip; and (c) what was the class of air travel.

(5) From November 2006 to the time the taskforce is disbanded, what is the budget of the taskforce for: (a) domestic travel; and (b) international travel.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised that:

(1) and (3) For the period July 2005 to October 2006. (a) $932,000 and (b) $275,000.

(2) and (4) (a) Korea once, Vietnam three, England once, USA once and Scotland once. (b) Korea 6 and Vietnam 1, 3 and 2, England 2, USA 2 and Scotland 2. The trips to Korea (2005) and Vietnam (2006) were to observe APEC meetings. The trips to other destinations were to consult security Authorities. (c) Business class.

(5) (a) $2,184,000. (b) $228,000.

Exclusive Brethren
(Question No. 2958)

Senator Bob Brown asked the Minister representing the Prime Minister, upon notice, on 11 January 2007:

When did the Prime Minister last meet Mr Bruce Hales, the leader of the Exclusive Brethren.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

Refer to my answer to Question 2523.

Dental Health
(Question No. 2964)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 17 January 2007:

(1) With reference to data contained in the October 2006 report, Fair Dental Care for Low Income Earners, by the Australian Council of Social Service (ACOSS), does the Government agree that:

(a) Australians most likely to be in pain and unable to access dental treatment are single parents, people on low incomes, people living in nursing homes, older people, people living in rural and remote areas and Indigenous people;

(b) people with poor dental health have difficulty eating and speaking and often suffer avoidable health problems such as tooth loss or gum disease;

(c) approximately 500 000 people are on waiting lists around Australia for general dental care from public dental services with an average waiting time of 27 months;

(d) 40 per cent of Australians cannot access dental care when they need it;

(e) there will be a national shortage of around 1 500 dental staff by 2010;

(f) consumers contributed nearly $3.4 billion or 67 per cent of funding for dental services in the 2004-05 financial year, compared with only $953 million from the Government (19 per cent) and $701 million from private health insurance funds (14 per cent);

(g) since 1999, there has been a 45 per cent increase in the price of basic dental services;
(h) 21 per cent of adults who are not eligible for public dental care avoided or delayed treatment because of the cost of basic dental care; and

(i) in 2002, over a quarter of Australian adults experienced painful aching because of problems with their teeth, mouth or dentures and reported behaviour such as avoiding certain foods to cope.

(2) Does the Government consider this situation satisfactory in health policy terms; if not, what efforts are being made at the federal and state government level to overcome these problems.

(3) Has the Government: (a) considered the October 2006 proposal by ACOSS and the Australian Dental Association for the Commonwealth to provide people on concession cards with free basic costs of dental care every 2 years at an estimated cost of $160 million in the first year, rising to $800 million in the fifth year; and (b) had discussions with the states with regard to this proposal whereby Commonwealth funding could be contingent on the states making satisfactory progress on building services and meeting minimum standards in children’s dental services, preventive checks and emergency dental services; if not, why not.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) As acknowledged in Australia’s National Oral Health Plan - Healthy Mouths Healthy Lives - the Commonwealth Government considers that low socio-economic status is associated with poor oral health.

(b) The link between poor dental health, and tooth loss and gum disease, is well established.

(c) The Government does not collect national statistics on the public dental services provided by the state and territory governments.

(d) I note that this is an ACOSS estimate. The Government is not aware of any published figure to this effect.

(e) This is consistent with the AIHW report, *The dental labour force in Australia: the position and policy directions* (2003). However, in 2004, the Government allocated 148 new dentistry and oral health places nationally commencing in 2005, growing to 405 places by 2009. In 2006, the Government also announced a further 60 additional places, growing to 164 by 2010.

(f) This is consistent with the AIHW report, *Health Expenditure Australia 2004-05*.

(g) The Government does not collect data on the cost of private dental services. Private dentists are free to set their own fees.

(h) The Government is unable to determine how this number was derived and therefore cannot comment on its validity.

(i) This is consistent with reported research as cited in Spencer (2004), *Narrowing the inequality gap in oral health and dental care in Australia*.

(2) The states and territories are responsible for public dental services. The situation could be improved were the states and territories to fund services adequately.

I am aware that there are presently lengthy reported waiting lists for some state and territory public dental programs. However, this situation could readily be changed if the states and territories chose to increase funding for these services.

The Commonwealth Government has been willing to work with the states and territories on oral health matters. In November 2001, the Commonwealth Government agreed to participate in the National Advisory Committee on Oral Health under the auspices of the Australian Health Ministers’ Advisory Council. The outcome of this process was the development of the National Oral
Health Plan ‘Healthy Mouths Healthy Lives’, which was considered and endorsed by all Health Ministers on 29 July 2004.

The National Oral Health Plan is a high level national framework aimed at setting an overall direction for oral health.

The Commonwealth and all state and territory governments have agreed to take into account the plan when developing oral health services in their areas of responsibility.

(3) (a) Yes.
   (b) No. The responsibility for public dental services rests with the state and territory governments.

Tobacco Industry
(Question No. 2969)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 January 2007:

(1) Can the Minister confirm reports that new research by the Harvard School of Public Health has shown that in the period from 1998 to 2005, tobacco companies in the United States of America increased the level of addictive nicotine in their cigarettes by 11 per cent.

(2) Has the level of addictive nicotine in cigarettes in Australia increased in a similar manner; if so, what has the Government done to: (a) alert the public to increased nicotine in cigarettes; and (b) control the level of nicotine in cigarettes.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The report published by the Harvard School of Public Health on trends in smoke nicotine yield reports a cumulative increase in smoke nicotine yield of 11.3% for the period 1998 to 2005. For the same period but on a per cigarette per year basis, an increase in smoke nicotine yield of 1.6% was reported. These trends are based on data gathered from cigarette brands retailed in the US state of Massachusetts.

(2) The Government does not monitor or control nicotine or other ingredients, and is not aware of research that has monitored nicotine levels of Australian cigarettes. Control over ingredients may be interpreted as suggesting some cigarettes are safer than others. The Government considers it is preferable to maintain the strong public health message that there is no safe level of smoking and no safe cigarette.

Private Jacob (Jake) Kovco
(Question No. 2974)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 1 February 2007:

(1) Following the death of Private Jake Kovco in Baghdad on 21 April 2006, was an instruction given to the Combined Joint Task Force (CJTF) in Baghdad by the Special Investigation Branch that the body was not to be moved in advance of the arrival of the investigating team so as to protect vital forensic evidence, and was that order the subject of a phone call to Major Pemberton of the Special Investigation Branch at 0200 hours on Sunday, 23 April 2006 from a senior officer at the CJTF in Baghdad challenging the order on the basis of a counter order to remove the body to Australia as soon as possible, as referred to in evidence given to the Board of Inquiry (BOI) (Transcript of Proceedings, 16 August 2006, p. 1122).

(2) Was a second phone call also made to Major Pemberton from the Chief of Staff at the CJTF in Baghdad 3 hours later, also challenging the order that the body not be removed, and was reference
made to ‘risk managing’ the removal of the body from Baghdad so that it could be returned home to Australia as soon as possible; if so: (a) did that ‘risk management’ include the over ruling of Major Pemberton; and (b) who gave that new order.

(3) Did Major Pemberton deny in evidence (Transcript of Proceedings, 16 August 2006, p. 1123) that he had ever given approval for the removal of the body, contrary to his earlier order; if so: (a) why was he misrepresented in evidence; (b) why was his order countermanded; and (c) on whose instruction.

(4) As referred to on page 1157 (Transcript of Proceedings, 16 August 2006), is it a fact that the ‘investigative protocols, or the way we do business, our procedures’, referring to the Military Police, were ‘overtaken by competing priorities’, were these ‘priorities’ the urgent repatriation of Private Kovco to Australia within 4 days; if so, what effect did that decision have on the quality of the investigation.

(5) Can the Minister confirm the evidence on page 1157 (Transcript of Proceedings, 16 August 2006) that this type of conflict by which investigations are compromised by competing priorities is commonplace; if so, what action has been taken to address this shortcoming.

(6) Did Major Pemberton as officer in charge of the Special Investigations Branch, also order that Private Kovco’s pistol was not to be released to ‘anybody until we were given clarification as to what was occurring’ and was he again overruled by the CJTF with the gun being passed to the New South Wales police.

(7) (a) Why was the immediate travel to Baghdad on 22 April 2006 by the Military Police flyaway team suspended; and
(b) on whose instruction.

(8) When was it decided that the New South Wales Police Homicide Branch should investigate the death of Private Kovco, and were the reasons for that due to the lack of relevant ballistic and forensic skills on the part of the Military Police.

(9) (a) When were the Military Police, investigating the incident scene in Baghdad, informed that the New South Wales Police were also involved; and
(b) was that after the incident scene had been completely cleaned and all traces of evidence destroyed.

(10) (a) On what date were the Military Police first able to interview witnesses to the incident and why did it take so long;
(b) when did the New South Wales Police interview those same witnesses; and
(c) which witnesses were not interviewed by either of the investigating police and why not.

(11) (a) Were highly critical comments made on the resourcing and capacity of the Military Police, as evident in the transcript of the BOI, including lack of staff, equipment and training; if so, how is this being addressed; and
(b) does the Military Police have a poor reputation and therefore lack the confidence of senior command.

(12) Does the Minister accept the evidence given at pages 1350 and 1351 of the BOI transcript (23 August 2006) iterating the failures of the investigation, as follows: The lack of investigative support on the ground at the time of the incident was the starting point for a number of significant and avoidable situations. Those being the loss of potential forensic evidence from the deceased and witnesses, uncontrolled access to the incident site and removing of evidence, the moving of PTE Kovco after direction was given not for him to be moved which eventually lead (sic) to his failed repatriation to Australia, witnesses not being in location at the time the investigators arrived, change of jurisdiction of the coroner for where the deceased was to be returned to, the interference
that came from certain elements within the command structure and because we had no investigative
support on the ground, no liaison being effective with coalition forces prior who may have been
able to assist us on the ground; if so, what action has been taken within the Australian Defence
Force to specifically address these shortcomings and what directions have been altered with respect
to future incidents.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) to (12) The Board of Inquiry into the circumstances surrounding the death of Private Jacob Kovco
was a robust and open process and matters relating to the incident investigation were examined in
the course of the inquiry. Recommendations from the inquiry are currently being implemented
across Defence.

I do not intend to comment on decisions made by commanders in the field at the time of this trag-
edy, nor will I enter into a debate on evidence examined by the Board of Inquiry. The NSW Coro-
ner may choose to investigate these matters further and I do not wish to compromise that process.

Defence has acknowledged shortcomings in the ADF investigative capability and these are cur-
rently being addressed through the implementation of recommendations from the audit report into
ADF investigative capability, released by the Chief of the Defence Force on 4 December 2006.

Private Jacob (Jake) Kovco
(Question No. 2975)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon no-
tice, on 1 February 2007:

(1) Has the Minister’s attention been drawn to a media item published in the Australian of 5 December
2006 concerning a request from the family of the late Private Kovco for a review of the Board of
Inquiry (BOI) findings on the death of Private Kovco; if so, has the Minister agreed to such a re-
view; if not, why not.

(2) For the past decade: (a) in how many cases have such reviews of BOI findings been conducted; and
(b) in each case: (i) by whom, and (ii) with what outcome.

(3) Can the Minister confirm the assertion in the media article referred to that Group Captain Cook,
Chairman of the BOI, had stated that his findings had been sent for such review, and that no such
review had been undertaken; if so: (a) what is the reason for that decision; and (b) does that mean
that the department is satisfied that the BOI findings reflect the evidence given to the Inquiry.

(4) In his answers to the media on 7 July 2006, did the Chief of the Defence Force state that ‘had we
been successful the first time around we would have got Private Kovco’s body back in four days’;
if so, would such timing have coincided with ANZAC Day in Australia.

(5) Did Brigadier Cosson state at paragraph 8 of her report, in relation to the mix-up of caskets that ‘to
accelerate the repatriation process within four days of his death is too short a timeframe within
which to properly risk manage and execute a highly sensitive situation’; if so: (a) why was the
process accelerated; and (b) on whose instruction.

(6) Did Mrs Shelley Kovco, the widow of the deceased, state to the BOI on 19 September 2006 (Trans-
script of Proceedings, p. 1803) that the haste of repatriation was not at her request and that not once
did she demand that her husband be brought home quickly; if so, does this statement rebut the sug-
gestion that the hasty repatriation was undertaken for the sake of the grieving family.

(7) Did Mrs Kovco also state that it was her belief that the hasty repatriation was that ‘it would look
good to have him back in the country on ANZAC Day’; if so: (a) has that claim been confirmed or
denied to her directly; and (b) by whom.
(8) In exhibit 164, was a statement made by Brigadier Symon that on 22 April 2006 the Chief of Army gave him ‘guidance’ that the body was to be brought home ‘as quickly as I could’; if so, can the Chief of Army verify that ‘guidance’.

(9) Further in evidence at page 1402 (Transcript of Proceedings, 24 August 2006), did Brigadier Symon agree that getting the body of Private Kovco repatriated by ANZAC Day ‘was a factor’ in the repatriation of the body; if so, was it also a factor in removing the body from Baghdad prior to examination by the Special Investigation Branch officers.

(10) At page 858 of the transcript of evidence (4 August 2006) did Soldier 34, as he was titled, agree that the pressure for hasty repatriation came from the chain of command; if so, what orders or instructions were extant at the time which might have given rise to what seems to be a commonly held perception, or was it a figment of Soldier 34’s imagination.

(11) At page 1135 of the transcript of evidence (16 August 2006) did counsel for Mrs Kovco refer to an affidavit by Lt Colonel Pearce, the Commanding Officer of the 1st Military Police Battalion to the effect that ‘HQJTF … had determined that the priority was for the return of the body by ANZAC Day and that they would risk manage the investigation’; if so: (a) can it also be confirmed that in evidence Lt Colonel Pearce did not resile from that evidence, apart from being unclear as to who provided it to her, including at page 1168; (b) have their been any subsequent investigations as to the source of the advice; (c) can the contents of that affidavit be confirmed; and (d) has that evidence been subsequently revised or retracted.

(12) At page 1139 of the transcript of evidence (16 August 2006) did Major Pemberton agree with the proposition by counsel that ‘there was also … an understanding of political pressure to bring PTE Kovco home regardless of the lesson learned’ from a previous death, namely the ‘need to view the body as part of the incident scene’, and did he clarify that political pressure as coming from the chain of command.

(13) (a) Between the dates of 21 April and 25 April 2006 how many e-mail messages to and from the Chief of the Defence Force, the Chief of Army, Brigadier Symons, Brigadier Hallinan, Wing Commander Guerrin and Major Pemberton, as well as file notes and minutes on file, contained reference to the need to get Private Kovco’s body back to Australia by 25 April 2006; and
(b) how many of those included circulation to the Minister’s office.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) I am aware of the article. I understand that the Chief of the Defence Force, Air Chief Marshal Houston, is in contact with the family on these matters.

(2) In accordance with ADF policy, Defence conducts a legal review of all Board of inquiry reports; however, if the President of the Board has judicial experience a legal review may not be necessary. In the case of the Kovco Board of Inquiry, Group Captain Cook, as a retired magistrate and former coroner, had extensive judicial experience, and legal advice taken at the time determined that a separate legal review did not need to be undertaken.

(3) I am aware of the article.
(a) See response to Part (2).
(b) The CDF accepted the Board of Inquiry report and the conclusions and recommendations drawn from the inquiry. The Terms of Reference were sufficiently broad to enable the Board to consider as many avenues of inquiry as necessary to find out what happened and why it happened, and to recommend ways that the ADF could improve its procedures. To this end, and as the Appointing Authority, the CDF accepted the report and its recommendations.
(4) There was no correlation between Private Kovco’s repatriation with any date or significant event such as ANZAC Day.

(5) See response Senate Question on Notice No. 2866 of 28 November 2006 part (3).

(6) I am aware of Mrs Kovco’s statement, but as the CDF stated previously in answer to this question at Senate Estimates on 1 November 2006, there was no directive or instruction to repatriate Private Kovco back to Australia in an accelerated manner only an overriding desire by the ADF to repatriate his body as soon as practicable.

(7) I am aware of this statement. I am not privy to all conversations that Mrs Shelley Kovco may have had on this issue and with whom.

(8) There was no directive or instruction to repatriate Private Kovco back to Australia in an accelerated manner only an overriding desire by the ADF to repatriate his body as soon as practicable.

(9) I do not intend to comment on decisions made by commanders in the field at the time of this tragedy, nor will I enter into a debate on evidence examined by the Board of Inquiry. The NSW Coroner may choose to investigate these matters further and I do not wish to compromise that process.

(10) See response to part (8).

(11) to (13) See response to part (9).