INTERNET
The Journals for the Senate are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
http://parlinfoweb.aph.gov.au

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

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FORTY-FIRST PARLIAMENT
FIRST SESSION—NINTH PERIOD

Governor-General

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan
Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Eric Abetz
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 Stephen Parry and Julian John James McGauran
National Whips—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
Family First Party Whip—Senator Steve Fielding

Printed by authority of the Senate
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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Santo Santoro, 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.

(6) Chosen by the Parliament of South Australia to fill a casual vacancy vice Jeannie Margaret Ferris, died in office.

(7) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Amanda Eloise Vanstone, resigned.

(8) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Hon. Ian Gordon Campbell, 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

<table>
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<th>Position</th>
<th>Minister Name</th>
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<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
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<tr>
<td>Minister for Transport and Regional Services and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
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<tr>
<td>Minister for Trade</td>
<td>The Hon. Warren Errol Truss MP</td>
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<tr>
<td>Minister for Defence</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
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<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
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<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<tr>
<td>Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<tr>
<td>Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
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<td>Minister for Immigration and Citizenship</td>
<td>The Hon. Kevin James Andrews MP</td>
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<tr>
<td>Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<tr>
<td>Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<tr>
<td>Minister for Industry, Tourism and Resources</td>
<td>The Hon. Ian Elgin Macfarlane MP</td>
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<tr>
<td>Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<tr>
<td>Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
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<tr>
<td>Minister for the Environment and Water Resources</td>
<td>The Hon. Malcolm Bligh Turnbull MP</td>
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<td>Minister for Human Services</td>
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*(The above ministers constitute the cabinet)*
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<td>and Manager of Government Business in the Senate</td>
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<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>Minister for Veterans’ Affairs and Minister Assistance for Defence</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
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<td>Parliamentary Secretary to the Minister for Transport and Regional Services</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
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<td>The Hon. Christopher John Pearce MP</td>
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<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
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### SHADOW MINISTRY

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<td>Kevin Michael Rudd MP</td>
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<td>Julia Eileen Gillard MP</td>
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<td>Leader of the Opposition in the Senate and Shadow Minister for Resources and Energy</td>
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

TAX LAWS AMENDMENT (2007 MEASURES No. 3) BILL 2007
TAX LAWS AMENDMENT (SMALL BUSINESS) BILL 2007
Consideration resumed from 12 June.

In Committee
TAX LAWS AMENDMENT (2007 MEASURES No. 3) BILL 2007
TAX LAWS AMENDMENT (SMALL BUSINESS) BILL 2007
Bills—by leave—taken together and as a whole.

Senator MURRAY (Western Australia) (9.31 am)—The bills we are discussing cognately are the Tax Laws Amendment (2007 Measures No. 3) Bill 2007 and the Tax Laws Amendment (Small Business) Bill 2007. I want to use the opportunity of the committee stage to address the small business bill. This bill implements changes to various tax acts to standardise the primary eligibility criteria for small business tax concessions. These changes will reduce the compliance costs for many Australian small businesses. They substantially simplify the tax law to make it easier for small business to determine eligibility for a number of concessions.

The object of the bill is to implement recommendations of the Taskforce on Reducing the Regulatory Burden on Business to make it simpler for small business to determine eligibility for some 12 small business tax concessions. It does this by establishing a single definition of a small business entity in schedule 1. The bill also implements several budget announcements.

Schedule 1 amends the Income Tax Assessment Act 1997 to provide a more specific definition of small business entities, annual turnover, aggregated turnover and other related concepts. Schedule 2 amends the GST act relating to various GST turnover thresholds to enable a small business entity to access GST concessions of accounting for GST on a cash basis, annual apportionment of input tax credits for acquisitions and importations that are partly creditable, and paying GST by quarterly instalments and making consequential amendments.

Schedule 2 increases the goods and services tax accounting threshold applicable to small business tax obligations. Schedule 3 redefines the simplified tax system to include small business entities. Schedule 4 increases the capital gains tax asset threshold for small businesses. Schedule 5 extends the fringe benefits tax car parking exemption to small business entities. Schedule 6 extends the base assessment instalment income threshold for full self-assessment STS taxpayers from $1 million to $2 million. Schedule 7 extends the rollover relief available under the uniform capital allowance system.

The cost to revenue over the forward estimates years is $295 million. This bill implements the government’s new small business framework for small business entities, and makes the necessary amendments to various pieces of taxation legislation to implement the policy of the new small business framework. Fundamentally, this bill ensures that small business has one definition that applies across all taxation legislation.

Schedule 1 amends the Income Tax Assessment Act 1997 to provide a more specific definition of small business entities, annual turnover, aggregated turnover and other related concepts. Schedule 2 amends the GST act relating to various GST turnover thresholds to enable a small business entity to access GST concessions of accounting for GST on a cash basis, annual apportionment of input tax credits for acquisitions and importations that are partly creditable, and paying GST by quarterly instalments and making consequential amendments.

Schedule 3 makes amendments to establish the new small business framework, replacing the term ‘STS taxpayers’ with ‘small business entities’. The tax concessions that are available to simplified tax system taxpayers under current law—namely, the simplified depreciation regime, the simplified trading stock regime and the immediate full deduction for prepaid expenses—are retained.
in the concessions under the small business framework.

Schedule 4 amends the RTAA 1997 to increase from $5 million to $6 million the capital gains maximum net assets threshold for an SBE to access CGT concessions. Schedule 5 amends the Fringe Benefits Tax Assessment Act 1986 to enable an employer to get the FBT car parking exemption if the employer is either an SBE or has ordinary and statutory income of less than $10 million.

Schedule 6 amends the Taxation Administration Act 1953 so that, for full assessment taxpayers, the base assessment income threshold is increased from $1 million to $2 million for entitlements to make quarterly PAYG instalments on the basis of GDP-adjusted notional tax. Schedule 7 extends the rollover relief available under the uniform capital allowance system to small business entities which choose to deduct amounts for depreciating assets under subdivision 328-D, and schedule 8 includes consequential amendments to tax law which arise from changes from the STS system to the small business framework.

This bill, like the taxation laws amendment bill No. 3, was referred to the Senate Standing Committee on Economics, but only one submission was received—from the Small Business Development Corporation of Western Australia. The SBDC is a very able body and it is located in my home state. It is a vibrant organisation which contributes to discussions on areas which impact on small business. It also keeps a watchful eye on newspapers and websites so that it knows when matters relating to small business are being discussed at a federal level. That is just as well, because there was only a five-day window between the advertising of this committee investigation and the closing date for submissions. The government is to be condemned for the consistent shortness of those processes. As I said in relation to the tax laws amendment bill No. 3, that time frame excludes those with limited resources or those with a lot on their plate from examining legislation and making a considered submission on it. The SBDC made it clear that they welcomed the changes proposed by the legislation, as it streamlined the taxation treatment for small business and defined exactly what constituted a small business entity.

The Australian Democrats support this legislation and the speed with which the government has dealt with industry concerns. However, it brings me back to a point I have made several times before: if the government can move swiftly on taxation reform which deals with small business, why can’t it move with just as much haste on reform of the Trade Practices Act for small business? I think it is because big business does not care about the former, but does care about the latter—and you are listening to them far too much on these matters.

It is now more than three years since the then Senate Economics References Committee produced its report entitled *The effectiveness of the Trade Practices Act 1974 in protecting small business*. In its response, the government did not accept that there was a need to amend section 46 of the Trade Practices Act in the way that small business advocates and as the majority of the committee recommended—and, tellingly, as the minority of Liberal senators themselves recommended. However, the Liberal senators’ minority report showed that there are sections of the coalition which do support amendments to the Trade Practices Act, and a number of those recommendations were accepted in the government’s response. I will point out again, as I have previously pointed out, that the author of the Liberal senators’ minority report is Senator George Brandis, who is an
expert in the area of trade practices and who, as a legal practitioner, was heavily engaged in that field.

Over three years later, here we are still waiting—with only Senator Joyce on the coalition side showing any real concern. No wonder people are getting tired of this government’s slow response in this area. The Trade Practices Act should protect all business from anticompetitive conduct. The Democrats have never sought to protect competitors from competitive conduct. The Democrats and the small business sector, however, have been pointing out that anticompetitive conduct requires reforms. This has been a long campaign. Perhaps, at last, the government will follow up and adopt as good policy the recommendations in the report of the Senate economics committee, produced in March 2004, entitled *The effectiveness of the Trade Practices Act 1974 in protecting small business*. However, I see nothing in the legislation listed for these two weeks that would indicate that the necessary reforms will be brought forward.

In their minority report, the Liberal senators said that they were persuaded of the need for legislative reform of section 46. They pointed out the disproportionately high number of unsuccessful cases that were prosecuted under section 46. And, since then, everyone knows that the ACCC have shown a real reluctance to pursue section 46 litigation because of their lack of success in the past and because of an inadequate law. But the coalition has continued to sit on its hands. Academic and small business experts complain that this section, which relates to predatory pricing, is weak. They are right. In section 46 cases such as Melway, Boral and Rural Press, the courts have made it clear that this key part of competition law is poorly worded, does not achieve its aim and is ineffective.

If the government would implement even the minority recommendations of the Senate economics committee, it would strengthen section 46 by defining what ‘a substantial degree of power in a market’ means and it would also clarify the elements of ‘take advantage’. The courts would then also be able to consider the recoupment of losses in determining whether there has been predatory pricing. This is one key to ensuring that consumers, particularly those in regional and vulnerable communities, are protected from larger corporations pricing themselves to destroy small competitors and then ramping up prices as soon as the competition has been removed or, alternatively, holding a pricing regime which in itself acts as a barrier to the entry of new competitors. In that respect, I was interested to hear Alan Jones, on Channel 9 this morning, again pointing out the dangers of the pricing behaviour of some major retail corporations.

So while the Prime Minister is banging on about giving the ACCC the powers it needs to combat price gouging by petrol companies, he should also turn his mind to this important issue which will have an impact on petrol pricing and which has a broader effect to the advantage of small business. While I am on petrol prices, I point out that the Prime Minister was blinded by a somewhat headstrong Senator Brandis, who, as the coalition chair of the Senate committee reporting on petrol prices, decided to run the committee rather than chair it. He would not accept the caution that Senator O’Brien and I were urging—that petrol prices deserved a different look and that the ACCC perhaps needed stronger enforcement or investigative powers. Neither would he accept that the ACCC had insufficient means to get behind the corporate veil on petrol pricing. That is a very different tune from the tune the Prime Minister and other members of the coalition are now singing. With respect to competition
law and any regulatory powers, it is important to get behind the corporate veil and to examine these matters at the coalface.

The Australian Democrats are supporting the Tax Laws Amendment (Small Business) Bill 2007, which makes tax planning a little easier for small business. But far more important is trade practices reform. The coalition should either get on with it or, instead, let the next government do the job. In conclusion, with those introductory remarks, my question, through the chair, to the parliamentary secretary, who is on duty today, is: when will the government do something about reforming the Trade Practices Act for small business? What is your agenda? What is your timetable and will that timetable be overtaken by an early election?

Senator SHERRY (Tasmania) (9.43 am)—Before the minister concludes, I want to respond, in part with some further comments on the withholding tax issue, to the unexpected late intervention of Senator Ronaldson last evening and his so-called contribution on this particular matter concerning the Senate economics committee. A number of aspects concern me in terms of the accuracy and lack of analysis presented by Senator Ronaldson, which I will come to shortly. One of the good aspects, at least, of his intervention and the debate that occurred yesterday was that there actually was a genuine debate around an alternative Labor policy, as presented in the second reading amendment.

Senator Ronaldson—It is a rare occurrence!

Senator SHERRY—It is a relatively rare occurrence. It is relatively rare that senators actually come in, having listened to contributions, and respond from different perspectives and analyse the issues to some extent, rather than by way of a set piece contribution to the debate. To that extent, it was welcome. Senator Watson, in his contribution, at least conceded that the Labor policy, on his initial analysis, had some appeal and some attraction. Labor’s policy is to reduce the withholding tax treatment of 30 per cent down to 15 per cent to make Australia more attractive in terms of funds management. But Senator Watson went on to criticise Labor’s proposal and its policy, after being initially attracted to it. I am not quoting him here, but the basis of his argument was that there should be equitable tax treatment of the different forms of investment. If we were to adopt Senator Watson’s premise, we would not have the concessional tax treatment of superannuation, for example. If we were to adopt the logic of his argument against Labor’s proposal on the withholding tax, you would tax everything at the same rate with no concessionality at all. That is an interesting theory from Senator Watson, but in practice it would totally cut across the views on the tax concessional treatment of superannuation that he has so rightly expressed. So I would suggest that, whilst Senator Watson’s contribution in opposition to Labor’s proposal is an interesting economic theory, in reality and in practice tax concessional treatment is used in a whole range of areas in Australia to provide a range of incentives in public policy areas to address what are identified as weaknesses.

I thought the intervention from Senator Ronaldson was the more interesting—and indeed the less accurately analysed piece of disinformation, which is frankly how I would describe it. He referred to the specific example of Japan given by the Labor leader Mr Rudd. I will not say that he did this deliberately—far be it from me to allege that he deliberately misconstrued the example of Japan. The example of Japan was presented by Kevin Rudd in the context of Japan’s treatment of these sorts of investments.

Senator Ronaldson—Methinks you protesteth too much, Senator
Senator SHERRY—That is seven per cent, Senator Ronaldson. The point the Labor leader was making was that Japan’s tax treatment of seven per cent is considerably below Australia’s treatment of 30 per cent and, therefore, there is obviously a great incentive to use Japan, rather than Australia, as a financial centre for the purposes of this form of investment. Labor policy is supported by IFSA, Investment and Financial Services Association Limited, and the property management association. This is not a policy dreamt up by Labor in isolation; it is a policy that has been actively encouraged by a range of experts in the funds management area. We have to narrow the difference in the tax treatment. Labor agrees with that policy. Indeed, as the Treasurer said, ‘This is nothing more than rewarding foreigners with the hard-earned tax dollars of Australians.’ Labor’s costing is $30 million, and I will get to the costing in a moment. I will also get to Mr Costello’s contribution on the costing in a moment—a view which, presumably, Senator Ronaldson shares.

In the context of a tax incentive, $30 million is very modest indeed when compared to a whole range of other tax incentives that we have in our system. Labor argues that it is well worth paying this price if it adds to the attractiveness, particularly in Asia, of building Australia as a centre for financial services. It is a particularly modest price in the context of these outrageous advertising propaganda campaigns that we are currently seeing. In the context of the government’s so-called advertising of industrial relations or superannuation changes, $30 million pales in comparison. So $30 million is a modest price for Australian taxpayers to pay to change the withholding tax regime to make Australia more internationally competitive in this very important area and to build on Australia’s future as a financial funds management centre.

I turn now to the issue of the costing. The night that the Labor leader, Mr Rudd, gave his budget in reply speech and announced this Labor policy, the Treasurer was obviously listening. He gave a doorstop interview immediately afterwards. He said that Mr Rudd had got his costing of $30 million wrong and that in fact the costing was $100 million. How on earth could the Treasurer, having stayed until the end of Mr Rudd’s speech, get a costing on a Labor policy which he had only just heard announced? That is if indeed he got any costing done at all. I suspect he got no costing. I suspect the Treasurer made up a figure when he went out to do his doorstop, because there simply was not time for him to get an accurate figure in that five minutes when he walked from the House of Representatives chamber to do the doorstop. As it turns out, we understand that he had a costing—but it was a costing based on zero tax, not 15 per cent. He gave an inaccurate costing based on a false analysis of Labor’s policy commitment. It is Mr Costello who should fess up to misleading the Australian people with the inaccurate costing he gave. So not only was Senator Ronaldson incorrect last night in his critique but, even worse, the Treasurer, Mr Costello, gave an inaccurate costing shortly after Mr Rudd announced the policy.

To conclude my remarks on this issue, in the debate yesterday I did refer to the impressive level of savings in funds management in Australia. I indicated that, in terms of total assets under management, Australia, with a shade under $1 trillion under management, was fourth largest behind the USA, Luxembourg and France. That is particularly impressive if you compare us to other significant economies—for example, the UK has about $950 billion, Hong Kong has about $760 billion and Japan has a shade over $700 billion. If you look at those levels of savings,
Australia does very well. It punches above its weight in terms of funds management.

As I indicated earlier, Labor was supported in its policy approach by both IFSA and the property association—and for good reason. With the figures that I have given, Australia should be proud of its funds management financial services sector. It is substantially underpinned by compulsory superannuation, which the current Prime Minister described as ‘silly’ when he opposed it back in the late 1980s. Given the way the Treasurer, Mr Costello, carries on about compulsory super, you would think he had actually introduced it. But he actually opposed it as well, and he used a much rougher description than ‘silly’. Anyway, that is the historical context.

We should be proud of our funds management financial services sector in Australia. There is a need to encourage Australia to export more of those services and, with such a significant funds management sector, to be at the very least a regional centre in Asia—if not because we have the fourth largest funds management sector in the world by volume then because flowing from that are a range of other services that can be exported as part of a total package. These include asset management; investment consulting; platform delivery; custodial services; financial services; IT and software; actuarial services; legal and accounting services; compliance and risk monitoring; investment performance; research and reporting; education and training services; portfolio administration services; and advice distribution. Australia leads the world in many of these areas. Labor’s vision is one of greater encouragement to these sectors of our financial services sector, exporting into Asia in particular, and the expertise that we have in these areas off the back of the sheer size of our fund management system and off the back of Labor’s introduction of compulsory superannuation—and we see it as a good thing. We have a vision of people working in wealth management and its various aspects, where incomes are higher than average and where there is real jobs growth over time. We should be proud of it and be encouraging its export.

As I have mentioned, the advantages with Asia are obvious. We have a shared time zone and, at the moment, we are the largest funds management centre in the Asian region. But there is also significant economic growth in China and India, for example, and significant reform in terms of their legal financial services sector. They will need the sorts of services that I have just referred to in which Australia has ample expertise. My final point is that most of the Asian countries have redesigned or are in the process of redesigning their pension funds systems and, here again, Australia has an obvious advantage.

Labor is proud of the policy it has presented to encourage the development of Australia as a funds management centre in the Asian region and to encourage exports. That is what its policy on withholding tax is designed to do. It is a modest cost—certainly not the cost the Treasurer has claimed—in the context of other tax concessions in our system. It is well worth that cost because of the long-term benefits it will bring to this expanding and very important sector of the Australian economy.

Senator RONALDSON (Victoria) (9.57 am)—I am very grateful that Senator Sherry been requested by his leader to come in here today and defend his untenable position of overnight. It is always nice to get positive reinforcement of the fact that you are actually making the appropriate comments. Senator Sherry may or may not be aware—I would be a bit surprised if he is not—that his esteemed leader addressed the IFSA national conference in August 2006. I do not know
whether you are aware of that, Senator Sherry. You are not responding, so I assume you were not aware of that.

Senator Sherry—I am coughing.

Senator RONALDSON—I would be coughing, too. You have obviously read this again. I would be coughing—in fact, I would be gagging—at your leader’s total incompetence. In that speech to IFSA in August last year, the opposition leader ran the industry line. He talked about lower rates and he talked about Japan, and he indicated the lines that were run by the industry. So do you think it would realistically be any surprise to the Treasurer, after the budget in reply speech, not to have the sorts of costings that had been floated by the industry, which had clearly written parts of the opposition leader’s speech? This was not some new announcement in the budget in reply. This was not the Treasurer, having heard the budget in reply, walking out and making some comments on it. In August 2006, the opposition leader had floated this and had talked about lower rates, so of course the Treasurer would have had some costings for these matters well before the budget in reply. Senator Sherry’s leader had floated this and some potential outcomes, so of course it was common knowledge what some of the options were and, therefore, it would be common knowledge what the costings would be at various rates—this was 2006.

I will go back to this and pose this question, through you, Madam Temporary Chairman: if greater fund inflows are going to lead to an expanded market, why is Japan lifting its rate from seven per cent to 15 per cent? Why would this be? I pose that question because this is the premise that underpinned the Leader of the Opposition’s argument in relation to this matter. I will read part of his speech again. You have got to have a look at it, Senator Sherry. This is a very important stuff.

Senator Sherry—I’m going to respond to this.

Senator RONALDSON—I will read it again. This is in the context of a reduced rate. It says:

- greater investment would also flow into Australia for Australian funds managers to invest globally. For example, a Japanese resident could place their funds for management with an Australian funds manager for investment in an appropriate third country market; ... 

As we discussed last night, there is no witholding tax associated with that sort of investment, so how the Leader of the Opposition could be so badly advised as to underpin his argument with a false premise is beyond me. As I said last night, I am prepared to accept that he had not sought Senator Sherry’s advice. I am prepared to accept that Senator Sherry, given his level of experience in this area, could not possibly have advised the Leader of the Opposition in relation to that speech, because it is only in relation to Australian sourced income. Senator Murray knows that, Senator Webber knows that and I am sure that Senator Sherry does as well.

The other acknowledgement that we have had today—finally—is that the Labor Party proposal is a tax cut for foreigners without any ability, because it is an across-the-board proposal, for Australia to negotiate appropriate circumstances that would be in our national interests. Senator Sherry knows full well why this is potentially a tax cut for foreigners: because if they are taxed at a rate higher than that 15 per cent we are effectively subsidising them. So we have the Leader of the Opposition playing Father Christmas to foreign treasuries with the hard-earned dollars of the working men and women of Australia without any ability at all to have those negotiated on the basis of mu-
tual benefit for us if appropriate—because this is an across-the-board flat rate with no ability for us to utilise this for our mutual benefit. It is nothing else but a tax cut for foreigners, from which we are unable to extract any potential benefit. I want to read out paragraph 3.27 of the report:

... Treasury representatives also questioned whether the 30 per cent rate is uncompetitive against international rates, stating that a number of other countries had rates that were similar, although rates may be lower where a double tax treaty is in place:—

So that is where we have negotiated a double tax treaty for the benefit of Australians, as opposed to a flat rate on which there is no potential negotiation in our national interest. I quote a Treasury official:

Just commenting on the international comparisons, I think what has been quoted this morning is 15 per cent. Looking at different structures overseas, you are not always comparing like with like. We have different organisational structures, different regulatory structures. When we look at the withholding tax arrangements we find that in Canada there is a 25 per cent withholding tax on foreign distributions but it is reduced in double tax treaties, generally down to 15 per cent. In the United States there is a 30 per cent withholding tax on distributions from estate investment trusts but it is reduced to 15 per cent for portfolio investments under its double tax treaties; so they start off much higher. Similarly, in Korea there is a 27.5 per cent withholding tax but they reduce it down in their double tax treaties. Japan has a seven per cent rate but it is scheduled to increase to 15 per cent after 1 April 2008. It only applies to listed property trusts. For unlisted property trusts it is 20 per cent. In Singapore, listed REIT is subject to 10 per cent, but this is temporary; it is scheduled to return to 20 per cent on 18 February 2010. So I think we have to be careful of these international comparisons.

Further on, in a reference to Japan, there is this:

On 1 April 2007 it was only a temporary seven per cent. It is going to 15 per cent on 1 April 2008. As I say, it only applies to listed property trusts. For unlisted trusts it is 20 per cent. Like all things, in the case of Japan if a foreign investor owns more than five per cent of a listed REIT then any capital gain is subject to Japanese tax at 30 per cent.

So all of these examples, whether it is Canada or elsewhere, are talking about reductions in the context of double tax treaties. They are negotiations on behalf of the Australian taxpayer, so there is some mutual benefit. But the Australian Labor Party’s response to this is to have an across-the-board totally non-negotiable rate. This is where Senator Sherry and the Labor Party have confused priorities, and you have regrettably jumped and taken the bait from industry in relation to this matter without thinking twice about it. You have taken the bait to the extent that the Leader of the Opposition, the would-be Prime Minister of this country, does not understand the basics of this issue. It is all very well to run TV ads and have a multitude of focus groups talking about your fiscal conservatism, and at the first hurdle in relation to something as basic as this you do not even understand the principles of it. This is not an economically conservative Leader of the Opposition. This is a man who has again shown his utter inexperience and inability to understand basic economic concepts. He has shown his inability to make sure that when he makes a comment, particularly in relation to something as important as this where we are effectively giving away taxpayers’ dollars subsidising international treasuries, he has done the work required to substantiate a policy position.

We saw a classic example of this again last week where he rushed out and made announcements in relation to further troops into Afghanistan. If you want to be the Prime Minister of this country and if you hold yourself out to be the alternative Prime Minister of this country, then you are required to
have the policy integrity that enables you to make policy decisions and policy comments on the basis of fact and not fiction. If the Australian Labor Party wants to run their program between now and the next election relying on focus groups and grabs from Sky News, then so be it. But you should have no expectation at all that you will be supported by the Australian people if that is the way you choose to conduct yourselves between now and the federal election. The Australian people will quite rightly say that if you are not prepared to do the hard work now, if you are prepared to rely on focus groups, then you do not deserve the opportunity that may be presented to you. If you are not prepared to do the hard work now, why would anyone have any confidence in that at all that you are prepared to do the hard work in government? Why would they have any confidence at all? Senator Sherry will probably jump up and say, ‘Well, this was just a minor aberration.’ Senator Sherry’s leader now has a litany of so-called minor aberrations, and this has gone from a number of small creeks to a large river of incompetence—a large river of incompetence from someone who is not prepared to do the hard yards and who is not prepared to ensure that those underneath him are doing the hard yards. And, for that, he stands condemned.

Senator SHERRY (Tasmania) (10.12 am)—I want to briefly respond. I do not want to take the time that Senator Ronaldson did because I do not want to engage in the verbosity, the repetitiveness and the general deliberately muddled presentation that Senator Ronaldson gave us just now and last night. Let me make a couple of key points in response. He alleges I was coughing in angst and shock and horror over Mr Rudd’s alleged mistakes. I have got a medical condition—it had nothing to do with the contention of Senator Ronaldson. Secondly, he accuses Mr Rudd of being motivated by focus groups and Sky News and of rushing policy. Well, on Senator Ronaldson’s own presentation of his arguments, the Labor leader, Mr Rudd, has not rushed this one. He raised this issue at the IFSA conference in August 2006, from which Senator Ronaldson quotes, and then he announced the specific detail of the Labor policy in May of this year. So it is hardly an example of a rushed policy, a muddled policy, a policy that was not adequately researched or a policy that relied on focus groups. We have the general populist position of Senator Ronaldson, and I look forward to him advancing this in other tax debates. Senator Ronaldson, the Liberal government and the Treasurer, Mr Costello, are opposed to tax concessional treatment or tax cuts for foreigners. Well, I would like to see him apply that principle to all legislation that comes before the Senate, because that has not been the position of Senator Ronaldson or the government in the past.

Senator Murray—Capital gains.

Senator Sherry—Capital gains, as Senator Murray, I am sure, is going to make the point. Senator Ronaldson came in here and voted for a capital gains tax cut for foreigners, and he is opposed to foreigners’ tax cuts. Senator Ronaldson and this government continue to support the tax concessional superannuation treatment for foreigners who come to this country and work temporarily. There are plenty of examples of tax cuts for foreigners that you and Labor have voted for because the policy presented at the time justified the cost. That is what Labor argues here. The modest cost of $30 million justifies the cost in terms of the incentive and the growth and the impact on the growth of Australia’s very important financial services sector. I have highlighted that in my previous contributions. They are the essential issues that we have continued to debate.
I am looking forward to the parliamentary secretary’s contribution because he actually allowed this debate to go on last night. He could have said, ‘We want to get the bill,’ last night, but you dashed in and gave what I consider to be a most unhelpful and inaccurate intervention to which we have had to respond.

Senator MURRAY (Western Australia) (10.15 am)—I want to recap the three main propositions which we are dealing with in respect of this debate. The first is whether a flat and final rate is better than a nominal rate, the second is what the rate should be and the third is whether there is a cost or gain to revenue. The problem for the government is that it has not dealt with the fundamental proposition that a flat and final rate is more attractive to investors than a nominal rate. The reason for this is that, on the basis of a nominal rate, to get a reduced rate from the 30 per cent you have to put in tax returns and you have to structure. It could take 12 to 18 months before those matters are resolved, and there are complexity and cost consequences to that. My view is that, in these circumstances of investment in a fast-moving capital market by foreign investors and Australian investors, a flat and final rate is probably the preferable way to go. That is the first proposition. I think the government has made a mistake in staying with the nominal rate.

The second issue which Senator Ronaldson quite rightly draws attention to is the matter of the cost or gain to revenue. One set of estimates is that the cost to revenue would be $30 million; the Treasury estimate is that it would be $100 million.

Senator Sherry—On zero.

Senator MURRAY—Never mind—on zero or whatever; I take the interjection of Senator Sherry. The point that I want to make is that Treasury has not provided the real figures to the coalition, to the cross-benches or to the official opposition. There are no costings available to us. The assumptions they have made and the costings basis they have provided are inadequate to say the least. In fact, they denied us the opportunity to get those figures. Therefore, Treasury is asking us to take on trust the cost or gain to revenue that we would look for—in this case it is a cost of $100 million. I think extremely highly of Treasury officials. The people I have met are people of great capacity, but I remind the chamber that these same Treasury officials got the surplus wrong in 10 out of 11 budgets and the average error they make on the surplus is $4.5 billion over the budget estimate. Their ability to estimate costs is not infallible, and, frankly, I will not accept that $100 million figure as valid until such time as I am able to see the assumptions, the workings and the base figures. Unfortunately, neither Senator Ronaldson, Senator Sherry nor I have got these because Treasury refuse to give them to us.

The question was raised as to whether we are subsidising foreign treasuries. Certainly, the IFSA people are not recommending sub-
sidising anyone and nor is the property institute. The question of attracting investment does sometimes mean that you have to incur a cost. Senator Sherry was quite right in reminding the chamber that Senator Ronaldson, Senator Sherry and I have voted many times to give a cost advantage to foreigners where it is in Australia’s interest or where we conceive it to be in Australia’s interest. So that is not a very good argument. The question is: would you be reducing the rate to produce a cost unnecessarily? In other words, would you generate the level of investment that we are now generating and get the higher tax return anyway—which would be to your benefit? That is a good argument, but the evidence put to us is that the way in which the market is moving means that Australia must anticipate that it is going to lose the power to pull in investment if it retains the figure of 30 per cent. That is why the 15 per cent is considered to be a reasonable target; it is at the upper end of the competitive rates which are operating worldwide. The economic theory, as people would understand, behind the behavioural responses you are seeking in these matters is that, if you lower the tax rate, you then produce higher investment and you will get a greater tax return. It is a matter of judgment as to whether this would occur.

The last point I would make with respect to double tax treaties is this: the difficulty with the double tax treaties that are already in law is that they do not all cover this particular field. They might not cover off this field, so you might have to go back and renegotiate these elements of the tax treaty to accommodate this particular policy. I am not sure how many tax treaties cover off this field or how many prospectively do. I think we have two more tax treaties coming in. It would be interesting to establish—and perhaps the parliamentary secretary could take this on notice because he might not have it to hand—just how many of the double tax treaties that are in existence already accommodate the proposition that a lower rate for the withholding tax in investments will pertain. I suspect not all of them do, but I just do not know, and I would like to have the answer to that question.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.23 am)—I will answer the last question first, Senator Murray. My advice is that none of the Australian double tax treaties take account of a reduced rate so the rate of 30 per cent applies in all circumstances. In respect of your initial question regarding the Trade Practices Act, I will have to refer that to the Parliamentary Secretary to the Treasurer to get some advice. I do not have that information available to me at this point, particularly as we are not necessarily talking about the Trade Practices Act here this morning. But I am happy to refer that to the Parliamentary Secretary to the Treasurer to get some advice in relation to your specific question in relation to the Trade Practices Act, recognising your interest in that particular matter.

There is probably a lot that I could say in relation to the debate that has gone forward here this morning but I will not say too much. I will note that, given the comment that we are in the top four in this area in the world—and that the United States has a 30 per cent withholding rate and France has a 25 per cent withholding rate—I am not sure that the rate is necessarily one of the key drivers. I do understand that the industry puts that forward as a key argument but I think there are other factors in play and note that, in respect of the costings, there is a very wide range. I think the Labor Party’s initial costing was $15 million—that was mentioned in the budget address-in-reply—and that has now morphed to $30 million. The basis of that depends on the gearing assump-
tions that are placed in the calculations. I think that gives an indication that there is a fairly broad range for the basis of the calculations. I thank senators for their contributions.

Bills agreed to.

Bills reported without amendment; report adopted.

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.26 am)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT (2007 BUDGET MEASURES) BILL 2007

Second Reading

Debate resumed from 12 June, on motion by Senator Scullion:

That this bill be now read a second time.

Senator CARR (Victoria) (10.26 am)—Labor supports the Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Bill 2007. The bill seeks to amend the Indigenous Education (Targeted Assistance) Act 2000 by appropriating additional funding of $26.1 million over the period of the 2007 and 2008 calendar years for Indigenous students in the school, vocational education and training, and higher education sectors. This will expand the Indigenous Youth Mobility Program and the Indigenous Youth Leadership Program. The bill also provides for an increase in the number of scholarships available through the Indigenous Youth Leadership Program. The budget increases the scholarships by 750 over four years. This will bring the total number of the scholarships to about 1,000. Also, funding of $14.1 million over two years is being made available under the bill to fund infrastructure for existing boarding schools catering for Indigenous students. In addition, funding of $5.3 million will be made available to convert—where government and non-government education providers agree—Community Development Employment Project places into ongoing jobs in the education sector.

Labor believes that these measures will go some small way towards lifting the educational attainment levels of Indigenous Australians. One would expect that this would in turn lift the employment rate for Indigenous Australians. However, it has to be acknowledged—and I am sure it is acknowledged...
widely within this chamber—that these measures are grossly inadequate. At all levels of educational attainment, we see Indigenous Australians falling behind the rest of the nation. According to the *Higher education report 2005*, which is produced by the government’s very own Department of Education, Science and Training, the number of Indigenous students attending Australia’s higher education institutions decreased by 5.9 per cent in 2005. The report noted that Indigenous commitments, particularly in nursing, initial teacher training and medical practitioner courses, had also declined. The total commencements in these and related courses had declined overall in 2005 by eight per cent. So, at a time when we need more Indigenous students undertaking professional programs to service remote communities, we actually have fewer people taking up those educational opportunities. DEST admitted in its *Higher education report 2005* on page 21 that this was part of an ongoing trend. It states:

Continuing declines in Indigenous involvement in higher education will perpetuate disadvantages experienced by Indigenous Australians and hinder their full participation in Australia’s economic and social development. The report acknowledged that these continuing declines will perpetuate disadvantage and inequality in this country. While this situation in higher education is a national shame, it is worse in other parts of the education sector. There are far too many Indigenous children who continue to be unable to read, write and count at even a most basic level. Indigenous children fall further and further behind the longer they stay at school. Fewer Indigenous students meet the year 5 and year 7 benchmarks in literacy and numeracy than meet the year 3 benchmarks. In 2005, fewer Indigenous children in years 5 and 7 met basic literacy and numeracy benchmarks than their older brothers and sisters did in 2002.

Poor educational attainment levels have a direct impact on employment prospects and on general health and wellbeing. So it is somewhat telling that Indigenous unemployment levels are many times higher than the national record unemployment lows that this government talks about at every opportunity. If we take, for instance, the Elizabeth area of North Adelaide, Indigenous unemployment is as high as 34 per cent. In Macquarie Fields in Sydney, Indigenous unemployment is 30 per cent.

The same is not true everywhere. Many Indigenous communities are close to booming in terms of the mining industry, for instance. We should recognise the good that has been done in that sector to improve the job prospects for Indigenous Australians—and I do acknowledge it, particularly in the north-west of Western Australia. The Centre for Social Responsibility in Mining report into Indigenous employment in the Australian minerals industry highlights the steps taken to date in this area. It points to the benefits for our society, our nation and our industry from taking a long-term view not just towards the provision of employment opportunities to Indigenous Australians but also towards working with local communities to address the root causes of Indigenous socioeconomic problems.

The key issues are education, health and poverty. Those three factors are intimately linked together. I would say, therefore, that a great deal more needs to be done in terms of our society’s claims to be democratic. Unless these critical issues of education and health are addressed, Indigenous people, especially those living in remote and rural communities, are likely to remain a marginal and largely unskilled labour force. This is why I say that much more needs to be done in economic development and in providing opportunities for Indigenous people to fully participate in this country. A country such as
ours that locks out so many of its citizens cannot claim to be fully democratic. This is the most obvious and most graphic indicator of neglect and disadvantage that this country faces.

I turn now to statements made in recent times by the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma. In 2005, he noted:

What data exists suggest that we have seen only slow improvements in some areas ... and no progress on others over the past decade. The gains have been hard fought. But they are too few. And the gains made are generally not of the same magnitude [as] the gains experienced by the non-Indigenous population, with the result that they have had a minimal impact on reducing the inequality gap between Aboriginal and Torres Strait Islander peoples and other Australians.

The percentage of Indigenous Australians under the age of 10 is more than double that of the rest of the Australian population. Labor recognises the fundamental importance of investing in a child’s early years—and this applies to both Indigenous and non-Indigenous children. However, this does not diminish the importance of providing continuous education and learning opportunities throughout life. Indeed, lifelong learning has many benefits, and this bill goes some way towards acknowledging that, but it falls short of where we need to be as a nation. Labor recognises the social and economic imperatives for lifting the education standards of all Australians, particularly Indigenous Australians. As a Commonwealth, we have to assess those things that we did in the past as well as where we are at today.

There are some things that, on the ground, we know work in practice; however, it requires a long-term bipartisan approach from this parliament to ensure that they are effective. It is in that context that the Leader of the Opposition spoke only a week ago, on the 40th anniversary of the 1967 referendum, on the need to set new national bipartisan goals to close the gap between black and white Australia. It requires goals that are achievable and measurable and fulfil the spirit of the referendum held some 40 years ago. Mr Rudd has made it perfectly clear that Labor is committed to following those bipartisan goals, including the elimination of the 17-year gap in life expectancy between Indigenous and non-Indigenous Australians within a generation. Labor is committed to at least halving the rate of Indigenous infant mortality within a decade. Further, Labor is committed to at least halving the mortality rate of Indigenous children under five and to doing so within a decade. Labor is also committed to halving within 10 years the difference in the rate of Indigenous students who fail to meet the reading, writing and numeracy benchmarks for years 3, 5 and 7.

Labor are committed to meeting these goals and a range of other health and family initiatives. We argue that education is the key plank to achieving these objectives. Under Labor, all Indigenous four-year-olds will be eligible to receive 15 hours per week of government funded early learning programs for a minimum of 40 weeks a year. Labor will provide $16.9 million over four years to support the rollout of the Australian Early Development Index in every Australian primary school. This will be adapted to establish a culturally appropriate and nationally consistent means of addressing key aspects of Indigenous children’s early development that are central to the readiness for learning at school.

Labor will ensure that every Indigenous child has an individual learning plan based on his or her needs, which will be updated twice a year for every year of schooling up to the age of 10. It is that sort of personal attention that is needed to address the gross inequalities. Labor will spend $34.5 million over four years on the provision of profes-
sional development to teachers to equip them to complete these learning plans. Through their children’s teachers, parents will have access to these plans so they can be part of their children’s learning improvements. Labor will expand intensive literacy programs and develop a new intensive numeracy program to help underachieving students catch up with the rest of their class. Literacy and numeracy are the building blocks upon which each and every individual builds his or her participation in society in respect of their capacity to work and to lead a healthy and active life.

Labor want to halve the gap between Indigenous and non-Indigenous students’ performance in reading, writing and numeracy within a decade. We are setting ourselves very tough targets, which is the only way we can drive reform in these areas. Labor will provide $21.9 million over four years to expand intensive literacy and numeracy programs in our schools. As part of this commitment, a new intensive numeracy program will be developed and implemented. Labor support measures to lift educational retention rates and to assist those most in need to help themselves.

Labor believe strongly that more can and must be done and that the Commonwealth has a critical role to play. It is insufficient to look at only one aspect of Indigenous Australia. We need to take a global perspective. After years of neglect, Indigenous Australians have manifold issues that require a comprehensive approach. Education is crucial—and this begins in a child’s early years—to building the foundation stones for a successful life. Health is another crucial issue, and more must be done to bridge the gap between Indigenous and non-Indigenous Australia. That is why Labor support the second reading amendment that commits to the goals I outlined earlier. I would like to take this opportunity to move the second reading amendment. I move:

At the end of the motion, add “but the Senate commits to the following goals:

(a) to eliminate the 17-year gap in life expectancy between Indigenous and non-Indigenous Australians within a generation, so that every Indigenous child has the same educational and life opportunities as any other child;

(b) to at least halve the difference in the rate of Indigenous students at years 3, 5 and 7 who fail to meet reading, writing and numeracy benchmarks within 10 years;

(c) to at least halve the mortality rate of Indigenous children aged under five within a decade; and

(d) a long-term bipartisan national commitment to work with Indigenous Australians towards achieving these goals, and overcome generational disadvantage”.

I commend the bill and the second reading amendment to the chamber.

Senator STERLE (Western Australia) (10.43 am)—I rise to make a few brief comments on the Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Bill 2007. I do have a particular interest in this bill, as I have travelled regularly throughout the Kimberley, Pilbara, Gascoyne and Goldfields regions of Western Australia since 1979. In this time I have met so many wonderful Indigenous people who are well aware of the challenges their communities face in finding a way forward for their young people. Their words have left a lasting impression on me and they motivate my comments today. The purpose of this bill is to appropriate additional funding, and to expand on and improve the options and facilities available to Australia’s young Indigenous people.
In my home state of Western Australia, there are no fewer than 289 remote Indigenous communities. As a Labor senator from Western Australia, I am very much aware of the conditions and challenges faced by many young Indigenous people in these communities. Last week I travelled once again through the Kimberley region of Western Australia and spent time in seven remote Indigenous communities. When debating this bill in the other place, my Labor colleagues made the crucial point that goals and targets that are set must be realistic and achievable within a generation, and Labor calls on the government to give a genuine commitment to overcoming Indigenous disadvantage.

I speak today in favour of this bill, but I do not believe that this bill demonstrates a genuine commitment to overcome Indigenous disadvantage. I remind honourable senators that we in Australia are smack bang in the middle of a massive economic boom driven by a global demand for our mining and resources commodities. The tragic irony that we cannot under any circumstances ignore is that a significant source of our current national wealth is the land, and on that land is where the most disadvantaged members of our community have lived for thousands of years. Furthermore, it is amongst these people, living on that land, that we see the highest mortality rates, the highest poverty rates and the lowest educational attainment in this country.

And what has this government done for the traditional owners of that land at a time of great economic growth? I will tell you what it has done. It has made a one-off pre-election promise to beef up programs that have not yet even been the subject of a publicly available evaluation. More so than ever before, the Commonwealth government has had the opportunity to enable Indigenous communities to move out of the cycle of poverty and disadvantage and to create economic sustainability. But, sadly, it has not seized that opportunity. Even worse, the government has adopted a CBD mentality for Indigenous affairs. Middle-class, city-centric views are not the answer. Creating expectation on the journey toward a meaningful future then aborting the trip halfway through is not the answer.

I acknowledge that the Minister for Education, Science and Training has taken a step in the right direction by bringing this bill into the parliament, but sadly it is nothing new. It simply looks to be an extension of funding for existing programs that we are not even sure are of lasting value. We as senators have an obligation to meticulously examine the programs and goals set out in this bill with a view to whether they will deliver something meaningful for young Indigenous people. There is no doubt about it: the Commonwealth programs at the heart of this bill create enormous expectations of participating young Indigenous people in their communities. Yet you get the impression that the Howard government thinks that, by sponsoring these sorts of programs, young Indigenous people will then take over the burden and pressure of leading the way for others in their community. The expectation is that these young people will solve the problems that the government has consistently failed to. There is no indication that the government is entering into a meaningful partnership with young Indigenous people to advance the quality of life, health and economic wellbeing of their communities—and that, to my mind, is an abject betrayal of an entire generation of young Indigenous people.

What I want to know is: what is the government’s expectation of young Indigenous people after funding has been expended through these programs? Where will the government be when these young people return to their communities to face the real-
life challenges? You could not expect to have a senior Howard government minister spending any serious time in a remote Indigenous community. After all, it is a bit hard in the desert to find the pristine white robe and the matching fluffy white slippers that may come with a booking at the Sheraton, let alone a poolside bar to sip almond daiquiris from. Instead, you are confronted with the struggle and despair that is born out of two centuries of dispossession.

In the last 11 years, there has been a real opportunity for change and for the government to achieve constructive reconciliation. Instead, the Prime Minister has managed to wash away a taste for reconciliation left by the previous Labor government. In completing this manoeuvre, the Prime Minister has done it with the same ease as gargling Listerine to mask a cheap wine—or, for the benefit of senators opposite, gargling red wine to mask the taste of Listerine. From my experience, as recently as last week, the programs that the bill before us seeks to expand are failing young Indigenous people and more broadly failing Indigenous communities.

Senators have a right to know whether there was any consultation with Indigenous communities before this bill was brought into the parliament. Sadly, I suspect there was not, particularly as the results of an evaluation of the programs to be expanded by the bill are absent from the explanatory memorandum. The government claims that the additional funding it is now seeking to appropriate will be used to convert Community Development Employment Projects, otherwise known as CDEP, program places into ongoing jobs in the education sector.

This is exactly what I am concerned about, and so too should other senators. There is no real commitment from the government once the money is handed over. I suspect that the additional funding is all about enabling the Howard government, on the eve of an election, to stand up and cry about a marked increase in the number of young Indigenous people receiving funds from the Commonwealth. This is a desperate ploy by ‘Mr Sheen’, beavering around the tarnished silver with his magic spray to make everything sparkle. But what happens after the election if the Howard government is returned? If this lot gets back in, Australia’s Indigenous population will find out pretty quickly that the magic polish only lasts a few days.

There is an enormous need for young Indigenous people to have the opportunity for training in the wide range of skills that Australia is so desperately short of. As part of this bill $14.1 million is being used for the provision of infrastructure funding to enable boarding schools catering for significant cohorts of Indigenous students to repair and replace aged and deteriorating facilities. In my home state of Western Australia, we have a serious shortage of skilled labour—a situation presided over by this incompetent and inactive government. On the surface, $14.1 million may look like a lot of money. But with the serious skills shortage in the construction industry, coupled with the economic boom in WA, I cannot for the life of me see the money being stretched very far at all.

In this place on 10 August 2006 I stated: The Howard government has continued to reduce the overall percentage of the federal budget spent
on vocational education and training, and it stands condemned for the skills crisis it has created.

You might ask: what has changed? Sadly, not much. Australia continues to suffer from a lack of action from this government. I reiterate an article by Steve Lewis in today’s Australian as reported through the national media over the past few days. The article stated:

... the Business Council of Australia and the Australia Chamber of Commerce and Industry confirmed plans for an advertising campaign in support of Work Choices ...

Isn’t that ironic! Fair dinkum, I was rolling around my room this morning as I was reading the paper. Fortunately I did not have to change my pants, but I did have a cackle at these two representatives of industry, and mates of the government, who have to be dragged kicking and screaming if it is suggested they may have to invest in Australia’s future skills training but here they are investing huge amounts into a re-election campaign for the Howard government. They stand guilty through association with this government.

What have the Business Council of Australia and the Australian Chamber of Commerce and Industry done, firstly, to avoid the crisis we now face, and more importantly, to address the current sad state of affairs? The hypocrisy of these two groups is incredible. They will not invest in training but they will throw potentially hundreds of thousands of dollars into an election campaign for the Howard government. They stand guilty through association with this government.

The Howard government is intent on creating the illusion of serious investment in Indigenous communities. This is why I believe this bill is a continuation of the Howard government’s piecemeal, superficial, CBD mentality. I refer senators to Patricia Karvelas’s article in the Australian on 8 June 2007 on the waste associated with the funding of Indigenous programs. It stated:

For every dollar the Howard Government spends on indigenous people, it spends up to another dollar on bureaucracy ... it cost the Howard Government an average 40c to spend a single dollar of indigenous funding, leading to a staggering amount of taxpayers’ money going to bureaucracy.

Senators need note that the Indigenous Youth Mobility Program and the Indigenous Leadership Program were 2004 Liberal election commitments. However, places were not offered with respect to these programs until 2006. How much money then was wasted under the guise of these programs between 2004 and 2006? Further, how much of the $26 million proposed in this bill will stay in Canberra to pay the bureaucrats? According to the article quoted in the Australian newspaper, it could amount to no less than $10 million of what we are being asked to approve today.

Indigenous people want investment in their communities that generate real jobs. Ecotourism, agriculture and aquaculture are just three examples of what is already being achieved in some of Australia’s remote Indigenous communities. As was told to me recently, Indigenous elders want to get away from the notion and mentality of ‘sit down’ money and start having a role in creating their own prosperity. We could not expect the...
Howard government to understand this desire, particularly as they are a government happy to see large numbers of Indigenous people disenfranchised by recent changes to electoral enrolment laws. There is no doubt that these changes have created unfair hurdles for traditional people living in our remote areas to be able to exercise their right to elect their government.

If the government had the will to give Indigenous people a genuine mechanism to determine their future, they would be investing resources into getting more Indigenous people on to the electoral roll and not the reverse. There is no justification for the number of Indigenous people on the electoral roll to be lower than that for the rest of the Australian population but that is what we have. But there is an even greater travesty: it is now easier, thanks to the Howard government with the support of senators opposite, to make secret donations to a political party than it is to enrol to vote. But, then again, it is highly unlikely that Indigenous communities would make donations to the Liberal Party, even in the spirit of reconciliation. So it is not hard to work out why the right of Indigenous people to vote is well down the list.

Unlike the Howard government, Labor have made a real commitment to Indigenous Australians. Wouldn’t it be tremendous if the Prime Minister and his cronies finally got out of Labor’s way so we could move forward and turn our commitment into reality? Labor support this bill despite its monumental inadequacies in addressing the lack of economic opportunity for young Indigenous people. I would not want to see any funding taken away from Indigenous programs but the government has to improve its performance in the way the money is spent and what it actually provides on the ground.

I would like to close with the words of one elder who spoke to me in one of the communities I visited last week. He said to me:

We are not just dumb black fellas stuck out in the bush; we have ideas.

We need to have these very words at the forefront of our minds as we stand here as representatives of the entire Australian community and legislate for the future of Indigenous people.

Senator CROSSIN (Northern Territory) (10.58 am)—I rise to contribute to the debate on the Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Bill 2007. This is another in a series of bills that we consider in this chamber each year to ensure that Indigenous education around this country continues to be supported. This bill appropriates additional funding of $26.1 million over the 2007 and 2008 calendar years, explicitly to expand the Indigenous Youth Mobility Program and the Indigenous Youth Leadership Program. It provides infrastructure for boarding schools and it provides for the conversion of a limited number of CDEP positions to full-time positions within education.

As this is a bill that adds funds to Indigenous education, I certainly welcome it. Those of you who know my passionate interest in this area would not be surprised to learn that this bill is supported in principle by the Labor Party and, in particular, by me. But Senator Sterle is correct in saying that it does not go far enough. It is a start, but the measures in this piece of legislation do not go anywhere near addressing the particular needs that have been identified. We know that, of the total additional funds, some $2.6 million goes to expanding the Indigenous Youth Mobility Program. It will give us about an additional 860 places over four years. That is on top of the 600 or so students who already
benefit from this program, giving us a total of 1,460 students. The Indigenous Youth Leadership Program will be expanded by up to 750 places over four years, with $4 million allocated for the first two years. So the total impact will be 1,610 students. There is $14.1 million for infrastructure to enable boarding schools with a significant number of Indigenous students to repair and replace old facilities.

I know from my questioning of Aboriginal Hostels Ltd during the most recent estimates process that, under the Families, Community Services and Indigenous Affairs portfolio estimates, it says at page 164 of Budget Paper No. 2 that FaCSIA will establish three new boarding hostels and expand two existing boarding hostels at a cost of $38.8 million over four years. Aboriginal Hostels Ltd, of course, will operate two of the new boarding hostels at a cost of $2.4 million over 2009-10 and 2010-11.

At the Standing Committee on Community Affairs estimates hearing on 28 May, Mr Clarke, from Aboriginal Hostels, could only give me the details of one of those hostels, which will be built at Kununurra to cater for 40 secondary students. In addition, he thought that maybe one hostel would be built in the Northern Territory, possibly at Nhulunbuy on the Gove Peninsula—though that had not yet been decided—and that one would be built in Queensland, possibly in Townsville. He said that he would also be looking at partnerships—for example, he would talk to the McArthur River Mine about a possible boarding facility at Borroloola. He also said that there had been a budgeted allocation for partnerships for secondary education, either for recurrent costs or for construction. So we know that Aboriginal Hostels, by and large, has carriage of the Indigenous Youth Mobility Program. This program encourages Indigenous students who live in remote or very remote areas, or maybe even in outer regional areas, to relocate to major centres to board and to study. So it is certainly an initiative that we would encourage.

The overall effect of this bill is to assist young Indigenous people to relocate to undertake accredited education and training and then, hopefully, gain employment. It is always a very difficult decision to send your child away from home to attend different schools. It is no different whether you are an Indigenous parent or a non-Indigenous parent. But Indigenous parents in particular feel that their children will lose their culture and not return home, or that they might meet their demise through succumbing to some of the attractions of the capital cities. It is a decision that all parents confront at one stage or another. But it is a decision that does give Indigenous people some possibility of providing their children with better and further education.

Education is important, and Indigenous parents do make that choice. We see that in the Northern Territory in respect of Kormilda College, an independent coeducational secondary boarding school in Darwin. It has arguably the largest enrolment of Indigenous students from remote communities in Australia. The parents of those students do recognise the value of education and they send their kids into Darwin to board at the college.

While I say that this legislation and the additional funding is welcome, it does not go far enough if we are talking about encouraging children to stay on to year 12 and then take up structured training beyond year 12. To see that, one need only look at the statistics on and also at the needs of a place like Kormilda College. They have, from my recollection, lobbied this federal government for many years now to take account of what is happening in their boarding school in terms of infrastructure. And when I say that the
funding in this legislation is welcome but does not go anywhere near meeting the need. Kormilda College are one example of that. They have a total enrolment of 1,050. Their Indigenous enrolment is 310 students from 70 remote communities—from Queensland, Western Australia and the Northern Territory. They offer the Northern Territory Certificate of Education, the International Baccalaureate and also some vocational education and training programs. So you would think that a college like this should be a great beneficiary of the legislation that we have before us, but it is not so.

In 2006, 35 per cent of all Indigenous NTCE graduates from remote communities studied at Kormilda College. The third generation of students from Indigenous families now board at Kormilda College. In 2007, among their year 12 enrolments, they had 17 Indigenous students, including 13 remote boarders. In 2007 they had the first Indigenous candidate for the International Baccalaureate Diploma, and the attendance rate for Indigenous students was around 95 per cent. If you looked at those statistics and had some kind of report card—by which the current minister would want to judge educational outcomes—you would have to say that Kormilda College are doing it pretty well. But they have a chronic need in terms of their current boarding infrastructure facilities. Anyone who knows and appreciates Indigenous culture would understand that, at this particular school, there are boarding facilities for girls and boys, and they are quite distinct and separate. Their current boarding capacity is 330 students but, in recent years, they have had to close 60 beds due to excessive maintenance costs. There is asbestos and concrete cancer in the existing boarding facilities. Recently, I had a meeting with the current principal, Malcolm Pritchard, and he told me that they currently have a waiting list of more than 200 remote students and, of course, no capacity to meet this demand.

We have a bill before us today that will establish some boarding hostels around this country, auspiced under Aboriginal Hostels Ltd. But, from what I can see, there is no additional funding to meet the incredible demand that a place such as Kormilda College will have and no intent that any of the money from this bill will go to places such as Kormilda College. They have closed some of the boarding facilities because the infrastructure is diminished and they need to be demolished. Currently, they cannot offer 60 beds, and they have over 200 students on their waiting list. They need to replace two condemned boarding facilities at a cost of around $15 million. The total capacity under threat is around 260 beds.

Here we have a college in the Northern Territory, in Darwin, which is doing well. It offers a fantastic program and it attracts and keeps Indigenous students—it has an attendance rate of 95 per cent—from 13 Indigenous remote communities across the territory, which this government has continued to turn its back on. Successive principals at Kormilda College have lobbied this government for $15 million to improve the boarding infrastructure, and it has not been forthcoming. This bill is another example of how this college will not be able to get the money that it needs to maintain and meet the unmet demand of its boarding school. On the one hand, the government is saying that it wants to improve the retention rate for Indigenous children in year 12 and beyond while, on the other hand, we have a perfect example in Darwin of where $15 million could be targeted and spent. But Kormilda College has been totally ignored by this government, year after year. The proportion of Indigenous children reaching year 12 is well below that of their non-Indigenous peers—we have known that for years—and the proportion of
Indigenous children finishing year 12 is slightly worse.

I commend the government—and I have done this successively—on putting out the National report to parliament on Indigenous education and training. The latest one is for 2004. This is the fourth report which has been produced. It is good to see this government front up and report to the federal parliament on the progress—or, in some instances, lack of progress—in Indigenous education. Unlike other programs that this government oversees where it is not so willing to publicly report on the outcomes, it is willing to publicly report on outcomes in Indigenous education. Year in, year out, the statistics do not improve. On page 34 of the last report, with respect to year 11 and year 12, it states:

There is a further decline in this rate in 2004—here we are talking about the retention of Indigenous students in schooling—to produce the worst result for the period. Between 2003-04 there were declines in the rates of five of the eight states and territories, with only South Australia, Victoria and the ACT showing an improvement. The 2004 rate of 64.7 per cent is below the 2000 rate of 60 per cent, indicating that over the period of the quadrennium there was no overall improvement.

Good on the government for actually reporting it but, throughout this document, year after year, while I do see some improvements—I will admit that—in some areas, I do not. This bill is an attempt, one would hope, to encourage a turnaround of those statistics, but it is not good enough and the money is certainly not well targeted. Any measure that may help to reduce the gap and see more Indigenous people finish year 12 and go into some form of higher education or training is certainly welcome. Indeed, it is long overdue.

The Department of Education, Science and Training’s Higher education report 2005 showed that the number of Indigenous students fell by 5.9 per cent in 2005—an occurrence that will do nothing to reduce the education gap. I could go on and talk about measures that the Labor Party has committed to. They include concrete goals and targets to eliminate the gap in life expectancy within a generation, to halve the Indigenous infant mortality within a decade and to halve the gap in literacy and numeracy levels at primary school within a decade. Why is that important? It is crucially important. If you have an educational background and know anything about the first steps in life then you would know that, when it comes to retaining kids in year 12 and encouraging them to move to capital cites or regional centres to take up further vocational education and training, we can move as many bills and acts in this parliament as we wish but, unless we get it right in the first five or six years of a child’s life, they struggle and play catch-up for the rest of their school life. The evidence is out there. We know that, unless you ensure that the life expectancy of Indigenous children is increased and unless you have a commitment to set a target for improving literacy and numeracy at the primary school level and help them get it right in the first couple of years, then all of the funding that we appropriate in this place, which is targeted at year 11, year 12 and beyond, will go nowhere.

The Labor Party have said that we will set targets and measure outcomes—unlike so many programs under the Howard government’s mainstreaming policy where red tape and bureaucracy continue to defeat Indigenous progress and the achievement of outcomes. We have committed $450 million a year to provide early education of up to 15 hours a week for all four-year olds for up to 40 weeks a year. As I travel around the
Northern Territory, I see many schools that do not have efficient preschools or kindergartens operating. That needs to change. We have committed to halving the gap between Indigenous and non-Indigenous students in reading and writing within a decade. We will need significant resources and effort to achieve that, but at least it is a performance indicator. At least it is something that we will be able to measure the success or otherwise of within that 10-year period.

Before I finish my speech, I want to talk about the move in this legislation to convert into full-time jobs 200 places in education for CDEP participants. People will know that I personally think that the CDEP has run its course, but it is still useful in remote communities in some parts of this country to get people job-ready. In 11 years, the Howard government has done nothing to improve CDEP in terms of providing education and training in those very remote communities to give people the skills to move off CDEP and into real jobs. No labour market has been stimulated and no remote training educators have been funded or provided over and above what current institutes like the Batchelor Institute of Indigenous Tertiary Education and Charles Darwin University can provide out of their current funding. I want to talk about what is happening in urban areas. We know that these 200 jobs are part of the 825 jobs identified in this current budget to move people off CDEP and into paid jobs in urban areas. Obviously, DEST have identified that they have at least 200 of those. I understand that the urban areas will take priority as CDEP is changed, reviewed and restructured by this government over and over again. This job conversion must be taken further to convert more jobs into more full-time positions in some of the isolated areas.

On 1 July these 200 people, out of the 825 in CDEP positions around this country, will be moved off CDEP. Let us talk about what is going to happen to those 825 people. There is one measure by this government that will improve what will happen to them: they will either move into full-time employment, and that is welcomed, or they will move onto the STEP program or Newstart. But in doing so they will lose, as a consequence, access to free hearing services. This is an issue I raised with the Office for Aboriginal and Torres Strait Islander Health during the last Senate estimates, and this government is aware of it. Is it an unintended consequence of this policy shift? Who would know? If departments were actually talking to each other then surely someone should have said: ‘We’re going to move people in urban areas off CDEP and onto either the STEP program or Newstart. Then of course you realise they’re going to lose access to hearing services.’ It is unfortunate that this government is going to ideologically push ahead with that agenda and not put it off for 12 months to sort out what will happen to these people who had access to this service offered by Human Services. It was a program that was initiated in 2005 and it should be maintained for these people. (Time expired)

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (11.20 am)—I thank honourable senators for their contributions to the debate—though it would be straining both language and charity to describe Senator Sterle’s rather crude and belligerent remarks as a contribution. The Howard government want to see the gap between the education outcomes for Indigenous Australians and those for non-Indigenous Australians closed. We are addressing this goal. This is why we are building on existing programs and initiatives that are actually working to close this gap. The Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Bill 2007 amends the Indigenous Education (Targeted Assis-
tance) Act 2000 to increase the appropriations over the 2007 and 2008 calendar years to provide $26.1 million of additional funding. This bill provides $4 million for the expansion of the Indigenous Youth Leadership Program by an additional 750 scholarships over four years, $2.6 million for the expansion of the Indigenous Youth Mobility Program by an additional 860 places over four years, $14.1 million in infrastructure funding for urgent repairs to boarding school facilities and $5.3 million to support Indigenous people into jobs through the conversion of Community Development Employment Project positions into jobs in the education sector. The new funding of $26.1 million that is to be appropriated under this bill will support increased choice and mobility in education and training for young Indigenous people and will support CDEP participants to move into ongoing employment within the education system.

The increase in the number of scholarships offered under the Indigenous Youth Leadership Program and the increase in the number of places available under the Indigenous Youth Mobility Program will allow more young Indigenous people to access high quality education and training, to develop their leadership potential and to make informed life choices. The Indigenous Youth Mobility Program places provide valuable opportunities for young Indigenous people to leave remote communities to obtain the skills and experience that will directly prepare them for jobs that are available in remote and rural communities, particularly those in traditional trade areas such as plumbing, electrical and mining trades and in business management, teaching and nursing. The Indigenous Youth Mobility Program places provide valuable opportunities for young Indigenous people to leave remote communities to obtain the skills and experience that will directly prepare them for jobs that are available in remote and rural communities, particularly those in traditional trade areas such as plumbing, electrical and mining trades and in business management, teaching and nursing. The Indigenous Youth Mobility Program broadens the pool of qualified Indigenous people available to fill jobs and ensures Indigenous young people are able to make informed choices about real job opportunities and their economic independence. The increase in the number of scholarships offered under the Indigenous Youth Leadership Program will provide educational opportunities for Indigenous students at the secondary and tertiary levels while developing their leadership potential. These two initiatives will enable more Indigenous young people from rural and remote areas to access high quality education, training and employment opportunities.

The provision of $14.1 million for infrastructure funding to existing boarding schools with significant cohorts of Indigenous students will assist with urgent upgrades of accommodation facilities to prevent a loss of existing boarding places and enable the boarding schools to better meet the educational needs of Indigenous students from remote and regional areas. These schools have growing waiting lists for access to places for Indigenous people. This appropriation is in addition to the allocation of $50 million from this year’s budget surplus for non-government boarding schools that accommodate Indigenous students.

These measures will have a significant impact on Indigenous young people and their families. They will lead to accelerated improvement of their education, employment and training outcomes. They will also lead to significant improvement in community capacity in remote Indigenous communities, as many of these young people will eventually return to their home communities with enhanced knowledge, life skills and job readiness skills. In addition, the provision of funding to convert around 200 Community Development Employment Project positions into jobs in the education sector will support CDEP participants to move into ongoing employment in schools and education systems. Many CDEP participants have been doing similar work to Indigenous education workers currently being paid by schools but
until now have not received the same employee benefits. They will now be able to gain the benefits of employment, including wages, leave, superannuation, training and professional development. This is part of a broader package that will see CDEP participants move into ongoing employment and move out of this welfare program to become employees in education, environment and heritage protection, community care, child care and Indigenous community policing. All up, spending on Indigenous specific education programs has increased by almost 50 per cent in real terms over the last decade.

The importance of education for young Indigenous people is a key to changing people's lives. Education provides a foundation for later success in terms of individual advancement, choice and opportunity; and it is a vital path to improve both health and wellbeing and to achieve social and economic success. The new funding of $26.1 million that is to be appropriated through this bill is only an element of the broader package of $214 million over four years announced in the budget for Indigenous education and training. Overall, in 2007-08, the Howard government will invest almost $600 million in Indigenous specific education programs. I acknowledge and thank Senator Crossin, who has a deep and longstanding interest in this area, for her congratulations on the government's transparency in reporting the outcomes under Indigenous education programs.

The government is determined to close the gap between Indigenous and non-Indigenous students by providing more choice, mobility and educational opportunities for Indigenous students. The measures in this bill build on the government's practical commitment in this important area of public policy. I commend the bill to the Senate.

Third Reading

Bill read a second time.

TAX LAWS AMENDMENT (2007 MEASURES No. 2) BILL 2007

Second Reading

Debate resumed from 10 May, on motion by Senator Johnston:

That this bill be now read a second time.

Senator CARR (Victoria) (11.28 am)—My interest in the Tax Laws Amendment (2007 Measures No. 2) Bill 2007 relates to schedules 3 and 8—those amending the research and development provisions in terms of the taxation arrangements and establishing the Early Stage Venture Capital Limited Partnership scheme. May I say that it is good to finally see the latter come before the parliament. The early stage partnership scheme, for those who are not aware of it, was announced in last year's budget, so it has taken a whole year to get the program before the chamber.

Senator Conroy—A whole year! Are we three months from an election?

Senator CARR—Yes, that is indeed the case, Senator Conroy. We finally get to see these measures. As my colleague Senator Sherry has already stated in foreshadowing the moving of his second reading amendment, Labor do not believe the scheme will be as good as it could be. We are suggesting that the government make some further changes to ensure that the scheme is feasible and that it provides maximum benefit in terms of boosting Australia's venture capital performance. I will come back to that in a moment.

I now take this opportunity to discuss schedule 3. Schedule 3 of the bill makes amendments to the tax law relating to the 175 per cent premium research and devel-
development taxation concession and the tax offset for small companies. The bill makes 10 technical amendments to clarify the law, to remove unintended consequences and to seek to ensure that the law accurately reflects the original policy intent of the research and development taxation changes introduced in 2001. There are three main tax concessions that companies that incur expenditure on research and development may claim. They may claim the accelerated R&D deduction—that is, the 125 per cent concession. There is the premium incremental concession, at a rate of 175 per cent for research and development expenditure above the average R&D expenditure over the preceding three years. Then there is a refundable tax offset for small companies which provides the equivalent to the value of the R&D deduction as an offset where companies are not liable to pay tax.

This bill amends arrangements for the premium concession and the offset. There is no need to repeat the full range of the long list of amendments as they are fairly non-controversial. They seek to fix problems that the government’s legislation actually put in place in 2001, so you would have to ask yourself why it has taken so long to identify some of these problems and why we are only now finally moving to address those concerns.

The government has recently announced that it will be making further and more substantial changes to the premium R&D tax concession. It will be opening up eligibility for this concession to multinational companies which conduct R&D in Australia but hold the intellectual property offshore. This involves the so-called ‘beneficial ownership test’. This reflects the changes that have been asked for by numerous parliamentary committees, and of course these are matters that the Labor Party has been pursuing for some time. Personally, I have been seeking to push these changes since I returned to this portfolio late last year.

Given the experience of this bill, however, I cannot help but wonder how long it will be before we will see legislation giving effect to the other particular changes. Presumably, we have to wait until after the election, with the prospect of a new government, to actually pursue these changes. More importantly, while Labor supports the removal of the beneficial ownership test for the premium concession, the fact is that this policy reflects a half-hearted approach by this Howard government—as does the whole industry statement that gave rise to it. There are other fairly basic issues that neither the government’s announcement nor the bill that is before us today has sought to address. Firstly, there is the concern that the premium concession has become an administrative nightmare and the government’s industry statement has done nothing to change that situation. Secondly, every man and woman and his or her dog—including the Productivity Commission, I might say—realises that the eligibility criteria for the tax offset provides perverse incentives for small high-tech businesses to actually limit their research and development spending. But the government has made no move to amend those threshold arrangements. You can only presume that, as the government has not done that in the industry statement and has missed that opportunity, clearly it has no intention of fixing this problem. Beyond that there is serious potential to improve the R&D tax concession arrangements overall. More broadly, there is a serious need to improve Australia’s business research and development performance.

I will take this opportunity to draw attention to the fact that Australia’s research and development performance under this government is nowhere near what is actually required for Australians as a collective to actually keep their heads above water. Aus-
Australia invests only 1.8 per cent of GDP in research and development, well below the OECD average of 2.3 per cent. Business spending on research and development since 1996 has grown at half the rate it grew at over the previous decade. It has actually plummeted from 11.4 per cent to only 5.1 per cent.

If we turn to manufacturing, we see that the story is even grimmer, with the average annual growth rate slipping from 10.6 per cent to only 1.9 per cent. This contrasts with the performance of our competitors, and we can see just how much of a gap is now opening up between Australia and them. Let us look at China. China has committed itself to lifting its research and development expenditure as a proportion of its GDP to 2.5 per cent by 2020. That is up from 1.2 per cent in 2002 and 0.6 per cent in 1995. China is doubling its expenditure on research and development every seven years. We now have the situation of China, as a matter of deliberate policy, increasingly moving from low-end manufacturing to high-end manufacturing. We have the situation of the Chinese government spending extraordinary sums of money on its research infrastructure to the point where it is very likely that we will see their researchers being paid more than ours and they will have an opportunity to pursue research on equipment far superior to what is available in Australian universities. I take the view that it is only a matter of time before we are finding that Australia’s best researchers are actually working in Beijing.

In 2006, China overtook Japan as the second largest spender on research and development behind the United States, with spending growth of 20 per cent over the previous year. The Chinese are already the second largest in the world in terms of their expenditure on R&D. Every other developed economy is responding to this challenge with a sense of urgency, but not the Howard government. Its apathy has been made abundantly clear through its industry statement and through the last budget. This is not a government with a long-term agenda. It is not a government that is committed to a sense of urgency in providing Australians with the tools necessary to maintain their productivity and competitiveness.

Back in 1996, despite committing to improve our international ranking in terms of expenditure on business R&D as a share of GDP—that was the election commitment the Howard government made in 1996—the Howard government’s main policy after it was elected was to cut research and development, and in particular cut research and development taxation concessions from 150 per cent to 125 per cent. This was not something they went to the election with, of course; this was not the policy they put to the Australian people, but it was the policy they put to this parliament after the election. This has been a consistent pattern of this government throughout the last 11 years: they say one thing before an election and do exactly the opposite after an election.

As a result of this policy and other changes that have occurred in terms of the corporate taxation rates, the value of the base research and development concession has fallen under this government from 18c in the dollar in 1996 to 7.5c today. There was some hope that the government’s recently released industry policy statement—which, I might say, took 11 months to put together—might attempt to remedy the neglect of the national innovation system. I am too kind to say to Minister McFarlane that he has failed, because I do not think he tried. I do not think there was a serious attempt to address those fundamental failings of Australia’s national innovation system through this policy instrument. In fact, it is instructive that this government announced its industry statement the week before the budget. It was such a
low priority for the Treasurer that it was not even worth a mention in the budget speech. We all know that the arrangements made by that statement were fundamentally changed on the weekend prior to the announcement where the government sought to double the period of forward commitments that were announced in that industry statement. We also now know that the finance department gave a cursory glance to those costings. They were simply flat line assumptions that took out any commitments from the four-year basis on which the program was planned through to the 10 years of the announcement in the statement one week before the budget.

When we look at the details and we see what progress has been made, we see there are a number of problems this country has to face up to, yet this industry statement failed to deal with those questions. For example, benchmarked against the United States economy, Australia’s labour productivity has fallen from a peak of 85 per cent in 1998 to just 79 per cent in 2005. We have almost lost the gains that were made in the 1990s; labour productivity growth has fallen from 3.2 per cent in 1998-99 to 2.2 per cent in 2003-04. The government’s own budget papers indicated that officials expect zero productivity growth this year; and growth in export volumes has been slower over the last decade than it has been at any time since World War II. Over the past five years manufactured exports have recorded a growth of just 0.4 per cent a year compared to the 16 per cent record achieved under Labor. When it comes to innovation, Australia has now slipped to 24th on the World Competitiveness Index and is about to be overtaken by India. Out of 125 countries, Australia is ranked 25th on university-industry research collaboration, 28th on company spending on research and development, and 30th on the government procurement of technological products based on technical performance and innovation rather than simply price. Australia is ranked 35th in capacity for innovation, which measures whether companies conduct formal research or pioneer new products and processes, and we are placed 35th in the availability of scientists and engineers. At the World Economic Forum these measures were all identified as ‘notable competitive disadvantages’. I say that Australia is facing these acute challenges and we have the opportunity to do something about it. But, rather than lifting our performance in global terms, we are falling behind.

The Treasurer said he would try to explain how we were to invest in the future. We talked about what the options were in terms of innovation or the better use of technology—these things did not occur to him; they did not appear in the Treasurer’s statement explaining the government’s budget. It is not surprising to some of those concerned in this chamber that the OECD says:

Most of the rise in material standards of living since the industrial revolution has been the consequence of innovation.

It says innovation has long been the main motor of economic growth. It is not just the OECD that makes this claim. Alan Greenspan, who has a world-class reputation as an economist, made this point in February 2004:

Over the past half century, the increase in the value of raw materials has accounted for only a fraction of the overall growth of US gross domestic product. The rest of that growth reflects the embodiment of ideas in products and in services that consumers value. This shift of emphasis from physical material to ideas is the core of value creation appears to have accelerated in recent decades ... ideas are at the centre of productivity growth.

By completely ignoring the issue of innovation and productivity, I think the Treasurer has shown that this government has no credibility when it comes to understanding the drivers of economic growth. It has no
credibility when it comes to securing Australia’s economic future beyond the mining boom.

There is no comparison between what the government is arguing in terms of innovation and what the Labor Party are putting forward. Labor understand in this country we have a complex innovation system. It has many elements to it—there are many moving parts. But it needs to be understood as a whole and thought about in a strategic sense. That is why, on 24 April, Mr Rudd released Labor’s new directions in innovation paper. This shows that there is a need for a much bigger picture in the approach that the Commonwealth should take on the question of innovation. The first thing to make clear is that a Rudd Labor government would actually take responsibility and show national leadership on innovation. That is why we argue in our 10-point plan for innovation how important it is that the Commonwealth front up to its responsibilities. Labor’s innovation plan has been very well received—and I am sure that Senator Brandis will appreciate this point. Our willingness to show national leadership and to bring together the disparate parts of our innovation system has been widely praised. A recent Business Review Weekly editorial described Labor’s proposal to bring responsibility for industry innovation, science and research back into a single ministry as ‘fundamentally important’. It said that it addresses a ‘core issue that has guided or misguided national innovation policy in the past decade’.

Coming back to the thrust of this bill, and particularly schedule 3, Labor support all of these administrative amendments for improving the operation of the taxation scheme—particularly the concession scheme. But we wait with bated breath to see how long it will take for the Howard government to introduce legislation removing the beneficial ownership test from the premium concession, given that it has taken them a year to get this particular measure before this chamber. We certainly will not be holding our breath for any further enhancement to the research and development taxation concession. That ship has clearly sailed under this government.

On behalf of Senator Sherry and the opposition, I move:

At the end of the motion, add “but the Senate:

(a) condemns the Government for its failure to promote the venture capital industry; and
(b) calls on the Government to:

(i) increase to $500 million the value of assets of an entity invested in by an Early Stage Venture Capital Limited Partnership (ESVCLP) beyond which an ESVCLP must divest itself of an interest in the entity,
(ii) increase the time allowed for a partnership to divest an investment from 9 months to 12 months, and
(iii) increase the value of assets target investees of an ESVCLP can have, to $500 million”.

Senator MURRAY (Western Australia) (11.47 am)—The Tax Laws Amendment (2007 Measures No. 2) Bill 2007 has eight schedules dealing with: first, effective life provisions of mining rights and their depreciation treatment; second, the taxation of boating activities; third, expenditure on research and development activities; fourth and fifth, the donation of listed shares to deductible gift recipients and the listing of new deductible gift recipients—these are in this bill, including a valuable listing for a body in Bunbury; sixth, the deduction for contributions relating to fundraising events; seventh, technical amendments and corrections; and, eighth, venture capital.

This bill was sent to the Senate Economics committee. Schedules 4, 5, 6, 7 and 8 attracted no submissions. The other sched-
ules raised timing issues. Some wanted the provisions to be made retrospective, but I agree with the committee chair that their case was weak and should not be supported. This is a reasonably lengthy bill, but you would describe it as a cleaning up bill and a more technical bill with relatively minor, but helpful, changes. In tax terms, it will not cost very much. My quick addition of the cost of the various schedules in 2010-11 is about $40 million, so it is not exactly costly.

The bill does cover some areas which are of interest in a policy sense—they are to do with research and development and venture capital. One of the debating points that were raised by the shadow minister, Senator Carr—and no doubt it will be responded to by the minister at the table—is the issue of whether previous and present governments have paid enough attention to long-term investment by the public sector. There is also the issue of the commitment of the public sector to these areas, as opposed to leaving it to the market.

Economics is quite accurately described as an art rather than a science. It can be quite arcane and complex in its reasoning and deductions and so on. At the heart of economic theory is a very useful and simple summation of those things that contribute to productivity and the health of the nation-state. Those are known as the factors of production: land, labour and capital. The interesting thing about those three is that both the previous Labor government—long distant now—and the present Howard government have paid a great deal of attention to the factor of production known as capital. Capital is highly mobile and it is the least important of the nation-state’s elements in the sense that the nation-state is built on its land and its people, but it is very important to the nation-state in terms of its facility and efficacy. Both the previous Labor government and the present Howard government have paid a great deal of attention to ensuring that capital is well attended to, and to making Australia as competitive, modern and efficient as possible.

There have been very significant changes to regulatory mechanisms, corporations law, finance law and tax law, all of which have given us an extremely dynamic, flexible and modern capital market which contributes very significantly to Australia’s wealth and health—both from the public sector institutional side, which includes the Reserve Bank, APRA, ASIC and so on; and in the functioning of the market, which includes the ASX, the Takeovers Panel and other such bodies.

So, by and large, I would give the previous government, who initiated the Wallis review, and the Howard government a tick for advancing our commitment to modern, progressive and continuous updating of our ability to facilitate capital. However, with respect to land and labour, I think the criticisms of the Howard government are real. It would be facile to remark that the Howard government has paid no attention to land; obviously they have in a number of respects. But in key matters, investment in land—in the broader economic sense—is long term and requires the long term to show benefits and to generate returns.

If we wanted to secure the future wealth, prosperity, productivity and sustainability of our land, we should have paid far more attention far earlier on the issues of water, energy, infrastructure, the environment and areas like that. There has been a very strong debate about a very slow, tired, sceptical and delayed response by the Howard government to those issues. It is true that they are catching up, but the underinvestment in those areas is a real problem. You cannot point the finger solely at the Howard government; you have to remember that the state governments have had their parts to play in this. Those state
governments which have been sucking out dividends, capital and cash from their water and energy utilities to prop themselves up have done a disservice to future Australians because of the underinvestment in sewerage works, updated modern recycling capacities and the ability of our energy suppliers to compete effectively and provide what is necessary.

The other area of concern with respect to the factors of production is labour. Again, it would be facile to believe that the Howard government have not paid any attention—by way of law change—to that factor of production, but it is undoubtedly a strong criticism of the Howard government that they failed to invest sufficiently and early enough in education and training, and in motivating and incentivising the research and high-level capacity of the Australian population. This chamber has heard me say in debates on other matters, with respect to the mistreatment, abuse or assault of children, that if you harm a child you end up with a harmed adult. If you harm a child at age 10 that harm is still exhibited at age 70. In other words, it has decades of effect and generational consequences. The same applies to underinvestment. An underinvestment in a child who has been in training or education systems for the last 10 years will have a lifetime effect and will have a consequence which is long term.

That is why people like Fiona Stanley, former Australian of the Year—I think she is a Companion of the Order of Australia—has always insisted on the importance of preschool education and training. Many others share that view—including me and my party—and of course they support a continued investment in the public and private sectors of education and training. There again you have split responsibilities between the states and the federal government, but in international and competitive terms the view is that there has been insufficient investment for the last decade or so in that area, with the consequence that we will be underperforming in terms of our capacity for productivity, competitiveness and wealth creation over the long term, in contrast with some OECD countries which are far better at education, training and other matters.

I have previously in this chamber said to both the government and the opposition—of course there are people from all parties who have this view—that we should look as much at the Scandinavian countries as we do at the Anglo-Saxon countries for initiatives which contribute to world-beating performance in competition and employment measures and their general ability to advance their countries. The Scandinavian countries lead the world in many areas with respect to global competition, open markets and the development and fulfilment of their people. We should draw from as many sources as we can to get ideas which maximise the future productivity of our people and guarantee that our nation-state will be as competitive and well ranked in the future as we think it is now.

Those are broad comments on the wider debate in this chamber and in the community at large between the government, which says it has been doing plenty and that we should look at what good work it has been doing, and the opposition, which says, ‘You haven’t been doing enough.’ My own judgement is that there has been gross underinvestment in the land and labour factors of production, but I would give a tick to the government in its efforts with regard to the factor of production of capital. Having been prompted to those remarks by the broader approach of the shadow minister Senator Carr, with respect to venture capital and the expenditure on research and development activity, I should conclude by saying that the Democrats support this bill fully without amendment.
Senator SHERRY (Tasmania) (12.00 pm)—by leave—I thank the government for according me leave to speak today on the Tax Laws Amendment (2007 Measures No. 2) Bill 2007. I last spoke on this legislation on 10 May, and I had not completed my remarks when debate was interrupted by the 12.45 dinner break. So some time has elapsed.

Senator Brandis—it is still fresh in our minds!

Senator SHERRY—I am sure it is, as all my contributions on tax legislation are. In continuing my contribution, I am sure that all those who are listening to this broadcast are well aware of my refreshing words on 10 May when I referred to the need to boost R&D in this country. My colleague Senator Carr, who, I have to say, is much more of an expert in R&D than I and who has some shadow ministerial responsibilities in this area, made a very effective contribution in his speech on the second reading. Labor notes that it has taken a long time to deal with the issue of the offset and premium deduction, which was introduced in 2001. There is 150 per cent tax deduction for eligible expenditure on R&D, which was introduced by the Labor government in May 1986. In 1996, the Liberal-National Party government, as part of its budget measures on R&D, decided to reduce the maximum concessional rate of deduction from 150 per cent to 125 per cent and to further tighten eligibility criteria.

The current government’s record on research and development is truly woeful. Rather than improving Australia’s ranking in expenditure on business research and development since 1996, Australia has slipped from third to ninth in the OECD—the organisation of developed countries—in terms of government expenditure on R&D as a percentage of gross domestic product. We have also slipped from 13th to 15th in terms of gross expenditure on R&D as a percentage of GDP. This is a fundamental factor in improving productivity, which in turn is a fundamental factor in sustaining economic growth.

Schedule 4 of the bill amends the tax law to allow a deduction for donations of small parcels of shares in listed public companies to deductible gift recipients, known as DGRs. The amendments will allow taxpayers a tax deduction where they make a gift to a DGR of shares in a listed public company that were acquired more than 12 months before making the gift and are valued at less than $5,000. Labor supports this proposal and efforts to encourage philanthropy in Australia. The bill amends the Income Tax Assessment Act 1997 to update the list of deductible gift recipients. Labor supports this measure in schedule 5 and wishes the organisations listed in it well.

Schedule 6 extends eligibility for tax deductions for a contribution to a DGR where a ‘minor benefit’ is for a fundraising event. Schedule 6 proposes to relax the eligibility threshold for minor benefits to allow deductions for contributions of more than $150 (it is currently $250) where the market value of the minor benefit is no more than $150 (it is currently $100) and 20 per cent of the value of the consideration (it is currently 10 per cent)—whichever is the lesser of these. Labor supports these measures to assist charities.

Schedule 7 corrects a defect in the definition of ‘exempt entity’ by ensuring the definition covers all entities exempt from tax under the tax law. This bill will change the definition of ‘exempt entity’ in the Income Tax Assessment Act 1997 to include any entity if all of its income is exempted by any Commonwealth legislation or if it is an untaxable Commonwealth entity. This will en-
sure that ancillary funds and prescribed private funds can donate to tax exempt state, territory and Commonwealth bodies, such as public ambulance services, research authorities and cultural institutions. That was the original intent of the 2005 legislation. Labor supports the proposals but notes this is another example of poor drafting, which has taken some two years to fix.

Schedule 8 amends the venture capital provisions to relax eligibility requirements for the concessional treatment of foreign residents investing in venture capital limited partnerships. I did emphasise foreign residents—

Senator Murray interjecting—

Senator SHERRY—Senator Murray knows what I am referring to here. We had an earlier debate about tax concessions being made available to foreigners, and Senator Ronaldson railed against tax concessions for foreigners. I note that when he votes to support this bill, he will be supporting another tax concession to foreigners.

This schedule introduces a concession to investors investing in early stage venture capital activities through a new investment vehicle: an early stage venture capital limited partnership. It has the acronym of ESVCLPs. The aim of such tax concessions is to provide a source equity capital for relatively high-risk and expanding businesses that find it difficult to attract to investment through normal commercial mechanisms. However, Labor believes that the government’s efforts in this bill to attract more venture capital to Australian businesses do not go far enough.

Schedule 8 relaxes the restrictions on a VCLP by: removing restrictions on the investor’s country of residence—currently, partners and VCLPs must be residents of, or established in, certain countries; allowing the entities to invest in unit trusts and convertible notes; reducing the minimum partnership capital required for registration from $20 million to $10 million; allowing the appointment of auditors to be delayed until the end of the financial year of the investment; and relaxing the Australian nexus test, which currently requires that the investee entity company—a company a VCLP invests in—be a company resident of Australia and 50 per cent of the assets and employees of the invested entity to be located in Australia for 12 months following the investment.

However, this bill still maintains the restriction on VCLPs that target investees. They must have less than $250 million in assets—a restriction generally not imposed in other jurisdictions. The Labor amendment goes to ensuring that Australia’s VCLP regime is internationally competitive to ensure an expanding Australian economy can attract investment-encouraging innovation.

These vehicles are new early stage venture capital vehicles which will progressively replace the existing pooled development funds and, as with PDFs, are aimed at early stage venture capital in small to medium enterprises. The ESVCLP will be tax flowed through vehicles; however, income and capital gains earned by the entity will be exempt from any Australian tax. This exemption will apply to both resident and non-resident investors; however, the attractiveness of these concessions must be measured against the restrictions that will apply: the maximum size of the fund administered by an ESVCLP is $100 million; they will not be able to invest in investee entities with total assets exceeding $50 million; losses from the entity will not be deductible by the partners; and, once the total assets of an entity invested in by an ESVCLP exceeds $250 million, it must divest itself of that entity. This is a significant and onerous requirement that, despite the tax concessions, may prove to make them unattractive vehicles for private equity. The Liberal government is making these changes
because the venture capital regime introduced by it in 2002 is not working properly and has failed to boost the venture capital industry. Only 15 VCLPs and 15 PDFs have been registered.

The removal of some of the restrictions on VCLPs and the introduction of an ESVCLP are positive and are welcomed; however, the reforms do not go far enough. Significant restrictions will remain, the key one being that target investees must have less than $250 million in assets, a restriction generally not imposed in other jurisdictions. This restriction contributes significantly towards making the vehicle uncompetitive internationally. The explanatory memorandum states that these measures address the key findings of the Watson report ‘The review of venture capital industry’; however, the report is not public. I call on the government to make the report public—what is the secrecy?—so that we know that all the key findings have been addressed in this legislation. More and more it is a hallmark of this government, with its majority in the House of Representatives and now in the Senate, to cover up and to keep secret the reports and essential data needed to assess key legislation. More and more, we are seeing the government use its majority to shut down inquiries and, where it does hold an inquiry, to not release the reports publicly. This is yet another example of this trend towards arrogance and secrecy, particularly since the government secured a majority in the Senate.

I note that, when my colleague the shadow Assistant Treasurer, Mr Bowen, moved the second reading amendment in the House, it was rejected by the government. The amendment condemned the government for its failure to promote the venture capital industry. It called on the government to increase from $250 million to $500 million the value of assets of an entity invested in by an ESVCLP beyond which an ESVCLP must divest itself of an interest in that entity; to increase from nine months to 12 months the time allowed for a partnership to divest an investment; and to increase from $250 million to $500 million the value of assets target investees of VCLPs can have. Increasing the threshold to $500 million would encourage more investment in early stage venture capital vehicles and more investment in innovative businesses in Australia.

Increasing to 12 months the time allowed for an ESVCLP to divest itself of an interest in an entity which breaches the threshold is a more practical length of time for the vehicle to divest itself of an interest in early stage growth companies. I understand my colleague Senator Carr moved Labor’s second reading amendment. For the reasons I have outlined, Labor believe the second reading amendment will be supported. I should indicate that we will not take the amendment to a division; however, venture capital investment is a key area to help ensure strong productivity growth and to maintain economic growth beyond the enormous good fortune of the current mining boom. It is a theme that I touched on earlier in the debate about another tax measure. Labor urge the government to consider our second reading amendment. I suspect we are urging in vain; however, we believe that that would represent a fundamental improvement to the attraction of venture capital industry so vital to our future productivity and economic growth.

Senator CHAPMAN (South Australia) (12.13 pm)—The Tax Laws Amendment (2007 Measures No. 2) Bill 2007 implements a number of changes and improvements to Australia’s taxation system. The provisions of the bill were referred to the Senate Standing Committee on Economics, of which I am a member, for inquiry and report. We received six submissions. The bill has eight schedules, some of which are technical but
most of which deal with specific areas to which the Howard government has given attention that either simplify or extend current provisions and concessions relating to taxation. These include the effective life provisions for depreciation purposes, the taxation of boating activities, certain expenditure on research and development activities, donations of listed shares to deductible gift recipients, additions to the list of deductible gift recipients, deductions of contributions related to fundraising events, technical amendments and provisions relating to venture capital.

I want to particularly direct my remarks today to schedule 8 of the bill, which amends the venture capital regime as far as tax law is concerned. These amendments relax the eligibility requirements for foreign residents who invest in venture capital limited partnerships and Australian venture capital funds. They also introduce a new set of taxation concessions for Australian residents and foreign residents who invest in early stage venture capital activities. This is achieved through a new investment vehicle called an early stage venture capital limited partnership.

The term ‘venture capital’ generally refers to relatively high-risk early stage equity finance of young and emerging high-growth companies. Australia’s venture capital regime was introduced through the Venture Capital Act 2002. The purpose of the regime is to encourage foreign investors to team with Australian industry to provide a source of equity capital for relatively high-risk projects. Apart from direct funding, government assistance for venture capital projects comes from tax concessions provided under the Income Tax Assessment Act.

Changes to the venture capital regime were announced in the 2006-07 budget as a package of measures aimed at increasing activity in our venture capital sector. The measures in schedule 8 of the bill address key findings of a review into Australia’s venture capital industry. The measures further demonstrate the Howard government’s continuing support for new business and reflect that promotion of industry innovation will always be encouraged by this government. Schedule 8 improves the taxation incentives for foreign and venture capital activities based in Australia. It will enact measures that were recommended in the government-commissioned review of the venture capital industry and, as I said, announced in the recent budget. The budget announced the introduction of an early stage venture capital limited partnership which will provide a complete tax exemption for income received by domestic and foreign partners.

There are two primary sources of external equity capital for entrepreneurs: one is visible and highly formalised; the other is largely invisible and very informal. The ‘visible’ venture capital market is composed of formal venture capital funds. These funds are predominantly managed by highly trained finance professionals who invest capital in growth companies on behalf of a group of passive investors, often superannuation funds. The ‘invisible’ market, in contrast, typically requires private investors investing a portion of their personal wealth in early stage entrepreneurial values and is frequently unstructured and high risk. The changes in the bill will widen the incentives for investor companies and professionals to assist young companies raising capital and other venture capital related sources.

Venture capital has a number of advantages over other forms of finance. These include the financing mechanism itself, whereby the venture capitalist injects long-term equity finance which provides a solid capital base for future growth. The venture capitalist may also be capable of providing
additional rounds of funding should it be required to finance future growth. Another possible advantage is that of a business partner, whereby the venture capitalist is a business partner sharing the risks and rewards. Venture capitalists are rewarded by business success and the capital gain. An additional advantage is mentoring, where the venture capitalist is able to provide, in addition to his financial support, strategic operational and financial advice to the company, based on past experience with other companies in similar situations. Another possibility is that of alliances, where the venture capitalist also has a network of contacts in many areas that can add value to the company, such as in recruiting key personnel and providing contacts in international markets, introductions to strategic partners and, if needed, co-investments with other venture capital firms when additional rounds of finance are required.

This bill is of particular relevance to my home state of South Australia. Increasingly, the role of entrepreneurs who build and lead successful and dynamic businesses—those that are supported as a result of the Howard government’s strong economic record—is being recognised as a key component of economic prosperity in South Australia. Entrepreneurship and the demand for venture capital are barometers of business confidence in an economy, and the availability of innovative thinkers in South Australia complements this.

South Australia’s share of Howard government administered venture capital program funds is currently less than 10 per cent, due in part to the predominance of small business in that state. The reality is that a number of small to medium sized businesses looking for venture capital money cannot always readily find big east coast venture capital firms interested in what they are doing. As a result, there is a big gap between start-up funds—that is, grants, the initial firm’s own resources and capital from family and friends—and venture capital. Any changes which will encourage venture capital investment or produce a business or investment environment where size does not matter are of benefit to South Australia, which has, as I said, hitherto had a smaller slice of the pie. The incentives in the bill enable South Australia to set targets for venture capital and facilitate entrepreneurship, emphasising the challenge of attracting, retaining and making best use of those who can help our regional, as well as national, economy to thrive.

This bill provides a concession to facilitate non-resident investment in the Australian venture capital industry by providing incentives for increased investment in relatively high-risk start-up and expanding businesses that would otherwise have difficulty in attracting investment through normal commercial terms. Therefore, it is a win-win situation.

Key features of the venture capital measures, which were announced jointly by the Treasurer and the Minister for Industry, Tourism and Resources in connection with the budget and which are provided in this bill, are that the requirements to qualify for tax concessions by venture capital limited partnerships, known as VCLPs, will be relaxed to remove a range of restrictions, including allowing investment in unit trusts and convertible notes as well as shares, relaxing the requirement that 50 per cent of assets and employees must be in Australia for 12 months after making the investment, and removing restrictions on the country of residence of investors.

A new vehicle for venture capital investments will be provided with the establishment of the early stage venture capital limited partnerships, with flow-through tax
treatment and a complete tax exemption for income, both revenue and capital, received by its domestic and foreign partners. To qualify, the ESVCLP must have a maximum fund size of $100 million, and total assets of investee companies cannot exceed $50 million immediately prior to the investment. The early stage venture capital limited partnership must also divest itself of any holdings once the total assets of the investee company exceed $250 million.

Another initiative in this legislation is the progressive replacement of the existing Pooled Development Funds Program with the ESVCLP program. The Pooled Development Funds Program will be closed to new registrations as of the end of last year. The government will commit $200 million for a further round of funding of the Innovation Investment Fund Program, and that will be drawn down over the next decade. The government funding will be matched dollar for dollar with private sector funds.

Schedule 8 of the bill also improves the taxation incentives for foreign venture capital activities based in Australia and, again, puts into place measures that were recommended in the review of the venture capital industry commissioned by the government and to which I referred earlier. The current law requires investments to be acquisitions of shares or options, for the company to be located in Australia for at least the first 12 months, limited partners to be residents of specified foreign countries, ongoing auditor involvement and a minimum of $20 million of committed capital for the venture capital limited partnership to register.

This bill allows for more generous concessional tax treatment of foreign residents investing in venture capital limited partnerships by permitting investments to be acquisitions of convertible notes and unit trusts, for up to 20 per cent of investments to be in companies and unit trusts not located in Australia, partners can be residents of any foreign country, auditors are to be appointed at the end of the financial year in which the investment is made, and the minimum partnership capital required for registration under the Venture Capital Act to be $10 million.

These new venture capital measures, as part of this overall initiative of the Howard government, will benefit small to medium enterprises seeking capital injections to finance expansion and also will assist start-up companies by making it easier for them to obtain capital. Again, this is of particular value to South Australia, where the measures will increase the supply of private equity in that state, positively influence innovation and development in local business sectors and encourage a culture of innovation and business development. Venture capital will boost Australia’s innovation levels and provide numerous spin-off benefits in the form of jobs, particularly in regional Australia, and will foster further economic growth when projects reach the commercialisation stage. Again, this is true of South Australia’s rapidly growing bioscience industry.

Venture capital investors will also benefit from these measures. Major beneficiaries from the introduction of the early stage venture capital limited partnership vehicle will be domestic resident investors and fund managers, as non-resident investors have already benefited from an exemption from capital gains tax which was implemented last year. The Australian Private Equity and Venture Capital Association Limited welcomed the venture capital measure announced in the budget and stated:

We congratulate the Federal Government on their Venture Capital initiatives outlined in the budget. The reforms should add to the supply of venture capital, drive commercialisation of research, develop advanced skills, and contribute to the creation of a knowledge based economy.
The issues which have been addressed in this legislation were drawn to my attention several years ago in terms of the shortcomings of the current administration and the current legislation that applied to venture capital initiatives. As a result of that I have lobbied strongly over the several years since that time for changes to be made, and the changes for which I have lobbied are implemented through this legislation. So I am very glad that the government has responded to the proposals that I put forward, having listened very carefully to the issues that were raised by venture capitalists and the shortcomings in the previous approach to venture capital. I believe the changes that are being made through this legislation will, as I have said, be strongly beneficial to the venture capital market and will further innovation in Australia by assisting both those industries and businesses seeking venture capital and potential venture capital investors. As a result the strong growth that Australia has experienced in recent years in its venture capital industry but which has been, to some extent, hamstrung by those shortcomings, will now grow even more strongly. It will be driven by demand from emerging and expanding businesses for equity funding and the increasing availability of institutional funding for investment. The bill before us clearly demonstrates that the Howard government has been alert to the needs of the venture capital industry and is alert to providing ongoing support for new business ventures and the promotion of industry innovation. It is on that basis that I wholeheartedly commend this legislation to the Senate.

Senator ELLISON (Western Australia—Minister for Human Services) (12.26 pm)—Firstly, I will briefly say that the government opposed this amendment in the other place. This is the same amendment being put in the Senate, and the government similarly opposes it in the Senate.

For the record, I will point out that the $250 million divestment requirement is reasonable because the government is introducing generous tax concessions for early stage vehicles. Given the emphasis on start-up and seed capital, the need for ongoing tax concessions once an entity reaches a size of $250 million diminishes. Moreover, if the partnership divests the entity into a venture capital limited partnership as it approaches the $250 million limit, it can continue to attract tax-free gains without any divestment requirement. The requirement to divest once an entity reaches $250 million applies for up to six months after the end of an income year. This provides ample opportunity for divestment to occur. I certainly commend the bill to the Senate and I thank senators for their contribution.

There are a number of schedules to this bill which deal with important issues and they have been touched on by senators. Schedule 1 to this bill makes amendments to the capital allowance system. Schedule 2 implements the government’s decision to allow taxpayers to deduct boating expenses up to the amount of boating income earned. This is very relevant when one considers the increased tourism in this country with people leasing out vessels for visitors overseas in particular. Schedule 3 to this bill improves the operation of the research and development—or R&D—tax offset. Schedules 4 to 7 demonstrate the government’s support for philanthropic activities in the community. Schedule 4, for instance, extends the gift provisions to allow taxpayers to claim a tax deduction for the donation of certain publicly listed shares to deductible gift recipients.

Schedule 5 has two aspects to it which I have been closely involved in. It amends the list of deductible gift recipients in the tax legislation to extend the current listing for the Finding Sydney Foundation and to list the American-Australian Association Limited
and the Bunbury Diocese Cathedral Rebuilding Fund. I have had an active involvement in the Finding Sydney Foundation, one which is endeavouring to mount a search to find the Sydney, which was tragically lost off the coast of Western Australia. That is a very important endeavour and one which I think all Australians would support. This will assist that foundation in its work.

The Bunbury Diocese Cathedral Rebuilding Fund was set up as a result of the Catholic Cathedral in Bunbury being destroyed, somewhat ironically, by an act of God. It was a storm that went through which caused the cathedral to be demolished. It was tragic for the people of Bunbury and the south-west, and the government provided $5 million towards the rebuilding of the cathedral. That is something which I have had an involvement in and fully support.

Schedule 6 to this bill extends the eligibility for tax deductions for contributions to deductible gift recipients where an associated minor benefit is received at an eligible fundraising event. Schedule 7 to this bill makes technical amendments to ensure that the definition of ‘exempt entity’ covers all entities exempt under the income tax law. Schedule 8 demonstrates the government’s commitment to new business ventures and the promotion of industry innovation. That amends the venture capital regime to relax the eligibility requirements for foreign residents investing in venture capital limited partnerships and Australian venture capital funds.

So there are a number of important initiatives in this bill. I thank senators again for their contributions to the debate and I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—The question is that the second reading amendment, moved by Senator Carr on behalf of Senator Sherry, be agreed to.

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

Third Reading
Bill passed through its remaining stages without amendment or debate.

HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION) BILL 2007

Second Reading
Debate resumed from 12 June, on motion by Senator Scullion:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (12.31 pm)—Today we are dealing with the Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007. This bill proposes to amend the Health Insurance Act 1973 to create a framework for the operation of diagnostic imaging services in Australia. Diagnostic imaging, a growing area of medical technology, includes a range of diagnostic medical services, including ultrasound; computer tomography, or CT; nuclear medicine; radiography, or X-ray; magnetic resonance imaging, or MRI; positron emission tomography, or PET; and bone densitometry.

The Australian government provides Medicare rebates for a number of diagnostic imaging services which are listed in the Diagnostic Imaging Services Table. The relevant legislation which provides the framework includes the Health Insurance Act 1973, the Health Insurance Regulations of 1975 and the Health Insurance (Diagnostic Imaging Services Table) Regulations.

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Management of diagnostic imaging under Medicare is through the radiology memorandum of understanding. The signatories to this radiology MOU are the government, repre-
presented by the Department of Health and Age-
ing, and sector representatives of the Royal
Australian and New Zealand College of Rad-
iologists and the Australian Diagnostic Im-
ing Association. The radiology MOU is one
of four collaborative agreements be-
tween the government and diagnostic imag-
ing representative organisations made as part
of the 2003-04 budget process for managing
Medicare funded diagnostic imaging ser-
VICES. There are additional MOUs for cardiac
imaging, nuclear medicine imaging and ob-
stetric and gynaecological ultrasound.

The radiology MOU is the largest of the
diagnostic imaging MOUs. It accounts for
around 80 per cent of all diagnostic imaging
services under Medicare. In the 2005-06 fi-
nancial year there were approximately 12.6
million services claimed under the radiology
MOU, accounting for more than $1.2 billion
per annum in Medicare benefits for services.
These costs—$1.3 billion per annum—ac-
count for around 10 per cent of the total
Medicare budget. Clearly, then, it is impor-
tant that we ensure not only the quality of the
diagnostic imaging services provided to mil-
Vions of patients but also that the investment
of Australian taxpayers in Medicare is well
protected.

This bill seeks to create an overarching
framework within the Health Insurance Act
1973 for the establishment and operation of
accreditation schemes for diagnostic imaging
services, as agreed to by the government and
representatives of the sector as part of the
negotiations for the radiology MOU in 2003.
Under the scheme, all diagnostic imaging
practices providing services under the radi-
ology MOU will need to be accredited by an
approved accreditation provider in order for
Medicare benefits to be payable for the ser-
VICES they provide.

By allowing the minister to establish the
rules and operational details of the accredita-
tion scheme through a legislative instrument,
the bill has been designed to enable the in-
troduction of accreditation schemes for other
diagnostic imaging services in the future
without further amendments to the act. As I
said earlier, diagnostic imaging is a growing
area of medical technology and the legisla-
tion needs to recognise its dynamic nature.

Labor supports this legislation. However,
we are disappointed that there is scant detail
available as to how this accreditation process
will work in practice. We support the inten-
tion and the need to establish such a process,
but how many times have we had to say, ‘In
principle, what the government is proposing
is okay, but where is the detail’?

Labor knows that accreditation schemes
are widely utilised in the health sector as a
method for reviewing and improving systems
of care and for ensuring that consumers re-
ceive quality services irrespective of who
provides the services and the facilities in
which they are provided. Labor also knows
how important it is to get the most out of the
scarce health dollar. We support measures
which will result in efficiencies under Medi-
care and in the health system more broadly.

Given that diagnostic imaging services
account for more than $1.3 billion per annum
in Medicare benefits, Labor recognises that it
is in the interests of the efficient working of
Medicare and the broader health system that
services are provided within a framework of
continuous improvement in the delivery of
safe and high-quality health care. Just as past
Labor governments built Medicare, Labor
believes that Medicare should be retained,
defended and strengthened. An accreditation
system for providers of diagnostic imaging
services will help protect Medicare, the cor-
nerstone of our health system.

I now turn to the provisions of the bill.
The most significant changes are affected by
items 5 and 11 of schedule 1. Item 5 inserts a
new section, 16EA, to the Health Insurance Act 1973. It precludes the payment of Medicare benefits for diagnostic imaging services unless the procedures are carried out at premises which are accredited under a diagnostic imaging accreditation scheme to undertake a particular type of diagnostic imaging procedure. Where the images are captured off site—for example, by mobile services—they must be captured on equipment that is ordinarily located at a base for mobile diagnostic imaging equipment or at diagnostic imaging premises accredited to undertake that procedure. Item 11 inserts a new division 5, diagnostic imaging accreditation, into part 2B of the act, which sets out the framework for the establishment and operation of diagnostic imaging accreditation schemes.

A new section, 23DZZ1AA, allows the minister to establish, via legislative instruments, a diagnostic imaging accreditation scheme, or schemes, with approved persons who will be able to accredit practices for the purposes of the scheme. Under this section, the legislative instrument establishing a scheme can specify the conditions for accreditation and provide for any matters needed to create and administer the scheme. If the legislative instrument establishing a scheme confers a power or function on the minister in administering the scheme, sub-section 23DZZ1AA(5) allows the minister to delegate these powers or functions to an officer, as defined in existing section 131 of the act:

(a) an officer of the Department; or
(aa) a person performing the duties of an office in the Department; or
(b) the Medicare Australia CEO; or
(c) an employee of Medicare Australia.

A new section, 23DZZ1AB, provides that the accreditation status of accredited practices for Medicare benefits will be recorded on the diagnostic imaging register. The type of information will be recorded and will be prescribed by regulations when the legislative instrument for the scheme is made. Another new section, 23DZZ1AC, outlines the process and features that a diagnostic accreditation scheme as outlined in the legislative instrument must include, including full and proper review mechanisms for reconsideration of an accreditation decision.

Another new section, 23DZZ1AD, deals with the reconsideration by the minister of accreditation decisions. It applies where an accreditation provider does not grant accreditation, renew accreditation or revokes accreditation or varies an existing accreditation status, such that there would be a reduction of Medicare benefit entitlements. According to the explanatory memorandum, the minister’s decision will not be reviewable by the Administrative Appeals Tribunal because the minister’s decision is a review of a decision of an approved accreditation provider, which itself will be required to have a full and proper review mechanism in place.

New section 23DZZ1AE makes clear that the proprietor of an unaccredited premises or base must notify their patient before the patient undertakes the diagnostic imaging procedure that Medicare benefits are not payable. The proprietor must also advise the patient of the reason why no Medicare benefit is payable—that is, that the premises are not accredited for the procedure the patient is requesting. The offence for unaccredited sites is a strict liability offence, carrying a fine of 10 penalty units for an individual, currently $1,100, and 30 penalty units for a corporation, currently $3,300.

New section 23DZZ1AF provides that, where the proprietor has failed to notify the patient of the accreditation status or where no Medicare benefit is payable, the amount of Medicare benefit paid to the patient in respect of a diagnostic imaging service is
recoverable from the proprietor of a diagnostic imaging premises. This debt will be in addition to any fine imposed on the proprietor.

Another new section, 23DZZ1AG, imposes the same rights and responsibilities on partnerships for the purposes of accreditation arrangements. These are substantial changes proposed by the bill. The introduction of an accreditation scheme via a legislative instrument for radiologists is clearly aimed at improving standards within the sector and making proprietors liable if correct procedures are not followed. These are worthy objectives. Obviously, these accountability measures will also enhance the service experienced by consumers.

Items 1 to 4 are minor amendments, inserting new definitions and cross-references. Items 6 to 8 clarify sections in the act and align them with the new accreditation processes. Items 9 and 10 amend subsection 23DZT(2) and section 23DZU, respectively, to exclude details about the accreditation status of a practice site to be released in extracts published on the internet. Item 12 contains the transitional arrangements for practices in operation at the time the diagnostic imaging scheme comes into effect. According to the explanatory memorandum, as long as a practice has registered for accreditation before 1 July 2008 it will have provisional accreditation, and the services rendered by the practice will continue to be eligible for Medicare benefits until such time as the practice goes through the accreditation process. Item 13 provides that new sections 23DZZ1AE and 23DZZ1AF apply only to diagnostic imaging procedures carried out on or after 1 July 2008.

Subject to the passage of this legislation, the government has indicated that the commencement date for the proposed scheme will be 1 July 2008. Presumably, this will coincide with the commencement of the new MOU between the Commonwealth and the diagnostic imaging sector, as the current MOU runs from 1 July 2003 to the end of June 2008. Among the current MOU’s principles and objectives are objectives to promote access to quality, affordable radiology services and to improve the quality and delivery of radiology services. These are all worthy objectives. Labor considers that these objectives would be even better served by greater investment in, and a broader emphasis on, e-health, particularly teleradiology.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Queensland: Beattie Government

Senator JOYCE (Queensland) (12.45 pm)—The most arbitrary disenfranchising of what are probably the most vulnerable communities in Queensland is about to be undertaken by the Queensland Labor government. At a time when we should be encouraging Queenslanders to decentralise and removing the pressure on water, the Labor government is giving every indication that the only place to live is Brisbane. In Queensland, the Labor government, which is supposed to look after the worker, is about to put many jobs, household incomes, house repayments and hopes under threat. It is going to drown the lives of those on the Mary River and create a poverty corner at Cunnamulla. The Labor government has perfected the ruthless delivery of its arbitrary nastiness. It has devolved into a regime that partakes in a regional annihilation of the social fabric of hope in sections of Queensland. Labor has proved that all can descend through the folly of self-aggrandisement to verge on the tyrannical. A government which spends hundreds of millions of dollars on art galleries in a city that
is running out of water, and which then dis-
tracts attention with a Mugabe-like attack to
clear the regional council squatters, is no
longer a vestige of the just deliberation of
power but has become an anathema.

Hundreds of thousands of anxious Queen-
slanders—from the coastal strip of Noosa to
the Tasmania sized shire of Boulia—are
waiting to see if the character of their com-
munities will be irrevocably damaged by the
Beattie government’s plan to forcibly amal-
gamate their councils. A seven-member re-
form commission will hand down a report in
August. This is the axe hanging over the
head of many local communities in Austra-
lia’s most decentralised state. Queenslanders
are not unusual in their desire to have a gov-
ernment that is close and responsive to the
people. Local government is all about
Queenslanders having the freedom to solve
their own problems locally. They do not want
the ever-present hand of a distant govern-
ment, state or federal, treating them like
children and telling them how to organise
garbage collection or where to build roads.
In essence, there are many who believe that
this is clear sign that the community of inter-
est has now diverged so far that they must
ask whether they need to have new states or
new premiers to lead them. Alternatively,
others ask whether we need states at all. Both
questions are motivated by the Labor gov-
ernment’s butchering of the ‘fair go for all’
Queensland ethos.

Local government is older than parliamen-
tary government. Our political institutions
arose out of the consent given by local com-
munities to the larger entities—whether state
or federal. This was clearly understood by
founding fathers such as our first Prime Min-
ister, Edmund Barton. During the Constitu-
tional Convention debate in Adelaide in
1897, Barton quoted from the British histo-
rian Edward Freeman. Freeman believed that
true federations were unions of pre-existing
city states. Barton’s use of Freeman’s quote
at the Constitutional Convention in 1897 is
worth repeating in the context of a state gov-
ernment seeking to destroy local representa-
tion:

The greater aggregate was simply organised
after the model of the lesser elements, out of
whose union it was formed. In fact, for the politi-
cal unit, for the atom which joined with its fellow
atoms to form the political whole, we must go to
areas yet smaller ... That unit, that atom, the true
kernel of all our political life must be looked for
... in England—smile not while I say it—in the
parish vestry.

What Barton and Freeman understood is that
other levels of government derive their le-
gitimacy from the smaller units. What we see
in Queensland at the moment is not inspiring
but, rather, dictating—confusing strength
with belligerence and riding roughshod over
the vulnerable. In common-law countries,
local government did predate parliamentary
government. While kings unified England
politically, there has always been a strong
tradition of respect for local self-
government. In the United States, there is a
particularly strong tradition of this as people
went out and settled regions which they ef-
fectively governed themselves. This has also
been a factor in the Australian experience.
Yes, we are parochial about where we live
and we do not like others telling us how to
govern our local affairs. This is steeped in
our consciousness from hundreds of years of
local government in Western communities.
What is happening in Queensland today is a
reversal of that history and a progression of
what began in Queensland under a previous
Labor political figure.

Queensland towns were once better en-
dowed with local courthouses; clerks of the
court; branch railway lines, preserving local
roads from being carved up by heavy trucks;
two-person police stations, which were open
on weekends; and local hospital boards. The
demise of these local services was instigated during the Queensland cabinet office tenure of its then departmental head Mr Kevin Rudd. The Beattie government’s assault on local government is a repeat performance of an ALP government of yesteryear which also did not care about rural or regional Queenslanders. The instigator of this gutting of regional and rural Queensland, whose legacy lives on in the Beattie government’s move to further damage communities by amalgamating councils, is now seeking to lead the Australian government.

It is worth revisiting how Mr Rudd paved the way for today’s council amalgamations. Forty-six courthouses were closed under Mr Rudd. They included: Allora, Aramac, Augathella, Babinda, Bell, Biggenden, Boonah, Calen, Cambooya, Canungra, Capella, Cardwell, Carmila, Cecil Plains, Clifton, Collinsville, Cooyar, Crows Nest, Dimbulah, Edward River, Eidsvold, Eton, Eulo, Finch Hatton, Forsayth, Gin Gin, Biru, Goombungee, Gordonvale, Harrisville, Helidon, Herberton, Home Hill, Inglewood, Injune, Jandowae, Jericho, Jondaryan, Kilcoy, Kilkivan, Killarney, Kumbia, Laidley, Malanda, Many Peaks, Marburg, Millaa Millaa, Millmerran, Miriam Vale, Miles, Mitchell, Monto, Morven, Mount Garnet, Mount Larcom, Mount Molloy, Mount Morgan, Mount Perry, Moura, Mundubbera, Nebo, Peranga, Prairie, Proston, Ravenshoe, Rolleston, Rosewood, Silkwood, Springsure, Surat, Texas, Thallon, Theodore, Tiaro, Torrens Creek, Wandoan, Wondai, Wowan, Yarraman, Yelarbon and Yungaburra. I put them on the record to show the sort of gutting that Mr Rudd has been responsible for.

Rail closures included the Inglewood to Texas line, the Takura line, Pialba to Urangan, Melawondi to Brooloo, Goolara to Theodore, Cobarra to Greenvale, Cloncurry to Kajabbi, Duchess to Dajarra, Hendon to Allora, Dalby to Bell, Oakey to Cecil Plains, Rannes to Wowan and Murgon to Byee. Only widespread condemnation and backlash saved more than one-third of the state’s rail lines. In addition to rail closures and associated loss of jobs, eight rail positions were cut at Home Hill, six positions were cut at Ayr, 23 positions were cut at Cloncurry, and the closure of the Townsville rail workshop resulted in the loss of 420 jobs. Ipswich and Banyo rail workshops were also closed. This is from the party that is supposed to protect the worker.

Six hundred jobs were cut at the department of primary industries. DPI suffered a 20 per cent reduction in its budget. DPI offices were closed at Miles, Mitchell, Millmerran and Wandoon. Extension officers were removed from country towns and research stations were closed. Police stations were unmanned on weekends. One-man police stations were closed and two-man stations became one-man stations. Four hundred and three teaching positions were lost. Many small country schools were closed. Many country school principals were either transferred or sacked. Funds for rural school libraries were cut. Rural TAFE projects were cut. Funds for rural education projects were cut.

The downgrading of education services in rural Queensland forced families to move out of those centres. Hospital boards were sacked and all administration moved to Brisbane and/or regional health authorities, which were an unmitigated failure, paving the way for the Dr Patel scandal. Local fire services boards were sacked and all administration was moved to Brisbane. Local ambulance boards were sacked and all administration was moved to Brisbane. This was the legacy of the head of the department of cabinet in the Goss Labor government—one Mr Kevin Rudd.
Emboldened by Mr Rudd’s reform agenda, Mr Beattie felt free to unilaterally pull out of the Size, Shape and Sustainability process of voluntary reform that was proceeding in cooperation with Queensland’s local councils. The Size, Shape and Sustainability process had been running for just 14 months, not two years as claimed by the state Labor government. In a true spirit of cooperation and partnership, local government was participating in the SSS process in good faith. More than 30 major changes were proposed at the time the voluntary reform process was scrapped. But even before SSS, councils recognised the need to change. Since 1994, Queensland elected councillors had voluntarily reduced their numbers by 200 positions. I do not recall any politicians voluntarily agreeing to abolish their positions in the name of smaller, more efficient government.

Since the Beattie Labor government’s betrayal of communities there has been a massive backlash: 22,000 people have attended rallies and 36,000 people have made submissions to the Local Government Reform Commission. That the seven commissioners can consider 36,000 submissions and make recommendations for amalgamations across Queensland in three months is a complete and utter nonsense, and it shows the sort of regime that is currently in place in Queensland. This is the sort of government I imagine we can expect on the ascension of Mr Rudd. It is obvious that this is a sham process. A case for compelling, urgent arbitrary action has not been made. While he was the architect of the last round of the gutting of services in regional areas, even Mr Rudd realises the case for forced amalgamations has not been made. I doubt his sincerity but, nonetheless, on 17 May he told ABC radio:

If you’re going to seek to bring about greater economic efficiencies with councils, and let’s face it a number of them need to see that happen, there are other ways other than forced amalgamations to achieve that. If you look at their current terms of reference I believe they are skewed far too much in the direction of bringing about forced amalgamation options.

They’ll make up their own mind, but my request to the premier to look at a review and reappraise the powers they have been given is based on that principle.

Despite his form in destroying rural communities, Mr Rudd has now had a road to Damascus experience. It is amazing how the electoral imperative suddenly focuses the mind. But secure in the knowledge that he is doing this at the start of a new term of government, Peter Beattie has refused to listen to Mr Rudd. Some would suggest that this is just contrived theatrics to get Mr Rudd off the hook. Sure, there are a small number of shires sailing close to the wind, but this is hardly a reason for wholesale forced amalgamations. But without taxpayers’ dollars the state government would also be in financial trouble. All it has to do, as we have seen in the latest budget, is increase taxes and borrow more. Surely, if financial trouble were a determinant of amalgamations, then after the federal Labor government left us with $96 billion in debt we should have amalgamated with—I don’t know who—Samoa or New Zealand, perhaps. The last federal Labor government was in such a financial mess that it left Australia with a $96 billion interest bill that cost $8 billion a year to service. Had the coalition not been elected with its policies of strong economic management, a case could have been made for amalgamation—with whom, one could only suggest.

Local government, while not having access to a growth tax like GST, had to make do with prudent financial management to survive. The Rural Doctors Association of Queensland is worried that council amalgamations will impact on the effectiveness of
health services in rural and remote areas with Indigenous communities. Cloncurry doctor Sheila Cronin says many western councils, like Diamantina and Cloncurry, have dramatically improved their health services in recent years. But Dr Cronin claims that super shires will take away local decision-making powers and make it harder for council—run health services to operate. Dr Cronin said:

Remote communities are trying to get through to people in Brisbane that their communities, they are hundreds and hundreds of kilometres apart. They cannot just travel half an hour and then sit down with a CEO or mayor of their local shire. If these amalgamations happen, these communities are going to be hundreds and hundreds of kilometres from where the shire chamber might be.

Towns with a significant local government presence that would be adversely affected include Birdsville, Bedourie, Cunnamulla, Tambo, Ilfracombe, Boulia, Noosa and Chinchilla. People in most of these shires already face some of the biggest travel distances in the free world to get to their first level of government. In Cloncurry shire, shire engineers are moved around by helicopter, as the towns are at least 200 kilometres apart. Councillor Kelsey Neilson is a councillor from Boulia. This is a shire of more than 60,000 square kilometres—the size of Tasmania. She says: ‘We choose to live here, we love our towns and the state needs us to live here. We look after the outback.’

We should be encouraging decentralisation in Australia, not trying to squeeze everyone onto the coastal fringe. Gutting services in the bush by forcing councils to amalgamate into super shires bigger than many European countries will not encourage people to move away from the south-east corner. This is economic rationalism gone mad and it is completely out of step with the realities of Queensland.

I am a long-time supporter of inland Australia. I choose to live in the inland and make my life and that of my family’s there. Without the services of my local council and the flow-on effects of the economic activity generated by it, it would not be tenable to live inland. The cynic in me says that there is another agenda here. Mr Beattie is the master of political diversions. A huge fight in the bush takes up valuable news time—

Iraq

Senator FAULKNER (New South Wales) (1.00 pm)—It has now been over four years since our Prime Minister took our nation to war in Iraq on the lie that Saddam Hussein had weapons of mass destruction. When it became clear that there were no weapons of mass destruction and that the governments of the coalition of the willing knew that before the invasion, the story changed. The architects of the invasion began to claim that their motivation had been the wellbeing of the Iraqi people and the goal of the invasion had been to make Iraq a better place in which to live. Four years after the invasion, this claim too has proved hollow. The armies of the coalition of the willing dismantled the Iraqi state with blinding speed. Then the governments of the coalition of the willing speedily turned a blind eye to the consequences of that dismantling. Mr Howard and Mr Downer have a glib and easy answer when confronted with the violence, the breakdown in civil society, the collapse of infrastructure and the shortfall in basic food and water services. They point to Saddam Hussein. ‘At least,’ they say, ‘Saddam Hussein is gone.’

Are our expectations of ourselves so low that the most we ask is not to be the butcher of Baghdad? Undeniably, the occupying forces deposed Saddam Hussein: he was tried, convicted and put to death. But it is also undeniable that the promise of a better life for the citizens of Iraq in a post-Saddam
Hussein nation is a promise that has been utterly broken. We promised to improve their nation. Instead we reduced it to rubble. We promised to make their lives better. Instead we shattered them.

It is increasingly clear that this is not an honourable failure. It is not the result of passionate commitment and careful planning defeated by unsurmountable circumstances. Australia, America, Britain and the other nations of the coalition of the willing have failed in Iraq through negligence, recklessness, deliberate ignorance and wilful blindness. There was a plan for war; there was no plan for peace.

As disaster unfolds in Iraq the only answer the coalition of the willing has is to turn a blind eye to the consequences, to turn a blind eye to the dead, the injured, the bereaved and the maimed and to turn their backs on the people of Iraq. It is a failure of courage, this refusal to face the consequences of our invasion. But it is more than merely a moral failure; it is a catastrophic and continuing policy failure. The Iraqi people will be trapped in this nightmare of our making as long as our governments refuse to awake from their fool’s paradise. The inability of Mr Howard and Mr Downer to face their responsibility for failure in Iraq has left a blind spot at the heart of our foreign policy. The news from Iraq that we see on our televisions or read in our newspapers—news of bombs and shootings, murders, assassinations, lawlessness and desperation—is news from this blind spot, news that the Howard government is trying desperately not to hear.

It has been nearly a year since Mr Howard made his last ministerial statement on Iraq, on 22 June 2006. In that speech, he said, with great understatement:

Clearly the security situation in Iraq continues to be dangerous ...

Since Mr Howard made that speech, in the 358 days in which he has not seen fit to face the Australian parliament and report on the situation in Iraq, more than 25,000 Iraqi non-combatant men, women and children have been reported to have died in the rising violence that is consuming their nation. I say ‘more than 25,000’ because 25,208 is the number of Iraqi civilian deaths reported in two different reputable online English-language media sources and tallied by the internet project ‘Iraq Body Count’. This does not include, therefore, those whose deaths were not newsworthy. The data gathered by these passive methods are rarely complete even in stable societies; in the war zones they are even more partial. Studies comparing media reports with census and population based analysis have shown that passive reporting covers at most 20 per cent of the real casualty rate. Figures can be as low as five per cent. The total count tallied on the Iraq Body Count website is 71,328 civilian deaths between the beginning of the war and May this year.

In October last year the Lancet published an article entitled ‘Mortality after the 2003 invasion of Iraq: a cross-sectional cluster sample survey’. The study, which surveyed 1,849 Iraqi households comprising 12,801 people across the country selected to be representative, found that, in the 12 months leading to June 2006, 165 people had died—165 people from 12,801 in total. If those figures are representative—and they were compiled using methodology that is standard in all epidemiological tests used for medical research and public policy—there were more than 324,540 civilian deaths from violence between June 2005 and June 2006, and 601,000 since the invasion.

But, for the record, I note the criticism by US, UK and Iraqi authorities of the Lancet figures and methodology. The US Department of Defense have released Iraqi casualty
data from the Multi-National Corps-Iraq, MNC-I, significant activities database covering just one year. This data estimated the civilian casualty rate at 117 deaths per day between May 2005 and June 2006 on the basis of deaths that occurred in events to which the coalition responded. So this includes only those deaths that in some way involved occupying forces. Reported civilian deaths have increased 78 per cent between March 2006 and March 2007. Forty-four per cent of the total reported civilian deaths after the 'shock and awe' phase of the initial invasion have occurred in this most recent year. Given that both the Lancet study’s epidemiological approach and the US Department of Defense figures show correlating increases, we have every reason to believe that the countless tens of thousands of Iraqi men, women and children killed in the past 12 months has reached a horrific number. In Baghdad, where 64 per cent of the deaths reported to March 2007 have occurred, one in 160 of the 6.5 million population in the city have been killed. In the past 12 months, there has been an average of 74 reported deaths a day. Remember, these may be no more than 20 per cent of the real casualties. Remember, too, that those figures do not include the injured.

The governments of the invading forces justify turning a blind eye to these casualties and mortalities because the figures are based on reports, surveys, estimates and extrapolations. Having overseen the destruction of the civil infrastructure that could provide a precise census of deaths, the coalition of the willing ignore all deaths because the count is not exact. Having refused to keep records of civilians killed, the coalition of the willing use the lack of those records to discredit the work of non-government bodies to hold them to account. It is a typical strategy of the Howard government: to refuse to be informed and then to plead ignorance as a defence. We saw it with 'children overboard', we saw it with AWB and we are seeing it with civilian casualties in Iraq. The sickening truth is that the Howard government and the Bush administration have no interest in counting the cost of the war for Iraqi civilians, have no interest in counting the dead and maimed, because for them these people simply do not count. The need to know how many Iraqis have died—needlessly, senselessly, violently—as a result of the 2003 invasion is not only a matter of keeping a true record of the invasion and its consequences but also an urgent, ongoing question.

Every source indicates that the number of civilian casualties is rising year after year. The first year saw 10,870 reported civilian deaths and 90,150 indicated by the Lancet survey. The second year saw 11,312 reported deaths, while the Lancet study found survey respondents reported twice as many deaths in their households that year. The third year saw a reported 14,910 deaths—a rise of 32 per cent on the previous year—and 330,550 indicated by the Lancet survey, a rise of 83 per cent. The fourth year, not covered by the Lancet survey, saw 26,540 reported deaths, a rise of 78 per cent on the previous year, and a rise of more than 144 per cent on the first year. The longer this ill-conceived adventure continues, the higher the cost in innocent civilian lives, which is rising at an ever faster rate. The coalition of the willing have no grasp on this reality because they refuse to face their own failures: failure to plan and failure to foresee. As long as they refuse to see the cost they are imposing on the Iraqi people and as long as they refuse to look at the consequences of their actions and policies, their decisions will continue to be fatally flawed.

These figures—in the tens of thousands, in the hundreds of thousands—are mind-boggling. They are barely conceivable figures. But we must not make the mistake of
believing, because we want to believe, that
numbers this horrific must be inaccurate. We
must remember that for the people of Iraq
these numbers are not abstract and difficult
to grasp; they are very real. They are toddlers
who will never again run to their mother’s
arms; they are mothers who will never again
tuck their sons in at bedtime; they are the
bicycle in the yard of a brother that will
never again ride; and they are the book half
read that a grandmother will never finish.
Every one of those lives ended violently, too
soon. Every one of them is a grief that will
never really heal for many more. These fami-
lies do not need to hear numbers in the thou-
sands or tens of thousands to be horrified at
the cost of America’s Iraq adventure; they
need only look at the empty chair at the table
to be reminded of the consequences that Mr
Howard and President Bush refuse to see.
For every person killed, history tells us there
are people injured. The generally accepted
ratio is two serious injuries for every death.
There are more than half a million families
bereaved; more than a million families with a
seriously injured mother or perhaps father or
child. What has been done to the people of
Iraq is tragic. The fact that this tragedy con-
tinues at an ever-escalating pace, because its
architects lack the courage to face the conse-
quences of their decisions, is more than
tragic; it is obscene.

Indigenous Affairs

Senator BARTLETT (Queensland) (1.14
pm)—I want to speak today about a range of
factors impacting on and relating to Indige-
 nous Australians. A few weeks back we had a
lot of events, ceremonies and commemora-
tions for the 40th anniversary of the 1967
referendum and the 10th anniversary of the
Bringing them home report into the stolen
generation. It is important that we examine
those issues not just at those times but that we
continue that debate past those particular
anniversaries.

There is another anniversary coming up
this week that I also wanted to draw attention
to as it is particularly relevant to my own
state of Queensland. It is the 50th anniver-
sary of the strike that was held on Palm Is-
land in June 1957. There is a ceremony being
held on Palm Island this Friday, 15 June. The
strike involved seven men who stood up to
the manager of Palm Island. Back in those
days it was run basically as a detention camp
with a managerial superintendent who had
total control over the lives of the people who
were forced there. Those seven men—Billy
Congoo, Albie Geia, Eric Lymburne, Sonny
Sibley, Willie Thaiday and Gordon Tapau
and George Watson—simply stood up for
basic decency, for equal rights and for a fair
go. This strike marked a turning point in In-
digenous-government relations in Queen-
sland. It was one of the key times when In-
digenous people stood up for those simple
rights by refusing to continue to be ex-
 ploited. As a consequence, they were
dragged away in chains—in front of their
children and their families—and they were
exiled from their community. It was done
clearly as an attempt to show an example to
the others. Fifty years later no apology has
been given to these people’s families for the
treatment they received. It was an event of
bravery and of significance that is worth not-
 ing and acknowledging and learning from. It
is important to remember these events, the
reasons why they occurred and the way in
which they were handled.

It points to—and once again gives me a
reason to remind the Senate of—other areas
of unfinished business that stretch back to
1957 and even before then. One of those is-
 sues, which I spoke on yesterday in this
chamber, is that of stolen wages—
entitlements for Indigenous people that were
never given to them for work that they did.
This has clearly been established; it is be-
 yond dispute. Yet the so-called compensation
or reparations offer provided—certainly in Queensland—has been derisory. There were decades of labour where people’s recompense was withheld or only partially provided. There have been only minimal reparations for that decades later—a maximum of $4,000 with a requirement that you sign away your rights for any sort of further legal action. That is inadequate and it is grotesquely insulting. There is still a need for further action there from the Queensland government, as there is from some other state governments. These governments need to do more to determine the extent of similar practices. I repeat my call of yesterday for the federal government to respond to the unanimous recommendations contained in the report of the Senate Legal and Constitutional Affairs Committee that was tabled in December last year. Six months later it has still not been responded to.

There is also the issue of unfinished business from the stolen generation. It is not enough just to acknowledge what happened, important though that is. The Bringing them home report contained a package of recommendations, many of which have never been acted on and many of which were specifically rejected. One of those also related to compensation. Monetary compensation was a key component of some of the recommendations. It, in itself, is a significant step in the healing process, and that is a significant part of improving the health and other life opportunities for Indigenous people. We cannot treat issues like Indigenous health separately from some of the causal factors. Everybody today has to take individual responsibility for the circumstance they are in, but you cannot ignore the factors that led to the circumstance they are in. That includes the massive harm that was done and the significant loss in relation to cultural knowledge, relationship to land, loss of connection to family—both parents and wider family—and impairment to access to economic opportunities. That loss is intergenerational; it extends beyond just the people who were subjected to it to the families and to the wider communities. There has been no adequate recognition of that and there has been no compensation for that.

I contrast that with an offer, which I welcome, from the Queensland government a couple of weeks ago for compensation for children who were raised in government institutions. It is a flow-on from the Leneen Forde inquiry that, some years back, looked at children who were in orphanages and other government institutions. There was clear evidence that major harm was done to them. The Queensland government is to be congratulated for acting on that. It is a reminder to other state governments that have yet to act that they should do the same. But that offer, which I understand goes to as much as a $40,000 payment to some individuals, does not extend to Indigenous children who were raised in institutionalised circumstances on government reserves. They are excluded and yet the evidence, I argue, suggests that many of them were much more significantly harmed. I contrast that offer in that circumstance to the derisory response to the stolen wages issue and to the other separate legal battles that still continue today for conscious, knowing underpayment of wages in breach of the Racial Discrimination Act, after it came into force in the 1970s. Those cases are still being resolved and still going through the courts. When they go through the courts, we are often finding individuals who are entitled to payments of tens of thousands of dollars individually. Yet government wants to somehow put proper reparation and compensation to Indigenous people off to one side and to throw them what is a derisory $4,000.

This leads quite directly to some issues that were raised in the third Overcoming In-
digenous disadvantage by the Productivity Commission. These issues are all intercon-
ected, which is why we should not separate them out so much. The timing of that report is perhaps appropriate in showing how much unfinished business there is and how much more work there is to do. When it was brought down it flowed on from all of those activities marking the 40th anniversary of the referendum. It contains a lot of damning sta-
tistics. And it is not just a matter of statistics; it is worth remembering that this is about individual human beings who have as much right to life’s opportunities as every other Australian and every other person. One of the most concerning aspects of the report is that, in many cases, not only are the statistical indicators still bad—we all know that—but there has been little progress in many areas. On the positive side, the report also points to things that are working, and I think that is important as well. In amongst so many negative stories there are also so many posi-
tives. We must not forget that; we must look to what works—and the report attempts to do that as well.

I will note a few aspects of the report. In 2006, of the 322 discrete Indigenous com-
munities with a reported usual population of 50 or more people, 51 per cent had experi-
enced water supply interruptions in the previous 12 months and 40 per cent had experi-
enced sewage overflows or leakages in the previous 12 months. In 2004-05, 25 per cent of Indigenous people aged 15 years and over lived in overcrowded housing. When you go to very remote areas, that figure increases to 63 per cent.

In the area of Indigenous imprisonment, between 2000 and 2006 imprisonment rates increased by 32 per cent. After adjusting for age differences, Indigenous people are 13 times more likely than non-Indigenous people to be imprisoned. Indigenous juveniles are 23 times more likely to be detained than non-Indigenous juveniles. In subjecting young people to some of the experiences of the juvenile justice system, particularly if detention is involved—and jail, sadly, for 17-
year-olds in Queensland—we all know you are already a long way behind the eight ball in trying to prevent some of the further problems that occur, whether they relate to health, violence or other factors. Yet Indigenous young people are still 23 times more likely to be detained.

Regarding the simple issue of individual income, in the period from 2002 to 2004-05 there was a relatively small increase in the equivalised household income for Indige-
nous people. It rose by 10 per cent from $308 to $340. That is welcome, but it still compares to an average for non-Indigenous households of $618—almost double.

Higher education success rates have in-
creased between 2001 and 2005, and that should be welcomed. However, in 2006, 21 per cent of 15-year-old Indigenous people were not participating in school education, compared to five per cent of non-Indigenous 15-year-olds. Again, I would note the suc-
cesses. There has been success with increas-
ing retention rates for Indigenous students in some schools where specific programs have been introduced around greater recognition of Indigenous culture. These programs are being shown to work, and they go in the op-
posite direction to some of the neo-
assimilation rhetoric that has become fash-
ionable in some quarters recently.

We still have the appalling discrepancies in health. There was an increase in the last four years in the number of long-term health conditions for which Indigenous people re-
ported higher rates—higher rates of asthma, diabetes, high sugar levels and kidney dis-
ese. Of course, the key measure of life ex-
pectancy itself is still estimated to be around
I refer to a recent article in the Medical Journal of Australia from 21 May, which pointed to research indicating that control over land is a positive influence on Indigenous health. There are connections here; we need to remember them when we deal with some of these separate debates. The key determinants for the general application of good Indigenous governance, whilst allowing for unique cultures of different organisations and communities, include leadership, governing institutions, resources, capacity building, cultural match and self-determination. They are still found to be key determinants—when viewed not in isolation but together. There is also the importance of how government engages with Indigenous communities and organisations.

It is important to talk of control of land, and I refer to the recent announcement by the state government in Queensland of legislation that should enable greater control for Indigenous communities on Cape York. This is very welcome. It involves a range of measures, including formal recognition of native title in the Wild Rivers Act and an Indigenous economic and employment package, including confirmation of ranger positions and support for Indigenous arts, culture and tourism enterprises. I call on the federal government to back up some of these measures, and I point to the recent Senate Environment, Communications, Information Technology and the Arts Committee report into national parks, which called for further funding for World Heritage and for further involvement of Indigenous people in management. One of the areas I am particularly pleased with in the Cape York package is the preparedness to require joint management of national park areas with traditional owners. That has been a real barrier and something for which I have pushed for a long time.

I note some positive commentary about that, including from Noel Pearson and others in the Cape York Indigenous community. I am pleased about that, but I am concerned about the continued attacks on the Wilderness Society, and particularly individuals within the Wilderness Society. Key campaigners in the Wilderness Society have been amongst those who I know have been pushing for more Indigenous control in land management and more economic opportunities for Indigenous people in caring for country. There have been differences of opinion over the wild rivers issue. I do not have a problem with people expressing differences of opinion, but it appears to me that those differences over wild rivers have been sorted out. The Wilderness Society has welcomed this package, and certainly Noel Pearson has also welcomed the control over water there.

I would like particularly to mention Anthony Esposito and Lyndon Schneiders, who personally have been attacked publicly a number of times in the media. I think that is unfair, frankly. There can be differences of opinion, but if I had to point to two conservationists in Australia who have focused over decades on trying to get greater awareness of the needs of Indigenous people, I would point to them. Apart from being unfair, I think it also presents a risk. If there are others in the conservation movement who are not as committed to Indigenous issues and they see committed people getting publicly attacked—whatever their mistakes may have been; I have no doubt about their commitment—it really runs the risk of those others saying, ‘It’s not really worth our bother; it’s too hard.’ These are difficult areas, but you need to support those people who make the effort to engage with the issues. I call on all parties in that region to work together—(Time expired)
Workplace Relations

Senator BARNETT (Tasmania) (1.30 pm)—I am standing here today to express concern about the standover and privileged role union bosses would play in the workplace with the election of a Rudd Labor government and the election of Labor candidates in my state of Tasmania. I believe the resurgence of union bosses and their hold over the Labor Party would be bad for Australia. It would threaten the sound economic climate which the Howard government, the business sector and the workforce have worked so hard to create and foster. There is no balance in the union movement’s view of Australian society. Their world is a culture of union power and intimidation versus productivity, where union bosses exhibit the very symptoms of exploitation and standover tactics which they claim are historically part and parcel of management in a capitalist society.

I want to quote the workplace relations minister, the Hon. Joe Hockey, who put it so succinctly in the House of Representatives yesterday. He said:

… there is no room for any dissenting voice from the trade union bosses when it comes to Labor Party preselection … now they are getting rid of people of conscience and replacing them with more union bosses so that they can toe the union line.

I am concerned that a Rudd Labor government and its unhealthy alliance with the six Labor states and the two Labor territories would return Australia to the days of union domination of the workplace and a reduction in wages and family wealth, as we saw under the union accord arrangements between the ACTU and the Hawke and Keating governments.

The decline in rank and file union members in recent years from 16.8 per cent of the private sector workforce down to 15.2 per cent in the 12 months to August 2006 has been matched by the increase in ALP caucus members who have come from the ranks of the unions. One may ask what is wrong with a union background, and I say there is a place for unions in our society, but there is everything wrong with up to 80 per cent of the federal Labor caucus being ex union bosses—especially those who operated by way of strongarm tactics and intimidation as union thugs. What balance is there if most of your caucus has never run a business and has gained notoriety by being violently or passively anti-business?

Almost 70 per cent—27 out of 40—of the ALP frontbench are former union officials. Fifty-five per cent—or 48 out of 88—of the ALP caucus are former union officials. In Tasmania the new union candidates include Kevin Harkins in Franklin, from the ETU; Jodie Campbell in Bass, from the Australian Services Union; and Catryna Bilyk from the Australian Services Union standing for the Senate. Just to name a few union bosses in this parliament, recently parachuted in you have Greg Combet from the ACTU, Bill Shorten from the AWU. The list goes on with Simon Crean, Martin Ferguson and Jennie George all formerly of the ACTU and, more recently selected, Don Farrell from South Australia. So you can see that the unions have contributed in large part to the representation of the Labor Party in this parliament, and the list will go on and the percentage will rise after the next federal election if they are elected. The unions have contributed the vast majority of Kevin Rudd’s $100 million election campaign war chest. I believe the Labor-union partnership have outspent and will outspend the coalition big time.

In my home state of Tasmania, the union standover boss Mr Kevin Harkins has won Labor endorsement for the seat of Franklin. It is known that Mr Harkins used threats and intimidation in his own party in the lead-up to preselection. His tactics worked on the other Labor candidate, who was scared off.
Mr Harkins is such a one-eyed union boss and so epitomises the typical standover union heavy that even the incumbent Labor MHR, Harry Quick, cannot stand him. Mr Quick took the unusual step of referring a recent Harkins campaign pamphlet to the Australian Electoral Commission because in it Mr Harkins promoted himself as the elected member for Franklin. A fair concern from the sitting member, I would suggest. Mr Harkins sought to represent himself as the member for Franklin when he was not and is not. Harry Quick is that member. Mr Quick has showed good grace and support for the federal Liberal candidate, Vanessa Goodwin—for good reason, in my view. In an attack on the Harkins candidacy in Franklin, Mr Quick earlier this month also called for endorsed ETU officials or candidates with links to the ETU to be disendorsed or to have that endorsement reviewed. He did so after the federal leader Kevin Rudd ordered ETU official Dean Mighell to quit the ALP some two weeks ago.

Mr Harkins has a close relationship with Victorian ETU heavyweight Dean Mighell—the man Kevin Rudd used in his endeavours to manufacture an arms-length relationship with the unions. Now we have heard about an estimated $100,000 Mr Harkins holds in Victorian and Tasmanian ETU donations. I ask: has he repaid the union money as ordered by his federal leader, Kevin Rudd? Is the ALP satisfied the money was appropriated legally and properly for donating purposes? My state Liberal colleague and former Denison MHR Michael Hodgman QC says he has received a formal complaint from an ETU member that his hard-earned pay packet has helped pay for the $100,000 of election funding given to the Franklin Labor candidate, Kevin Harkins, without the union member’s consent. Were ETU members consulted or did they get the right to vote on whether such large sums of money were and should be donated to ALP candidates like Mr Harkins? Why has the Tasmanian Labor Party not paid it back? Mr Rudd ordered Dean Mighell to resign from the ALP and for all campaign contributions paid to Labor from the ETU to be repaid, whether it was based in Victoria or Tasmania. So what has happened? Surely Mr Harkins should immediately cease campaigning for the ALP while being employed and paid by the ETU or he should resign as the federal Labor candidate for Franklin. It is one or the other.

Mr Harkins promised an audit of the donations, but how long does it take? It has already been two weeks. Rudd’s call for a return of the campaign donations is, in my view, a sham. It is a political stunt designed purely for the media and the TV cameras. How long does it take to complete an audit and return the moneys? The Rudd doctrine has no credibility. If Mr Harkins is going to ignore or subvert instructions by his leader in opposition then how would he behave as a Labor MHR with his boss as the Prime Minister? If Mr Harkins is still employed by the ETU, he should resign or resign as the endorsed Labor candidate for Franklin. On 30 May this year Mr Rudd said:

I’ve seen the reports of Mr Mighell’s comments in the newspaper today ... I find Mr Mighell’s remarks to be obscene at every level, and, therefore, unacceptable.

I’ve earlier this morning directed the National Secretary of the Australian Labor Party to obtain from Mr Mighell, his resignation from the Labor Party, and that resignation was received by us a short time ago.

On top of that, I’ve directed the National Secretary of the Labor Party to determine what, if any, campaign contribution has been made by Mr Mighell’s union to the federal campaign of the Labor Party, and I’ve directed the National Secretary to return any such monies.

Please explain: it has been two weeks. So much for his so-called tough approach on
union leaders. I ask: where is the Rudd authority and where would he be if he were Prime Minister and subject to union domination?

Mr Harkins admitted on ABC radio with Tim Cox on 4 June that he has received financial assistance from the ETU and that he will pay it back. But he has not disclosed, identified or refunded the campaign contribution the ETU has paid to the Labor Party and he needs to come clean. What about contributions from the Tasmanian ETU? Has he, in fact, received donations from the combined Southern States Branch of the ETU, which is Victoria and Tasmania, or is he mentioning only the Victorian ETU as a way of using weasel words and being tricky about returning these donations? Mr Harkins needs to identify and refund all campaign contributions.

The Labor Party and the trade unions are in league, they are working hand-in-hand and they will do whatever it takes to defeat the Howard government, despite Mr Rudd’s thin protestations to the contrary. We have seen this with perfect clarity today with the uncovering of the ACTU’s 71-page federal election 2007 union political strategy manual. They will go to any lengths to spread lies and misrepresentation. They will say that they will be targeting marginal seats, including Bass and Braddon. It will cause us on this side to work all the harder for the truth to get out on the benefits of a stronger economy, more jobs and higher wages.

I want to return to Mr Harkins and his relationship, and that of his close colleague Dean Mighell, with his union—the ETU. This close relationship was evident a few years ago when the 2003 Cole royal commission reported how profits from the union’s redundancy and severance fund investments paid for a nice family home overlooking the Derwent River in Hobart that was once used as a residence by Mr Harkins. The inquiry was told that the ETU paid $202,560 for the home at Nottingham Court, Lindisfarne in Hobart from a trust fund set up using surplus funds derived from the industry’s PROTECT redundancy fund. The union imposed contributions to the fund from employers. The PROTECT fund formed part of a non-negotiable pattern enterprise bargaining claim which Mr Harkins forced on employers and contractors when he came to Tasmania. Mr Harkins embodies the return to old Labor which Kevin Rudd would preside over in government.

The Mercury newspaper disclosed and revealed on 6 March earlier this year in an article:

Labor’s candidate for the Tasmanian federal seat of Franklin, Kevin Harkins, was found guilty in a 2003 royal commission into the national building industry of “engaging in unlawful conduct”.

Commissioner Terence Cole found that Mr Harkins broke the law in July 2001 in his activities as Tasmanian secretary of the Communications Electrical and Plumbing Union by trying to stop a private electrician without a union-endorsed work agreement entering a Hobart construction site.

Other evidence presented at the royal commission and accepted by Mr Cole found that Mr Harkins:

- Threatened to “sort out” building firms that did not always employ unionised labour and union-approved subcontractors.
- Froze a small company out of work after it refused to insist its workers sign a union-approved Enterprise Bargaining Agreement.
- Told construction contractors Fairbrothers he would block off the entrance to their site with “a truck in the middle of a concrete pour” to get their attention.

This is what we have to face. The Cole royal commission in 2003 found:
Harkins said, if necessary they would block off the entrance to the site with a truck in the middle of a concrete pour, however, nothing further happened.

On page 178 of the report, Commissioner Cole said that he was satisfied on the evidence before him that Darryn Scott, Site Manager for Vos Construction and Joinery Pty Ltd, and Kevin Harkins, Secretary of the CEPU, Allied Services Union of Australia and Vos Construction and Joinery Pty Ltd, had ‘engaged in unlawful conduct’. Yes, Commissioner Cole is on the record as saying that Mr Harkins has engaged in unlawful conduct. The Cole royal commission report goes on and on. It is quite expansive on the concerns that have been expressed about Mr Harkins. On page 170, it said:

Harkins then told Smith he would be doing everything in his power to prevent Parmic from obtaining work in the industry and it was now a matter of a ‘us against them’, ‘us’ being the union, and ‘them’ being Parmic.

Also on page 171 it says that Harkins also told Smith:

... the time was coming when subcontractors who had not signed a union agreement would not be working in the construction industry in Tasmania.

On page 174 it says:

Harkins told Killick he was temporarily relocating to Tasmania in order to ‘sort out’ ‘the local electrical contractors’... Harkins said that although he was sensitive to the low amounts of work in Tasmania, he was prepared to ‘kick heads’ in order to get results, and if necessary send over the mainland branch of the CEPU to ‘sort out’ locals on a regular basis. Harkins said he would target Fairbrother and its Hobart Silos Project if necessary to sort out TC Electrical Pty Ltd.

There we have it. There is a continuing role for unions in my view, but how far do we go? Labor’s policy document ‘Forward with Fairness’ states on page 14:

Under Labor’s system, bargaining participants will be free to reach agreement on whatever matters suit them.

That is carte blanche for the union movement to ensure a whole range of things in support of the union movement and union bosses having control in the workplace. The Labor Party wish to abolish AWAs and they wish to bring back unfair dismissal laws. This is all bad for small business. (Time expired)

Defence: Procurement

Senator MARK BISHOP (Western Australia) (1.44 pm)—I have spoken many times about this government’s poor record on managing major defence procurement projects. It seems that little has changed, judging by the latest information disclosed at recent Senate estimates. There I had the chance to again call the government to account on a range of highly embarrassing procurement flops—for example, the debacle over the Seasprites. At estimates we were told that this project had again slipped behind schedule. Then there is the Wedgetail project, which is at least two years late. I take this opportunity to recap on where the government is at with some of its major defence procurement projects. They include the AWACS, the Seasprites, the M113 personnel carriers and the upgrade of the Mulwala munitions manufacturing plant. Indeed, on the procurement side there has been barely a single project in the past few years which has not gone over time and over budget. I am also going to look at the impact this is having on Defence budget outlays—how the government’s unrealistic delivery deadlines, coupled with poor account keeping of such projects, are impacting keenly on the capability of the Australian Defence Force.

It is worth noting at the outset how the government has thrown an extra $2 billion at Defence’s budget this year, taking it to almost $22 billion, even though the department
struggled to spend the money that was appropriated to it last year. At estimates, senators were told that the government had delayed more than $1.7 billion of defence planned capital investment for the financial year 2007-08, that such capital investment cost an extra 20 per cent in the government’s revised Defence Capability Plan and that the delay of such planned capital investment means that $1.8 billion of planned and anticipated capability will now arrive late—in some years significantly late. This is from a government that first and last prides itself on sound economic management.

It is not as though the alarm bells have not been sounding for the 11 long years that this government has been in power, but that is small comfort. Senators did express bipartisan support for some improvements that we have noted in recent years. There has been progress in the way in which the Defence Materiel Organisation manages some 200 projects totalling $60 billion. But problem areas remain, entirely of this government’s making, and this is independently borne out by the Auditor-General. It seems that, in spite of the ANAO’s regular audits on defence projects, the government continues to permit the same mistakes to occur time and time again. Earlier this year the ANAO singled out its failure to keep up-to-date copies of multibillion-dollar contracts. It also criticised the government for poor account keeping, failing to factor in foreign exchange fluctuations, unrealistic delivery deadlines, persistent schedule slippages and failure to correctly account for GST. A remedy to this would be an annual audit of Defence’s top 30 projects, touted by the ANAO last year and regularly supported by Labor in the past. It remains to be seen, of course, whether the government is sufficiently serious about reforming defence procurement projects to fund the ANAO the $1.15 million required for this initiative. There are lots of promises but no firm commitments. It would certainly greatly improve the transparency of defence contracting.

Essentially, however, Defence’s procurement bungles come down to poor record keeping exacerbated by lack of political oversight and political management, poor attitudes, and a lack of skill and determination on the part of overseeing ministers to fix the problem. So expect more of the same economic mismanagement should this government continue beyond the next federal election. Here are some of this government’s more embarrassing mismanaged defence projects, all of which have contributed to this speech. Again at estimates we brought up the perennial Seasprite project. Just last month, the Minister for Defence, Dr Nelson, was forced to rescind earlier brave pronouncements to ditch this disaster. His cabinet colleagues forced him into a radical rethink—the first, we hear. Already that project has cost the taxpayer close to $1 billion, is at least six years behind schedule and is a main reason why there is such a huge underspend in Defence’s budget. Now, we are told at estimates, it is going to cost a minimum extra $50 million. That is for remedial work so that the Seasprites can pass muster for airworthiness. Not only that, but it is likely to take an extra 29 months.

Next, we grilled the government on the Wedgetail project. You might recall that this is now two years late. At estimates we were told how this lateness in delivery contributed to a significant price spike in the past two years—up to $800 million, in fact, for delays in reprogramming. The rest of that underspend is caused by the lateness of the Wedgetail project and the M113s. We know from previous estimates that the Wedgetail project, six airborne early-warning and control aircraft, is now 26 months behind schedule. Again it appears the government underestimated the complexity of this $3.5 billion
project. As a consequence, these vital aircraft are unlikely to be fully operational until the year 2011. We also discovered at estimates that this two-year delay to the Wedgetail project has meant that up to $800 million of the Defence budget has had to be rescheduled and, indeed, that delays in the contract have meant an underspend of $110 million in this year alone.

The other project blowing a hole in the budget is the M113 project. At estimates we were told that delays in this project had contributed to underscheduling in the 2007-08 budget of $77 million. So, how did this happen? Again, delays in delivery, which mean lost capability and massive underspends in successive Defence budgets, making record keeping, public accountability and transparency messy. Remember, an upgrade of the M113s was touted as way back as 1992. Dr Nelson recently told us not to expect delivery of these vehicles—now, by definition, hopelessly out of date for modern warfare conditions—before 2010.

Senate estimates also provided the perfect opportunity to test the government’s hollow promises—specifically, how an upgrade of the Mulwala propellant manufacturing plant has now been announced 10 times since 2001. The latest announcement came earlier this month. It was for a media rollcall to witness the signing of contracts between the government and developers. It sounds as though great progress has been made. In reality, despite the plethora of announcements, and six years on from its promise, the necessary upgrade still has not gone ahead. Not only that, a project slated to cost $250 million in 2001 is now estimated to cost $110 million in addition. Again, this government shows a propensity for economic mismanagement when it comes to defence projects. It initially tried to set up a private finance initiative to pay for the upgrade. That fell over just last year, leaving taxpayers with an extra bill of $11.8 million. Where, I ask, are the good economics in that? The Tiger helicopters contribute $35 million down in the current year, while the Seasprite is $1.14 billion.

I have been speaking about defence procurement for many years. It seems that the government is not heeding that advice, or more proper advice from its own organisation the ANAO, for it continues to gamble with taxpayers’ money on main Defence projects that, as we have seen, often fail to materialise—or, if they do, they are many years late. It is time the government started listening to independent auditors, and indeed to this Senate, and set about fixing the state of defence procurement. Taxpayers and our serving troops deserve significantly better from Dr Nelson and his department. It is not good enough to promise the best, yet deliver less. Might I suggest that the department take more care when writing the specifications and costing such key acquisitions. At stake is not only the taxpayer; our serving troops need to be able to rely on such vital equipment, to rely on a government getting it right. Otherwise, capability deferred is capability not achieved. If a project is worth funding in the first place, its non-arrival five, seven or nine years later suggests the original capability was not properly thought through. It is vital that we get these procurement decisions right and we hope that in due course the government is able to fix this particular problem.

Sitting suspended from 1.55 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Liberal Party

Senator McEWEN (2.00 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. I refer the minister to his answer yesterday where he said that the Liberal Party paid $2,128.50 for food
and $1,476.52 for drinks for the fundraiser held at Kirribilli House on 1 June 2007. Does the minister know of anywhere else in Australia where you can entertain 225 people and feed them oysters, prawns, so-called posh soup and other gourmet food for $9.50 a head and give them all the fine wine they can drink for $6.50 a head? Can the minister explain why the Prime Minister thinks the Liberal Party is entitled to such a good deal? Why should ordinary Australian taxpayers subsidise a Liberal Party fundraiser?

Senator MINCHIN—Senator McEwen seems to be reading from a press release of Senator Wong’s on this subject. Senator Wong issued a press release saying, ‘There’s something fishy about Howard’s oysters’—very droll, Senator Wong! What I think is actually fishy, through you, Mr President, to Senator McEwen, is the behaviour of the South Australian Labor Party in dumping Senator Wong to the No. 2 position and dumping Senator Kirk right off the ticket to put a union hack called Don Farrell, a failed Labor candidate from 1988, into the No. 1 position on the Senate ticket. That is what is very fishy, Senator McEwen. As to your question about—

Honourable senators interjecting—

The PRESIDENT—The Senate will come to order!

Senator MINCHIN—Mr President, I am no expert on catering costs, but apparently Senator McEwen and Senator Wong are. They can assert that the $5,186.69 charged to the Liberal Party for the function at Kirribilli House was apparently not the right amount to charge. Now, I do not know what information or what expertise they have in commercial catering costs. All I can do is report to the Senate, as I did yesterday, that this was the cost of the food and the beverages for the supply of Liberal Party delegates and observers at Kirribilli House. That is what was charged to Kirribilli House and that is what has been on-costed to the Liberal Party, and the Liberal Party has paid the amount in full.

Senator McEWEN—Mr President, I ask a supplementary question. Is the minister aware that a one-hour canape package at the Guillaume restaurant, which shares harbour views across from Kirribilli House, costs $30 per person, with drinks extra, and $6,000 for room hire, and the minimum spend is $30,000? Instead of paying anything remotely close to market rates, why does the Prime Minister think that the taxpayers of Australia should subsidise a Liberal Party fundraiser?

Senator MINCHIN—Well, it is a really big day in the Senate when the first question is about the price of prawns! In future, I will make sure the Prime Minister goes to Senator McEwen and asks her for a quote first!

Honourable senators interjecting—

The PRESIDENT—When the Senate comes to order, we will continue with question time.

Workplace Relations

Senator LIGHTFOOT (2.04 pm)—My question is to Senator the Hon. Eric Abetz, the Minister representing the Minister for Employment and Workplace Relations. The minister may be aware of reports that unions are apparently compiling secret databases on their members. Given the government’s responsibility for the administration of workplace laws, can the minister provide the Senate with any information on attempts to manipulate public opinion by misrepresenting the effect of those laws?

Opposition senators interjecting—

The PRESIDENT—When the Senate comes to order, we will continue with question time—and don’t complain to me afterwards about the lack of questions.
Senator ABETZ—Can I thank Senator Lightfoot for his question—

The PRESIDENT—You are reflecting on the chair, Senator Conroy. I ask you to mind what you are saying and withdraw.

Senator Conroy—I withdraw.

Senator ABETZ—Can I thank Senator Lightfoot for his question and indicate to him that not only have I seen reports; I have actually seen the 75-page document, which I have with me. I can inform the Senate that this is the so-called political strategy manual designed by the ACTU, and its content, as Senator Lightfoot pointed out, is very disturbing indeed. This is the way it works—and I encourage those opposite to hear this out in silence because if they do they will be condemning it. This is the way it works. Firstly, the ACTU engages an outside database company, Magenta Linus, to supply them with union members’ enrolment status, address and even mobile phone number. Remember, we are talking here about all union members in marginal seats, many of whom would have no real allegiance to the union—people such as 17-year-olds who unwittingly joined when they started part-time work, let’s say, at their local supermarket. The union then passes information to a call centre which telephones the member and solicits even more information, such as their political allegiance, their voting intention at the coming election and their attitude to our IR laws.

Senator George Campbell—What’s wrong with that?

Senator ABETZ—Armed with this information the union then contacts undecided voters pretending to be their friend, feeds them misinformation about our IR laws and solicits even more personal information, such as where they work, their enterprise bargaining agreement expiry date and—get this, Senator George Campbell; you are asking what is wrong with it—even their mortgage status, their career goals, their family situation, their values and their sentiments. Members are even coded. According to the document the aim is to build a profile of the member.

Senator Coonan interjecting—

Senator ABETZ—What we have here is—not exactly as Senator Coonan just interjected—nothing but big union acting as Big Brother. They will know all about you, and if you are ‘lucky’—and for Hansard purposes that is in inverted commas—according to the strategy manual you might even get a personal visit from Big Brother to assist you to get onto the electoral roll and show you how to vote. And I do not mean a visit from Gretel Killen in relation to this.

Honourable senators interjecting—

The PRESIDENT—I am on my feet; there is too much noise in the chamber.

Senator ABETZ—I do not mean a visit from Gretel Killen, so next time there is a knock on your door you can bet your bottom dollar that it will not be the Salvation Army or the Red Cross; it will be Uncle Kevin Reynolds, no doubt, or Joe McDonald, Dean Mighell or, if you are lucky enough, in Tasmania it might even be Brother Harkins. But this unparalleled intrusion by the trade unions into the personal affairs of working Australians and their families needs to be condemned. And Mr Rudd, today, by refusing to condemn this intrusion into Australian families’ lives is endorsing the tactic, which clearly indicates that Mr Rudd and the Australian Labor Party are willing to do whatever it takes to win government at the next election. (Time expired)

Liberal Party

Senator WONG (2.09 pm)—Mr President, my question is to Senator Minchin, the Minister representing the Prime Minister. Is
the minister aware that under section 287 of the Commonwealth Electoral Act, services provided for less than full price and gifts of services or products are considered as political donations? Can the minister confirm that the Liberal Party paid not one cent for the use of Kirribilli House as a venue for the drinks function on 1 June? Doesn’t this free venue hire constitute an in-kind donation by the Department of the Prime Minister and Cabinet, who pay the cost of official residences, to the Liberal Party? Isn’t this revelation of free venue hire of a taxpayer funded official residence simply further proof that this government has forgotten all about public accountability and is totally out of touch?

Government senators interjecting—

The PRESIDENT—Senators on my right will come to order.

Senator MINCHIN—I only just heard the question. There is not really much I can add to my previous two or three answers on this issue over the last couple of days. I reported yesterday that the decision to hold the function was made taking into account previous advice from the Department of the Prime Minister and Cabinet that it is appropriate to hold non-fundraising functions on a full cost recovery basis. That is internal advice to the government. I am not going to table it. It was clear advice to the government as to the nature of the Prime Minister’s appropriate behaviour in hosting functions. Prime Ministers—whether they are our Prime Minister, Labor Prime Ministers or others—have always and traditionally hosted functions of a variety of kinds, such as for the press gallery, business observers or community groups from around the country, at the Lodge and Kirribilli House. On this occasion the Prime Minister hosted drinks for delegates to the federal council of the Liberal Party and their business observers. The Liberal Party was billed fully for the marginal costs of hosting that function—that is, for food, beverages, casual staff and associated hire charges. I have nothing further to add.

Senator WONG—Mr President, I have a supplementary question. I again ask the minister: does this free venue hire not constitute an in-kind donation such that section 287 of the Commonwealth Electoral Act applies? Can the minister indicate whether the Prime Minister’s department will now be required to submit an annual disclosure return to the AEC declaring this in-kind donation of venue, staff and security to the Liberal Party, as required under the act, or is the government too embarrassed to list Australian taxpayers as donors to the Liberal Party?

Senator MINCHIN—Senator Wong is drawing a very long bow now, but, on the basis of advice that is available to me, the answers to the two questions that Senator Wong just asked are: no and no.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the gallery of the former distinguished senator from Queensland, Len Harris. Welcome back.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Telecommunications

Senator McGAURAN (2.13 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister update the Senate on the government’s support for competition in the telecommunications sector? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator McGauran for a very good question indeed. Today marks the 10th anniversary of open competition in Australian telecommunica-
tions. Ten years ago the Howard government spearheaded major reforms to telecommunica-
tions long neglected by the Labor govern-
ment. When the government was elected in
1996, we inherited a near duopoly in the
telecommunications industry. Competition
was limited and consumers were the losers.
Since the government’s telecommunications
reforms of 1997 there are now 167 providers
vigorously competing in the telecommunications
field, and there can be no argument that
consumers have been the major beneficiaries
of competition reforms. Fixed line prices
have fallen substantially—by 18.9 per cent—
and mobile service prices have fallen by a
whopping 36 per cent.

In fact, since 1997, the overall price of
telecommunications services has fallen by
26.2 per cent, which is a staggering amount.
The Australian economy has grown by $15.2
billion since 1997, thanks to the Australian
government reforms of the telecommunications
sector. Only this morning, I tabled an
ACCC report on the performance of the in-
dustry for the last financial year. The report
showed that investment had increased from
$6.3 billion in 2004-05 to $69 billion in
2005-06—signs of a very healthy framework,
with increasing investment levels and
increasing productivity leading to falling
prices for consumers.

But it does disappoint me to see that not
everyone has supported open competition of
the telecommunications sector. Labor, for
instance, have opposed each of the three
tranches of the sale of Telstra prior to oppor-
tunistically caving in just a couple of weeks
ago when they wanted to dip their paws into
the honey pot and raid the Future Fund. La-
bor opposed the tough decisions taken by the
Howard government to create a highly com-
petitive telecommunications industry that has
resulted in reduced prices and increased
choices for consumers.

This is why we say, ‘Don’t listen to what
Labor say in opposition; just look at what
they do.’ People remember that Labor have
voted against every major economic reform
that has been introduced by the coalition
government. Labor have voted against tax
reform, against retiring their own debt,
against industrial relations reform and
against the introduction of competition in the
telecommunications sector. Now a poll-
driven Mr Rudd would have you believe that
he is a fiscal conservative. His advertisement
says so. As Mr Keating has so graphically
reminded us, Labor cannot get out of bed in
the morning without having a focus group to
tell them which side of the bed to get out of.
But it takes more than a focus group to run a
trillion-dollar economy. It takes tough deci-
sions and sound judgement. The massive
benefit brought to consumers by the compe-
tition reforms is just another example of the
dividend that is made possible by the How-
ard government’s strong economic manage-
ment.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the at-
tention of honourable senators to the pres-
ence in the chamber of a distinguished par-
lamentary delegation from Mexico, led by
Senator Carlos Jimenez Macias. On behalf of
all senators, I wish you a very warm wel-
come to Australia and, in particular, to the
Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Former Senator Ian Campbell

Senator STERLE (2.17 pm)—My ques-
tion is to Senator Ellison, Minister for Hu-
man Services. Is the minister aware that his
predecessor, Ian Campbell, has won a
$35,000-a-year board appointment with
Perth based IT company ASG? Is the minis-
ter aware that ASG has a six-year $14 mil-
lion contract to provide IT services to the
Prime Minister’s department, which its 2005 annual report says ‘greatly assisted its access to the federal government market’? Doesn’t the ASG website also list agencies in the Human Services portfolio as being among the company’s clients? Can the minister confirm whether the company is part of a consortium bidding for work on the access card project? What steps has the minister taken to ensure that Mr Campbell does not use commercially sensitive information obtained in his former role to gain advantage for his new employer in the access card tender process?

Senator Ellison—They really are scraping the bottom of the barrel when they come up with a question like this. I think it was former communications minister Graham Richardson who became an adviser to Publishing and Broadcasting Ltd and a Nine Network commentator in 1994. We did not hear Labor complaining about that. But I will deal with the question. Let us see how we go.

To my knowledge, former senator Ian Campbell had known the director of ASG for some time. It was a person whom he knew well before his previous ministerial portfolio. But, importantly, my department has advised me that ASG is not a tenderer for any of the current access card procurement activities, including the systems integrator and card issuance and management requests for tender. In addition, tenderers for current and future access card related procurements, such as those associated with the system integrator and card issuance and management activities, are required to adhere to a probity framework. The conditions of tender associated with both tenders that I have mentioned and which will apply to future tenders specifically require that a tenderer should not, in the absence of written approval from the department, permit a person to contribute to or participate in the preparation of the tenderer’s tender or the RFT process if the person was at any time a relevant person who was involved in the planning or performance of the access card program during the 12 months immediately preceding the date of issue of this RFT or during the period from the date of issue of this RFT to the closing time. That squarely deals with the issue that Senator Sterle raises. What is more, if former senator Ian Campbell were to be involved with a tenderer accordingly in relation to that, written permission would need to be sought from the department as I have outlined. My department advises me that former senator Ian Campbell did not have any access to tenders, nor did he seek to have access to any such tenders.

I have looked at this because I knew that the opposition would try and have a go at it. There is absolutely nothing untoward about this. I have cited the probity aspects of this. I think those senators opposite who know former senator Ian Campbell well would realise that he is a man of probity and integrity, but, what is more, he has broad experience of the commercial sector and he was going to take up a position in the private sector, which he should be entitled to do.

I can go into great detail about previous Labor ministers taking up positions—for example, John Button; Ros Kelly, in the environment; and John Kerin, in forestry. Former Attorney-General Michael Lavarch subsequently advised law firms on competition policy and former immigration minister Gerry Hand set himself up as an immigration agent. They really are scraping the bottom of the barrel. It is appropriate for former senator Ian Campbell to go into the private sector and find a job, which, no doubt, he will do well and with integrity.

Senator Sterle—Mr President, I ask a supplementary question. Hasn’t Ian Campbell joined other former ministers—Larry Anthony, Michael Wooldridge, Richard Alston and Peter Reith—who took jobs in
companies related to their former portfolios immediately after leaving office? Doesn’t this allow those former ministers to trade on their former public positions for private profit? Why does the government consider it acceptable for former ministers to undertake employment in their portfolio areas?

Senator ELLISON—I note that Senator Sterle does not refer to those former Labor ministers that I mentioned earlier—for example, former Senator Graham Richardson to communications; John Button to a technology company after being minister for technology; and Ros Kelly to the environment, having been a former environment minister. What about John Kerin, who was a primary industries minister when he took up a job in forestry? I have outlined the probity issues that apply. I have taken the advice from my department, and I have set this before the Senate. The opposition are really grasping at straws, and they know it.

Crime

Senator TROOD (2.24 pm)—My question is to the Minister for Justice and Customs, Senator Johnston. What is the federal government doing to develop its international law enforcement operations both here in Australia and abroad? I further ask: what initiatives are being developed to combat transnational crime?

Senator JOHNSTON—I thank the learned senator for his question and acknowledge his longstanding interest in matters of law and jurisprudence. The story is a very successful one. As most senators would be aware, particularly on this side of the chamber, recently Australian fugitive Mr Tony Mokbel was arrested in Greece as a result of a quite exceptional level of cooperation between law enforcement agencies here in Australia and overseas. I congratulate the Australian Federal Police and the Victoria Police for their outstanding work in intelligence gathering to locate Mr Mokbel. I also want to pay tribute to the Greek police for their outstanding cooperation and the tangible operational success that this arrest and apprehension has brought.

The Australian Federal Police have been working for a number of years with Greek authorities, particularly in respect of an advisory role around the 2004 Olympic Games in Greece. The relationship has matured very successfully, culminating in this recent apprehension. Recently I discussed with Commissioner Kellty—who at the time happened to be in Cyprus—an opportunity for him to visit Greece and congratulate the Chief of the Hellenic Police Force, Police Lieutenant-General Anastassios Dimoshakis, for their assistance in the reapprehension of Mr Mokbel.

As senators would be aware, Mr Mokbel is wanted in Australia to face prosecution for various Commonwealth and Victorian charges. He is also wanted regarding a jail sentence imposed upon him for his conviction for being knowingly concerned with the importation of a trafficable quantity of cocaine—three kilograms—into Australia. I can report that Australia has an extradition treaty with Greece. The Australian Attorney-General’s Department is working very expeditiously with the AFP and the Victorian police force to prepare the necessary papers for my consideration before forwarding a request to Greek authorities.

I further inform the chamber that the story of the AFP’s international deployment to deal with transnational crime is a very successful one. A key strategy in the AFP’s fight against crime across borders is its international network comprising 80 officers in 27 countries around the world. Two additional offices will be opened in New Delhi and Vientiane. The role of the network is to work with international law enforce-
ment agencies to promote information and intelligence exchange that will help combat transnational crime, with the overall objective of protecting Australia. The shifting focus of transnational crime has created new demands upon the Australian Federal Police overseas law enforcement activities. We have recently opened a new post in Bangladesh and, as I have indicated, two posts, in Vientiane and New Delhi, are anticipated.

An example of further positive relationships between Australian law enforcement agencies—the Australian Federal Police and international partners—was on show last Thursday, 7 June, when I presented a cheque for $3,372,000 to Minister Zhang Xin Feng, vice-minister for public security in the People’s Republic of China, in respect of money seized through proceeds of crime legislation. The sum of $55 million was taken by a person in China, and he was arrested in Australia. (Time expired)

**Smartcard**

**Senator STOTT DESPOJA (2.29 pm)**—My question is addressed to the Minister for Human Services. I ask the minister when the new exposure draft of the Human Services (Enhanced Service Delivery) Bill will be made public. When will it be tabled in the Senate? Can the minister outline to the parliament the agreed terms for public consultation, including how the consultations will be conducted, where they will take place and the time frame for those consultations? Will the consultation on this new piece of legislation be managed by the Department of Human Services, with a view to refining any final legislation before parliament considers the bill? What impact will this have on the second request for tender, which was published on the access card website on 31 January, which has the design phase of the card being completed by July this year?

**Senator ELLISON**—I will deal with the tender process first. In relation to the question put by Senator Stott Despoja: last week, following my announcement about the release of the exposure draft of the bill, the department wrote to all tenderers and advised them of a briefing session to clarify time lines and to extend steps in the procurement process. I am advised that this briefing took place this morning. My department will continue to be closely engaged with tenderers and will undertake further meetings in relation to the tender evaluation process. These meetings, of course, are focused on the best value for money, and the tenderers will be kept fully informed.

In relation to the exposure draft, I have said publicly that it is my intention to release that during this fortnight of sittings, and that remains my intention. That exposure draft will be released for discussion for a period of around two months. The Department of Human Services of course will take the lead in relation to consultations. But, as well as that, Professor Fels and his committee will continue their work. They have a number of reports to be released. I understand that one is about to be released and there are a couple of others that will be released very soon. That will inform discussion.

We have said very clearly that this is a very big initiative. Some 16 million Australians will be affected by it, and we want to make sure that we get things right. In relation to other countries that have embarked upon a similar program, we have seen time lines of six years plus—and I am looking at countries such as Germany and Italy as examples. We need to make sure that, when we do bring the bill before parliament, there has been adequate consultation, and I know that Senator Stott Despoja has been one of those who have called for just that.
This decision was informed by my own consultation with stakeholders across the board, ranging from people in the industry sector to those who are involved in NGOs and those involved in those sectors of the community—the aged, those with disabilities, veterans and others—who would be very much affected by this. I think there will be great benefits from the exposure draft. The terms of how it will be dealt with will be released when I deliver the exposure bill.

Senator STOTT DESPOJA—Mr President, I ask a supplementary question. I thank the minister for his answer and ask the minister if he will table in the Senate or outline to the Senate in his supplementary answer the details—those time frames—that he discussed with the tenderers this morning. I think the Senate would benefit from that information. I thank the minister for his indication that the exposure draft process will be around two months. I ask the minister: when will the final piece of legislation regarding the access card—be introduced into the Senate? The government has indicated a willingness to send that legislation to committee with the consent of the Senate. I ask the minister: when will that take place, or is this just a convenient way by the government of deflecting attention from a potentially electorally unpopular issue and getting rid of a debate before this federal election?

Senator ELLISON—Firstly, can I just correct Senator Stott Despoja: I never said that the discussions with the tenderers were conducted by me. If they were, then the opposition and others could ask a justified question as to why that was so, because the minister does not get involved in that process. That was my department. It is done at arm's length from me as minister. I am not privy to those discussions, nor should I be. That is something that the department is handling. But I do wish to correct something that was in the *Australian Financial Review* today—that is, that companies bidding for access card work are precluded from bidding for other government projects. I am advised by my department that that is not correct, and I just want to place that on the record.

As for a legislative timetable, I have said that the government remains committed to the access card. It is a good idea which will deliver benefits to many Australians. But, as to the timing of the legislation, it will depend on the consultation period of the exposure draft. As we know from past experience, you cannot foretell what that will deliver. It depends on how that process goes.

**Distinguished Visitors**

The President—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Malaysia, led by the Hon. Tan Sri Ramli, Speaker of the House of Representatives. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I propose to invite the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

*The Hon. Tan Sri Ramli was seated accordingly.*

**Questions Without Notice**

**Volunteers**

Senator BOYCE (2.35 pm)—Mr President, my question is to the Minister for Community Services, Senator Scullion. Would the minister advise the Senate of the level of assistance that the Australian government provides to volunteers?

Senator SCULLION—I would like to thank Senator Boyce for her question, and I note that it is her maiden question in this place. I am delighted that Senator Boyce
would choose to ask a question about a very important aspect of my portfolio—that is, volunteering. Since Senator Boyce is from Queensland, I think it is also appropriate that I acknowledge the great distance that SES volunteers from Queensland have travelled to assist those people needing help in the Hunter Valley.

The Australian government also recognises the important role that volunteers play and the particular benefits they provide to local communities. We provide significant support through a number of programs, particularly in the area of financial assistance. In our recent budget, we increased to $81 million the total funding for the volunteer small equipment grants. That is over four years. In following years, up to $18 million will be available each year. That is an increase from last year, from $16 million, and the year before, from some $3 million, so it has shown a huge increase which reflects the demand for this excellent program. Over 7,200 organisations shared in the $16 million worth of grants last year.

We have extended the volunteer small equipment grants in sport scheme, which might be something the Leader of the Opposition is interested in. This component is to encourage sporting participation and better health, particularly involving young people. In previous years the volunteer small equipment grant supported groups through the purchase of equipment like barbecues, trailers, first-aid kits and sunshades, and that has been very useful. Most of those processes have been directed through volunteer resource centres. We provided another $4.8 million to the resource centres. These centres are intended to be a hub for some of the 6.3 million Australians who are wishing to volunteer. They can simply ring one of the resource centres in their area, which match a volunteer to a need.

A further $20 million will be available under a Local Answers round—that very important program—which closed on 25 May. That is on top of the $10 million Local Answers program we directed through the drought affected communities. Whilst the government has made a substantial injection of funding and assistance to volunteers, the real measure of volunteering is not really the financial support that we provide; it is what those individuals deliver to their communities.

Just before coming to question time I was speaking on the phone to both Peter Blackmore, the Mayor of Maitland, and John Clarence, the Mayor of Cessnock. The stories they tell me of how the volunteers have pulled together in the Hunter are incredible. The licensee of the Abermaine Hotel has basically opened his hotel up, put on free food and is accommodating people. He could not be found because he is out helping clean up a mate’s house. A number of people have simply turned up, in the great Australian way, to volunteer. ‘Give me a bucket and let me loose,’ was one of the quotes that the mayor gave me. We have had 2,500 SES volunteers travel from right around Australia—from New South Wales, Queensland, Victoria and the Australia Capital Territory—to lend a hand. I also acknowledge the Salvation Army, St Vincent de Paul, the Red Cross, Anglicare and the other organisations for their tremendous assistance in this matter. Without the volunteers of Australia this would have been a very dark time for the Hunter Valley.

**Fuel Prices**

Senator HUTCHINS (2.39 pm)—My question is to Senator Coonan as the Minister representing the Assistant Treasurer and Minister for Revenue. Does the minister recall the Prime Minister last year dismissing as ‘simplistic’ the suggestion that the ACCC
be given enhanced powers to police petrol prices? Can the minister confirm that the Prime Minister has now changed his tune and said that he will examine how the ACCC can expand its powers to police petrol prices? Didn’t the Prime Minister also say to oil companies that Australians will not tolerate being taken for a ride? Why have motorists had to wait 11 years for the Prime Minister to even acknowledge that the ACCC might be able to do something about petrol prices?

Senator COONAN—Thank you for this question. The interesting point about this is the ACCC has taken action against various petrol-retailing cartels. The ACCC is equipped, and has repeatedly said that it is equipped, to take enforcement action under the Trade Practices Act if there is evidence of anticompetitive behaviour. It is interesting that on 1 December 2005 the ACCC announced that it successfully brought action against a petrol price-fixing arrangement in the Brisbane area. In Ballarat the ACCC had also successfully prosecuted members of a petrol price-fixing cartel. The ACCC has also done so in Geelong. On 11 November 2003 it said that it had instituted court proceedings, as everyone knows, against eight companies and 10 individuals in the area alleging price fixing of retail petrol prices in contravention of the TPA.

The ACCC has said repeatedly that it has the powers to take whatever action it needs to ensure that the rises in petrol prices do not represent any kind of price fixing or cartel action. There have been multiple inquiries into the fixing of petrol prices. The other day the Prime Minister said that Mr Rudd’s announcement that Labor would give the ACCC more powers is redundant. Mr Samuel has said that those powers are not necessary because the ACCC has those powers. The Prime Minister has said that if Mr Samuel asked for more powers they will be given. That has been unequivocal. The Prime Minister has always said that if further powers for the ACCC are necessary that is what will happen. The interesting thing is that, in many respects, state governments control the price of petrol. Isn’t it interesting that state Labor governments do not seem to be exercised at all by the issues that seem to be troubling the federal Labor Party about petrol prices? Federal Labor are opportunistically trying to find some hole in the ACCC’s powers when the state governments are busily increasing the prices of petrol. We find in Tasmania, for instance, in the last budget, the price of petrol was raised by 2c a litre. In the latest budget in Victoria petrol prices have been raised by a further cent. This is not the action of a political party—‘Labor’ by any name is the same whether it is federal or state—that is interested in an issue that impacts on consumers.

This government has shown a consistent interest in the interests of consumers, and the price of petrol is something that we keep a very close eye on, together with the ACCC. You cannot seriously imagine the Labor Party doing anything about the indexation of petrol. It is not something that the Labor Party would have done. When let loose, the Labor Party increase the price of petrol, as they have done in both Tasmania and Victoria. So this is Labor hypocrisy at its worst. This is Labor hypocrisy writ large—saying one thing but doing another. (Time expired)

Senator HUTCHINS—Mr President, I ask a supplementary question. Minister, haven’t petrol price hikes on long weekends being occurring for years? Why has the Prime Minister been in denial for so long about whether the ACCC can do anything about it? Aren’t Australians entitled to be cynical when the Prime Minister only acknowledges a problem when he feels the political heat of an election year?
Senator COONAN—I would have thought that the document that we have seen today from the ACTU shows who is worried about feeling the heat during an election year. Labor’s state colleagues are busily raising the price of petrol and trying to blame us. They talk out of both sides of their mouths. No-one can take the Labor Party seriously, because they say one thing and then turn around and do something completely different.

Renewable Energy

Senator MILNE (2.46 pm)—My question is to Senator Minchin, representing the Prime Minister, and concerns the report of the Prime Ministerial Task Group on Emissions Trading. Given that the overseas experience demonstrates that an emissions-trading system on its own will not generate a price signal strong enough to stimulate further investment in renewable energy, has the government investigated the potential for renewable energy feed-in laws? If so, which department is overseeing the analysis, and when will it be made public? If the government has not been looking at renewable energy feed-in laws, why not?

Senator MINCHIN—I thank Senator Milne for drawing attention to the excellent report by the Prime Minister’s Task Group on Emissions Trading. I hope Senator Milne and everyone over there has read it. It is an outstanding analysis of the use of emissions-trading schemes to put in place a market for CO₂ emissions—

Senator Conroy interjecting—

Senator MINCHIN—and how a market can most effectively work to put a price on carbon in order to achieve a reduction in CO₂ emissions. It is an outstanding report. The Prime Minister announced at the federal council meeting of the Liberal Party the government’s response to that report.

Senator Conroy interjecting—

Senator MINCHIN—He did say quite clearly that we will move towards a domestic emissions-trading system beginning no later than 2012. Senator Milne says that these emissions-trading schemes do not work and international experience suggests that they do not fully produce the outcomes desired of them. I think it is true—and part of our commentary on emissions-trading schemes, and why we have been cautious about going down this path to this point—

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy! Interjections are disorderly!

Senator MINCHIN—is that the European scheme has been a monumental failure. The Europeans have demonstrated that you do have to be careful; you do have to plan these things with great care and consideration if you actually want them to achieve the objectives you seek without doing enormous damage to your economy. The European system has not worked because they handed out too many permits, and therefore it has achieved none of its objectives. It is universally regarded as a joke.

We have taken advantage of the experience of Europe to ensure that we do plan properly and carefully to put in place a cap and trade system that not only achieves the objectives of containing our emissions but does so in a way that does not trash the Australian economy in the way that the Labor Party and the Greens overtly intend to do. The proposition that you come out and say, in the Labor Party’s case, ‘Let’s just cut emissions by 60 per cent from 1990 levels by 2050’ or, in the case of the Greens, by 80 per cent by 2050, is absurd. They have no idea how they would achieve that objective. They have had no idea of the economic implications of such propositions, which anyone can tell would do enormous damage to this economy and the workers that the Labor Party
professes to represent in so many energy-intensive industries across this country.

So it is our view that if you set up an emissions-trading system carefully, properly and with sensitivity to the structure of the Australian economy, it should let the market determine and bring forward the supply response in terms of renewable energy, nuclear energy and geothermal energy. The point is that if you put a price on carbon and allow the market to work, that will render viable the alternative energy sources that can then come on stream to meet demand for energy at the price that is set according to the operation of the emissions-trading scheme. So we have great confidence that, carefully planned—and in the capable hands of the coalition government, which has proved itself a capable manager of the Australian economy—an emissions-trading scheme can be safely and securely put in place that will not do untold damage to the Australian economy.

Senator MILNE—Mr President, I ask a supplementary question. I thank Senator Minchin for his answer. He demonstrated that he has no idea what a feed-in law is, because he did not mention it once in that response. What I particularly asked was: ‘Have you looked at the potential for renewable energy feed-in-laws? If so, which department has done that?’ So I ask again: given that the spectacular growth in renewable energy generation in European nations has been driven by feed-in laws, a national target and an emissions-trading system, will the government now examine feed-in laws as a complementary initiative to an emissions-trading system and a renewable energy target so that we do achieve a rollout of renewable energy? Senator, What do you understand by ‘feed-in laws’?

Senator MINCHIN—What I understand is that your policies would trash this economy and put thousands of Australians out of work. You do not care about the workers of Australia; you just want to pursue your blind goals to trash the Australian economy in the name of your Green purity. We actually do care about Australia’s economy and the jobs of thousands of Australians, and we are not going to put them at risk.

Senator Bob Brown—Mr President, I rise on a point of order. The minister’s bombast does not obviate his need to—

The PRESIDENT—Senator Brown, what is your point of order?

Senator Bob Brown—Mr President, the minister did not answer the question because he did not understand what it was about. How hopeless is that?

The PRESIDENT—There is no point of order.

Senator MINCHIN—I have given you my answer. What I said to Senator Milne, through you, Mr President, is that the government believes, on the basis of the advice provided to its task group on emissions-trading, that a properly constructed, well-planned emissions-trading scheme with a cap and trade scheme, with the appropriate issue of permits and a market for the price of those permits, will bring forward the energy responses required, whether it be renewable or nuclear. The Greens and the Labor Party will not have a bar of nuclear power, claiming, ‘We’re pure on greenhouse, but we mustn’t have nuclear power.’ How utterly absurd and hypocritical! We believe that those energy responses will be brought forward by the operation of a properly planned market based emissions-trading scheme.

Telecommunications

Senator STEPHENS (2.53 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Is the minister aware of
recent comments by her colleague Senator Joyce: 'If wireless is so good, why don’t they use it in the cities? Fibre to every corner of the country is the best outcome.’ Don’t Senator Joyce’s comments reinforce concerns that both he and Senator Nash first raised in the 2005 Page Research Centre report on telecommunications in non-metropolitan Australia? Didn’t that report recommend a feasibility study into the cost of laying fibre optics for a fibre-to-home broadband rollout in rural and regional Australia? Hasn’t the minister ignored the Page report for the last two years? What guarantee can the minister now give that we will not end up with first-class fibre broadband in five cities and second-class wireless broadband in the bush?

Senator COONAN—I thank Senator Stephens for the question. I do not know why Senator Conroy gives these questions to poor Senator Stephens and tries to get her to frame them in such a way that suggests she actually knows something about the rollout of either a wireless network or a fibre network. I can assure you that the Labor Party do not have a clue about the rollout of either a fibre network or a wireless network. They do not have a clue about the characteristics of a wireless network or what may be the superior or less superior qualities when comparing fibre to wireless. When you compare fibre and wireless, it is important to understand where you are actually putting it. Obviously, in metropolitan areas fibre has some superior capabilities. Good luck to the Labor Party if they seriously think that in rural and regional areas fibre can go beyond about one kilometre from an exchange—

Senator George Campbell interjecting—

The PRESIDENT—Order! Senator Campbell, I will not warn you again. Next time, you will be suspended.

Senator COONAN—and pity help those poor people in rural and regional Australia who happen to live beyond the reach of an exchange. That is why wireless technology—this cutting-edge technology—has been developed right around the world and is now being deployed in all comparable rural and regional situations to ensure that there is a proper reach of at least 20 kilometres from a base station. So instead of treating rural and regional Australia as some second-class backwater, as the Labor Party would propose—and as Senator Stephens endorses, obviously—we will have universal coverage for all Australians, irrespective of where they live. Both Labor and Senator Stephens should go back to the drawing board and understand what they are talking about before they make comparisons about something they know nothing about.

Senator STEPHENS—Mr President, I ask a supplementary question. I thank the minister for her response. I advise her that I live in the country and have the lousiest dial-up service imaginable when I am trying to deal with the work we are doing here—like most people who live outside a metropolitan area. Is the minister aware that the Page report advocates parity of service for rural and regional telecommunications services? Can the minister explain how access by metropolitan Australia to broadband speeds 50 times faster than in rural and regional Australia constitutes parity of service?

Senator COONAN—I commend Senator Stephens on asking a supplementary question and for nominating dial-up broadband, or dial-up internet, as such a terrible technology, because about two years ago a Senate committee, dominated by the Labor Party, was suggesting that this government should mandate dial-up right across the country at a cost of $5 billion. This is the Labor Party picking technologies and not having a clue what they are talking about. If taking $5 billion to roll out something across Australia sounds familiar, then it is. The Labor Party
will make another mistake with a fibre roll-out, as they did in suggesting mandatory dial-up for the internet. The important point about this debate is that all Australians deserve a service, not just the few whom the Labor Party favour.

Economy

Senator ADAMS (2.58 pm)—My question is to Senator Brandis, the Minister for the Arts and Sport. Will the minister inform the Senate how the government’s sound management of the Australian economy has benefited the arts in Australia? Is the minister aware of any alternative policies?

Senator BRANDIS—I thank Senator Adams for her question and acknowledge her deep interest in the arts in Western Australia. As Senator Adams has identified, the good economic management of the Howard government has produced many beneficial effects. By bringing the budget back into surplus by paying off $96 billion of Labor Party debt, we are able to avoid wasting $8.5 billion a year in interest payments and return that money to taxpayers or invest it in beneficial projects, including in the arts. The saving of $8.5 billion a year—which is $23 million a day and slightly less than $1 million an hour—in interest that Australia was paying under the previous Labor government has enabled us, among many other beneficial measures, to announce in the budget on 8 May the largest increase in real terms in arts funding that Australia has seen.

I might detain the Senate for a moment by comparing arts funding under the Howard government to arts funding under the Keating government. In the budget announced by Mr Costello on 8 May, arts funding in this financial year will be $681.1 million—the highest level ever and an increase on the last year of the Keating government of 65.8 per cent. That includes increasing the funding of the Australia Council by 121 per cent, increasing the funding of the National Gallery of Australia by 137 per cent and increasing the funding of the National Library of Australia by 62 per cent. As you might expect, the outstanding outcomes for arts policy in the budget were met with excitement by the sector. Reporting the reaction of the sector in the Australian the following Thursday, Miriam Cosic and Rosemary Sorensen wrote this:

It’s a rare thing to hear the arts community congratulating the Howard Government, but yesterday, as companies combed through the detail of the arts component of Tuesday’s budget, the refrain was the same.

“It’s a good result,” says Helen O’Neil, executive director of the Australian Major Performing Arts Group. “Australia’s artists will be celebrating today,” says Tamara Winikoff, executive director of the National Association for the Visual Arts.

I would like to share also with the Senate a letter I received from Jill Berry, the General Manager of The Bell Shakespeare Company. She said, ‘Bell Shakespeare in particular will enjoy an increase of approximately 65 per cent on our base Nugent funding model.’ The entire industry will be greatly buoyed by this announcement, and the many other visionary arts funding decisions in the budget papers—probably the most significant of them being the decision to invest in the small to medium arts sector.

It is something of an urban myth that the Australian Labor Party attracts a greater level of support from the arts sector than does the government. It is not so. I was told, for example, by one of the most respected and senior arts administrators in Australia that the funding of the arts under this government has been, to use his words, ‘incomparably better’ than it ever was under the Labor government and that this government has, again to quote his words, been ‘incredibly generous’ to the sector. That is a view
that is echoed across the sector. If perhaps Senator Adams would ask me a supplementary question, I will share some further insights with her.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Climate Change

Senator MINCHIN (South Australia—Leader of the Government in the Senate) (3.03 pm)—On 29 March, Senator Milne asked me, as the Minister representing the Prime Minister, a question without notice about support for PNG forest protection. I undertook to obtain an answer for Senator Milne. I now have that answer and I seek leave to have it incorporated in Hansard.

Leave granted.

The answer read as follows—

Australia recently hosted the United Nations Framework Convention on Climate Change (UNFCCC) Workshop on Reducing Emissions from Deforestation in Cairns from 7 to 9 March 2007. At that meeting, a number of proposals were discussed and considered, including that proposed by Papua New Guinea. Australia will remain active in discussing possible approaches both through dialogue in the UNFCCC and in the ongoing development of the Australian Government’s Global Initiative on Forests and Climate Change.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Liberal Party

Senator SHERRY (Tasmania) (3.04 pm)—I move:

That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators McEwen and Wong today relating to a function for the Liberal Party held at Kirribilli House and political donations.

In Australia, the current Prime Minister, Mr Howard, has two official residences: Kirribilli House, on the foreshore of Sydney Harbour, and the Lodge, here in Canberra. We have heard a number of interjections from senators, particularly those who were here in the period prior to 1996, about the level of policy content in our questions. I recall that a lot of the questions from a lot of the senators who were here prior to 1996 were about dog kennels, Thai teak tables and expenditure at the Lodge. We have two official residences in this country for Prime Minister Howard: Kirribilli House and the Lodge in Canberra. It is interesting that one of the first decisions Mr Howard took on taking office as Prime Minister 11 long years ago was to establish a second official residence at Kirribilli House. One residence was not good enough for Mr Howard; he had to have two—one here in Canberra and one in Sydney. One residence was good enough for the former Prime Minister, Mr Keating—and we used to get constant questions in this chamber about the alleged dog kennel and the Thai teak table. But for Prime Minister Howard, it was necessary to have two residences.

Over the last 11 years, Senator Ray, Senator Faulkner and others have highlighted the significant additional cost to the Australian taxpayer of the Prime Minister maintaining two official residences. No-one complains about the Prime Minister having one official residence. What was good enough for Paul Keating? For that matter, what was good enough for Sir Robert Menzies? I recall that the Lodge was good enough for them. But one of the first decisions Prime Minister Howard took was to introduce a second residence—Kirribilli House. As I have mentioned, my colleagues Senator Ray and Senator Faulkner have, over the last 11 years, highlighted the additional costs involved in having two official residences for the Prime Minister—the cost of alcohol, the cost of
capital upgrades, the cost of security, the cost of food, the cost of curtains and the like.

As I say, no-one complains about one official residence—but two! And recent events were exposed at estimates as a consequence of the Liberal Party national conference. No-one opposes the Liberal Party national conference running business observer functions. I think this function cost about $8,000 per head. But it was a shambles. Former Senator Baume, now Mr Baume, used to say a lot in here about piggeries in relation to the former Prime Minister, Mr Keating. Mr Baume drew attention to the total shambles of the Liberal Party conference. Apparently it was an organisational disaster. Business observers could not understand how the supposed party of business could be so disorganised; it was a shambles. None other than former Senator Baume had to write and complain in order to get a ticket to the function—presumably the function at Kirribilli House.

Senator McGauran—It was so popular.

Senator SHERRY—‘It was so popular,’ says Senator McGauran. There is no complaint about fundraising for business activities or for delegates, but involving Kirribilli House—the second official residence of the Prime Minister—in that fundraising activity is where the line needs to be drawn. As I said, the business observers function was apparently at a cost of about $8,000 per head. Part of the commercial fundraising package was a cocktails, wine, oysters, prawns and soup event at Kirribilli House. Kirribilli House is owned by the taxpayer. The quoted cost of that package, with associated security for some 225 guests, was $5,186.78. It does seem a suspiciously low attributed cost when you compare it to the commercial costs at a local restaurant, the Guillaume restaurant, with harbour views, where the cost is $30 a person. It does seem a suspiciously low cost on a commercial basis for providing this—(Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (3.09 pm)—Certainly this is a fixation that the Labor Party have, as demonstrated by the interest they have taken with the recent conference that was held in Sydney. A function was held on 1 June at Kirribilli House. The decision to hold the function took into account previous advice that has been provided by the department—

Senator Robert Ray—Reading weasel words is not a good idea.

The DEPUTY PRESIDENT—Senator Fierravanti-Wells, please continue.

Senator FIERRAVANTI-WELLS—I will when Senator Ray stops interjecting. It was thought to be appropriate to hold such functions at Kirribilli House, and business observers were invited to attend the function. The decision to hold that function took into account previous advice given by the Department of the Prime Minister and Cabinet that it was appropriate to hold such a function on a full cost-recovery basis as long as it was not a fundraising function. The function was attended by 225 guests. The total function cost was $5,186.69, which covered food, $2,128.50; beverages, $1,476.52; casual staff, $829.57; and hire charges, $752.10. The cost of the function has been reimbursed by the Liberal Party. The food and beverage served at the function was purchased separately for the function and existing stock was not used. Audiovisual costs for the function were billed directly to the Liberal Party. The cost of full-time staff was not charged to the Liberal Party, as that cost would have been incurred in the normal running of the house. As I said, the full costs were billed to the Liberal Party and the Liberal Party has reimbursed those costs.
Senator George Campbell—I’ve heard this before. I think you used this statement yesterday.

The DEPUTY PRESIDENT—Senator Campbell, order!

Senator FIERRAVANTI-WELLS—This is the fixation the Labor Party has with Kirribilli and the Lodge. All you had to do was listen to Labor senators at estimates recently, when they got fixated with such things as sewing machines at the Lodge. They went to great lengths to complain about a $647 sewing machine that had been purchased for the Lodge. What a fixation! For anybody that knows anything about running houses—

Senator George Campbell—Mark Scott stitched you up at estimates!

Senator FIERRAVANTI-WELLS—Clearly, Senator Campbell, you do not know much about running houses, because you would know that a sewing machine is very useful in a household. In any case, you would otherwise have had to send items out, incurring further cost to the taxpayer. The point I am making is that this is the sort of fixation that you lot over there have with this sort of thing. One need only go back to the time when the Lodge and Kirribilli were occupied by those opposite. We do not hear anything about when your lot occupied Kirribilli and the Lodge. Nothing is said about the entertainment costs that were incurred at that time.

On this particular occasion, yes, the Prime Minister did hold a function at Kirribilli House. As I have said, the decision to hold the function took into account previous advice from the Department of the Prime Minister and Cabinet. It was appropriate to hold the function there on a full cost-recovery basis. As I have said, the cost of the function has been reimbursed by the Liberal Party. Certainly advice has been provided to that extent. I think that, as Senator Minchin said yesterday, it is not appropriate for that advice to be tabled at this point.

Senator ROBERT RAY (Victoria) (3.14 pm)—I want to announce today that scientists have identified a gene in Liberal Party members that causes them amnesia. Those opposite are great forgetters. They have written Malcolm Fraser out of history. They forget that their current Prime Minister, when he was Treasurer, left this country with double-digit inflation, double-digit unemployment, double-digit interest rates and a deficit, in constant dollars expressed today, of $25 billion. They have forgotten that, but what they have really forgotten are all the questions they asked between 1993 and 1996 about the Lodge. I remember that because I had to sit where Senator Minchin is sitting today—because Senator Gareth Evans, the then Leader of the Government in the Senate, who was the foreign minister, often was not here. I had to answer stupid questions about the mythical heated dog kennels that did not exist. I had to answer questions about teak tables. I had to answer questions about Gould prints in the cabinet room, which, by the way, have appreciated in value five times over. If you wonder why we occasionally pay you back by asking questions about Kirribilli, the Lodge or the Prime Minister’s office, it is simply to say that you did exactly that so you can have a bit back.

Look at the two issues that have come up recently. Take the dining room in the Prime Minister’s office—each extra seat at the table was going to cost $125,000. This typifies this government—not the expenditure but the response. They responded later in the day by saying: ‘We’re cancelling this project. We hadn’t realised the cost.’ That would be believable except that they were told the costs in the previous December. They sacrificed this project not to save money but because the political heat was on them. The Liberal senator who spoke previously said, ‘Surely
you can have one of these functions at Kirribilli.’ But this is the first, and this differs. If you just invited the Liberal Party delegates to your national convention out to Kirribilli for drinks, there is no problem because that is the history; that has happened over a number of years. But what you invited as part of a package was your business observers. You advertised it and put it up front; it was part of the inducement to sign up business observers that they could go and have drinks at Kirribilli. Frankly, what difference is there between that and the criticisms by your neocon friends in the United States of Bill Clinton’s use of the White House—the sleepovers and the fundraising that occurred? There is no difference whatsoever! This was an abuse of the Kirribilli residence.

I do not quite share the view of Senator Sherry. I do not mind the Prime Minister occupying Kirribilli and the Lodge. If you go back through the record from 1996, you will not find criticism by me of that actual decision, because, given the cost of security at the other house and all the rest of it, it did not necessarily make bad sense to occupy both. But when you do occupy both, you have a higher responsibility to the Australian taxpayer to minimise the costs. While I am on the question of costs, frankly I do not believe the explanation. I do not think you can cater for 225 people at $20 a head. That has not been my experience in all the functions that I have run. I am told that there was seafood, soup and other things and that the catering costs came in at $9 a head. I tell you what, I want to get a piece of that for all the functions we have to run. I want to know the name of the caterers. We will use them even though you have used them. We will put our principles aside, because this price is too good.

There are other issues that we have raised that we want answers to. If you have actually charged people to go, we want to know whether you had a liquor licence. It is not so much that we want you prosecuted over that, but you insist on the imposition of the law on others—that there be no exceptions, that people be prosecuted if they offend against the law—and you are subject to the same law. You are subject to the Australian electorate act, which says that donations in kind have to be declared. There is no doubt here that there have been donations in kind. We want to know whether you will in fact pass that on to the Australian Electoral Commission.

Finally, I have to say this. Every time I hear a leader get up in this place and say, ‘We acted on advice from the Prime Minister’s department,’ I would like to see that advice—and the reason for not tabling it this time is nothing more than weasel words. If it is a well-argued and cogent case then maybe we will concede some ground, but I bet it is not. (Time expired)

Senator ADAMS (Western Australia) (3.19 pm)—I rise to take note of the answers given by the Leader of the Government in the Senate, Senator Minchin. In so doing, I would like to correct some of the comments made by those opposite. I was a parliamentary observer at our federal council meeting. It was not, as Senator Sherry said, the Liberal Party federal conference; it was actually a council meeting and that was a very different scenario. Our federal conference is usually held in each state and we have a much larger number of people. Senator Sherry also said the whole thing was a shambles. I can assure you that it was not a shambles and that, as a parliamentarian, I gained a terrific lot from it, meeting with all the delegates and the business observers when I had the opportunity.

Senator Hutchins—Did you go? Were you there?
Senator ADAMS—I said I am not a delegate; I am a parliamentary observer. There is a difference and I will explain it.

Senator Hutchins—Did you go to Kirribilli House?

Senator ADAMS—I was not invited to Kirribilli House, because I am not a delegate. I am a parliamentary observer. There is a difference.

Senator George Campbell—So you weren’t invited?

Senator ADAMS—I did not go. I was not invited because, as I am trying to tell you—

The DEPUTY PRESIDENT—Order! Senator George Campbell! Senator Adams, just refer your comments to the chair and ignore the interjections.

Senator ADAMS—As I was going on to say, at this national council meeting you have delegates from each state division who are permitted to be there as delegates, and we also have our federal executive. Other people who wish to go are observers, and we have another class of observers—parliamentary observers. I was there as a parliamentary observer, and so were Senator Parry and Senator McGauran. I just wanted to set the record straight.

Senator Hutchins—Did you have to pay?

Senator ADAMS—Of course we had to pay. We paid a registration fee. Once again, we were not invited to Kirribilli House, because we are not delegates; we are parliamentary observers.

As far as parliamentary delegates went, they did not get an opportunity to mix with business observers, simply because they were involved with the council meeting. This particular social event was an opportunity for delegates from all the states to meet with the business observers. It was one of the real opportunities they had. They were invited to a social event and that was very—

Senator George Campbell—Did you lot go home?

Senator ADAMS—It was for delegates. I used to be a delegate, but now that I am a politician I am no longer one. We did not go home; we did other things. Business observers who attended Kirribilli House were really delighted with the opportunity to meet with our conference delegates from each state, as I said. The business observers and the council delegates had this rare opportunity to be able to meet and greet and talk to one another at this function because, as I have already explained, the council delegates had been involved with the council meeting over the two days that it was held. They were there talking to the ministers and senior advisers; they did not have an opportunity to speak with business observers. This is why that group of people went to Kirribilli House. As I have said, it really was a great success. All the states meeting together and our delegates, who are lay party people, to catch up with them, talk to them and socialise with them was very good. To set the record straight: the invitation to Kirribilli House was for our council delegates to meet with business observers.

Senator HUTCHINS (New South Wales) (3.23 pm)—I must say after those valiant efforts by Senator Fierravanti-Wells and Senator Adams they should be commended back in the party room. I notice none of the other heroes over that side put their hands up to try to defend the indefensible, and I must say that, after Senator Adams’s contribution, I am a little bit more confused about who went. There might have been more than 225 guests at this nosh-up. Was it just the business observers paying the $8,000-odd for the introduction to Kirribilli House, the prawns, the rock oysters—I am assuming they would be Sydney rock oysters—and posh soup? I cannot work out what the posh soup was; maybe Julian can tell me. Maybe it was vi-
chysoise. I do not know, that is about the only posh soup I know of, but you would probably know of a few more. Then you have the fine wines. If you work it on the basis that there were only 225 people—I am assuming that is 225 people who paid the $8,000-odd—I am not sure if there are any freeloaders on top of that. Are those freeloaders the Liberal Party Council delegates? I am not sure from the contribution just made by Senator Adams if they are included because it may be that there are more people who have gone to this function. So if we divide this so-called cost of the function of $5,000-odd, we might have to divide it by more. That would mean that for the prawns and the Sydney rock oysters—one oyster, one prawn and the posh soup, if there are only 225 paying people it comes to $9.46 a head. That is still only 225 paying people plus these fine wines—it does not mention beer and it does not mention spirits, so I am assuming it is nice, fine wines. That is $6.46 per head. Where in Sydney can you dine and drink for that sort of money at that sort of venue? You can go to anywhere around Sydney—start at Doyles at Watsons Bay—do you think you can go in there and grog on and put your snout in the trough for two hours, have some prawns and some oysters for $9.46? Do you think you would pay $6.56 for some wine? If you go to Catalina further along, do you reckon you could do that for that amount of money? Could you dine in these nice, prime locations? Go to the Royal Sydney Yacht Squadron, which is right near Kirribilli House. Do you reckon you could dine at the Kirribilli Workers Club, as some people call it, for $9 for food and $6 for some grog? Not on your nelly! The only place you would be able to dine for that sort of money in that sort of location might be Harry’s Cafe de Wheels down in Woolloomooloo, and you do not get that same sort of ambience from that part of Sydney that you do looking across from Kirribilli House.

I have never been to Kirribilli House. I think Senator Campbell has in his days of dealings and all of that. I have been outside Kirribilli House protesting, but I have never been inside. I do not know when the opportunity might arise for me to go in, but I would like to know how you could feed anybody at that location and at that venue serving that type of food for that figure. You simply cannot. No wonder we question how much this cost the Liberal Party to put on. There is no way in the world, if there were 225 paying guests, that you could do this for just over five grand. I agree with Senator Ray. I do not object to the Prime Minister using this as an official residence, and I would not even object to him taking the Liberal Party Council there to show them the place, but when it is used as a fund-raising venture they should pay for it. That is the point we have been making for some time. We have seen instances of how much it costs for charities or whoever else to rent out the Great Hall; I think it is $46,000 for a few hours. What do you imagine the real cost would be to rent out Kirribilli House for the amount of hours that those Liberal Party delegates and functionaries were exposed to on that evening? I think it is outrageous. As we delve more and more into this we will find that it has been rorted by the Liberal Party and it is something that the Prime Minister, who always tries to say he is above all this, will live to regret.

Question agreed to.

Smartcard

Senator STOTT DESPOJA (South Australia) (3.29 pm)—I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Ellison) to a question without notice asked by Senator Stott Despoja today relating to proposed
legislation to establish a health benefits, veterans’ and social access card.

I am so sorry to break the mood in this place—Senator Hutchins’s good food guide in Sydney—but this is a similar matter and goes to the heart of issues of accountability by government.

Obviously, Mr Deputy President, you heard some questions today relating to former senator Ian Campbell’s appointment. My particular interest is in relation to this new exposure draft of the legislation that we have been told to expect. My understanding from the answer today in question time is that we will see such a draft over the next couple of weeks. We have been told that that process, the consultative period—whatever that may involve—will actually take about two months. So, Mr Deputy President, if you do the math, we are assuming that we will see this process completed around August, which presumably then gives the government time to refine, rewrite, amend or whatever the legislation so that they come to this place with a final Human Services (Enhanced Service Delivery) Bill 2007, also known as the access card legislation.

I am just wondering how much time that leaves for the previously promised Senate inquiry—and I take the government at its word that it will indeed refer the legislation to a Senate committee—and then of course we will have the debate on that legislation. If you do the math, recognising that we have only about four sitting weeks after we return from the winter break, presumably, before parliament is prorogued for an election campaign, and the election, it does not look like we are going to see the access card legislation in this place anytime soon. So I wonder if this is just a convenient deflection by a government that was starting to feel a little unpopular and feel a little bit of heat over a proposal that was ill thought out, hastily prepared and inadequately consulted on—something the government has now, albeit belatedly, acknowledged with this new round of consultation. The minister said today that people like me have been arguing for further consultation: you bet we have. So I commend that aspect of the proceedings.

But I am a little concerned about the implications, both financial and other, of the delayed process. In particular, today I referred to the fact that tenderers in the process are potentially—well, decidedly—being inconvenienced as a consequence of this process. I certainly note, as did the minister, today’s Financial Review story entitled ‘Angry smartcard bidders want answers’. In relation to the initial consultation, we should remember of course that the first exposure draft was released over Christmas, so only those people who could read that—or were girly-swotty enough to read that—over Christmas were able to put in their various submissions and be part of the consultation process. And the sector did. From privacy groups through to a range of technology organisations right through to community concern groups etcetera, they were a part of that process; they came up with ideas.

Then we saw the hastily drafted first tranche of the legislation enter this place. I cannot refer to a decision of the parliament because we did not make a decision, although it was referred to a Senate committee for what was a very fast process considering the complexity and the privacy, security, financial, political, social, departmental and other implications of that legislation. There were three public hearings and it went off to a committee. But it was one of the few times in this new Senate—that is, the Senate controlled by the government—that we actually saw a unanimous committee report that went to the heart of some of the concerns that we have with the proposed legislation.
Indeed, we were successful in halting the access card legislation, not by ensuring that that first tranche of legislation was withdrawn—and I wonder if the government will withdraw that legislation before it introduces a new bill—but by in fact halting that process so that the government could come back to us with some details about what the function of the card actually was, bearing in mind that that legislation had minimal privacy safeguards. It did not define ‘authorised access’ or ‘unauthorised access’, whether or not people could access their information or whether or not they could correct incorrect information that was stored about them. It did not do anything about limiting extraordinary ministerial discretion. It did not do anything about answering the concerns that people had about the fact that this register will be the first and largest register of Australians in the history of this country and, therefore, potentially one of the biggest intrusions into the private lives of Australians that this country has ever seen. It was ill-thought-out, hastily drafted law and it deserved to be quashed. (Time expired)

Question agreed to.

NOTICES

Presentation

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

That the Senate:

(a) notes that:

(i) the Global Fund to Fight AIDS, Tuberculosis and Malaria was established in 2002 to provide necessary funding for international programs to deal effectively with these diseases,

(ii) HIV/AIDS, tuberculosis (TB) and malaria are diseases that affect proportionately more people who live in poverty, particularly in the Asia-Pacific region,

(iii) more than 6 million people die from these diseases each year, and despite rapid increases in treatment, only one-fifth of people with HIV who need anti-retroviral treatment are receiving it,

(iv) TB is a leading killer of people infected with HIV, however, with the proper treatment of TB, this can prolong the lives of people with HIV by years and at a very low cost,

(v) the Global Fund has received $US6.7 billion since its inception but reports that significantly more is required in order to adequately combat HIV/AIDS, TB and malaria,

(vi) Australia’s past contribution to the Global Fund totals $AUD55 million and in the 2007-08 Budget the Government indicated it would allocate a further $AUD45 million,

(vii) by 2010, Australia’s fair share of support for the Global Fund is calculated by RESULTS Australia and other international non-government organisations to be $AUD220 million per year, and

(viii) at the recently concluded G8 meeting, world leaders promised $US60 billion to fight HIV/AIDS, TB and malaria over the next few years, which includes a $US30 billion commitment from the United States of America to fight HIV/AIDS over a 5-year period;

(b) urges the Australian Government to support the G8’s commitment to the fight against HIV/AIDS, TB and malaria by realising its fair share of funding for the Global Fund; and

(c) urges the Australian Government to make a 4-year commitment to the Global Fund of $AUD640 million.

Senator Humphries to move on the next day of sitting:

That the Community Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 June 2007, from 4 pm, to take evidence on a matter relating to the PET review.

Senator Abetz to move on the next day of sitting:
(1) On Thursday, 14 June 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, 15 June 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, 19 June 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, 21 June 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:
   Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007
   Aged Care Amendment (Residential Care) Bill 2007
   Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2007
   Agriculture, Fisheries and Forestry Legislation Amendment (2007 Measures No. 1) Bill 2007
   Appropriation (Parliamentary Departments) Bill (No. 1) 2007-2008
   Appropriation Bill (No. 1) 2007-2008
   Appropriation Bill (No. 2) 2007-2008
   Appropriation Bill (No. 5) 2006-2007
   Appropriation Bill (No. 6) 2006-2007
   Australian Centre for International Agricultural Research Amendment Bill 2007
   Australian Wine and Brandy Corporation Amendment Bill (No. 1) 2007
   Communications Legislation Amendment (Content Services) Bill 2007
   Corporations Legislation Amendment (Simpler Regulatory System) Bill 2007
   Corporations (Fees) Amendment Bill 2007
   Corporations (Review Fees) Amendment Bill 2007
   Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Bill 2007
   Evidence Amendment (Journalists’ Privilege) Bill 2007
   Families, Community Services and Indigenous Affairs Legislation Amendment (Child Care and Other 2007 Budget Measures) Bill 2007
   Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007
   Financial Sector Legislation Amendment (Restructures) Bill 2007
Senator Murray to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to encourage and facilitate the disclosure of information in the public interest, by protecting public officials and others who make disclosures, and for related purposes. **Public Interest Disclosures Bill 2007**.

Senator Allison to move on the next day of sitting:

That the Senate:

(a) notes:

(i) the imprisonment since November 2005 by the Ethiopian Government of members of the main opposition party, representatives of civic organisations and the banned free press, and

(ii) these prisoners are declared by Amnesty International to be prisoners of conscience; and

(b) urges the Government to make representations to the Ethiopian Government asking for the release of these prisoners of conscience, and to accept the results of the 2005 democratic election.

Senator Stephens to move on the next day of sitting:

That the following matters be referred to the Community Affairs Committee for inquiry and report by 13 September 2007:

(a) the cost of living pressures on older Australians, both pensioners and self-funded retirees, including:

(i) the impact of recent movements in the price of essentials, such as petrol and food,

(ii) the costs of running household utilities, such as gas and electricity, and

(iii) the cost of receiving adequate dental care;

(b) the impact of these cost pressures on the living standards of older Australians and their ability to participate in the community;

(c) the impact of these cost pressures on older Australians and their families, including caring for their grandchildren; and

(d) the adequacy of current tax, pension and concession arrangements for older Australians to meet these costs.
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.35 pm)—I give notice that, on the next day of sitting, I shall 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:

Tax Laws Amendment (Simplified GST Accounting) Bill 2007

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

Leave granted.

*The statements read as follows—*

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2007 WINTER SITTINGS**

**TAX LAWS AMENDMENT (SIMPLIFIED GST ACCOUNTING) BILL 2007**

**Purpose of the Bill**
The Tax Laws Amendment (Simplified GST Accounting) Bill will amend the *A New Tax System (Goods and Services Tax) Act 1999* to allow the Commissioner of Taxation to determine in writing simplified accounting methods to reduce the GST compliance costs on small businesses that make mixed (taxable and GST free) supplies or have mixed purchases.

**Reasons for Urgency**
This measure was announced in the 2007-08 Budget and is a high priority for the government. Enactment before 1 July 2007 will allow the Commissioner to put determinations in place for use in the 2007-08 financial year.

**WHEAT MARKETING AMENDMENT BILL 2007**

**Purpose of the Bill**
The bill:

- extends the Minister for Agriculture, Fisheries and Forestry’s current temporary power of veto over bulk wheat exports until 30 June 2008;
- inserts new information gathering powers for the Wheat Export Authority;
- inserts a power for the Minister to direct the Wheat Export Authority to undertake investigations into certain matters;
- inserts a power for the Minister for Agriculture, Fisheries and Forestry to change nominated company B;
- deregulates wheat exports in bags and containers, but with the addition of a quality assurance mechanism; and
- makes changes to the governance arrangements for the Wheat Export Authority that will result in it becoming an agency subject to the Financial Management and Accountability Act 1997 with a skills based commission of between 4 and 6 members.

**Reasons for Urgency**
On 22 May 2007 the Prime Minister announced in the House of Representatives future arrangements for wheat marketing, including that the Minister for Agriculture, Fisheries and Forestry would have his bulk veto power extended for a further 12 months. The current temporary bulk veto power held by the Minister for Agriculture, Fisheries and Forestry is due to expire on 30 June 2007. Urgent amendment is required to the Wheat Marketing Act 1989 to extend the Minister’s power and prevent the veto power reverting to AWB (International) Ltd.

Senator Milne to move on the next day of sitting:

That the Senate:

(a) notes that:

(i) renewable electricity generators face significant barriers to entry into the electricity market,

(ii) households selling electricity into the grid are typically paid low prices that do not fairly reflect the value of zero emission, distributed energy,

(iii) ‘feed-in’ tariffs have secured market incentives, driving an unprecedented ex-
pansion of the renewables industry in several European nations, and
(iv) policies such as feed-in tariffs and renewable energy targets are intended to foster emerging industries to ensure that deep cuts in greenhouse gas emissions can be achieved in the medium- and long-term; and

(b) calls on the Government to reject the recommendation of the Prime Ministerial Task Group on Emissions Trading that, ‘All Australian schemes that set mandatory targets for deployment of particular technologies should be wound up over time, and new ones foreclosed’.

Senator Nettle to move on the next day of sitting:
That the Senate:
(a) notes that 10 June 2007 marks 40 years since the Israeli occupation of the West Bank, Gaza Strip and Golan Heights; and
(b) calls on the Australian Government to:
(i) take action to ensure that Israel complies with United Nations Security Council Resolution 242 passed unanimously in 1967 that calls for a ‘withdrawal of Israel armed forces from territories occupied in the recent conflict’,
(ii) ensure that humanitarian relief is provided to those who need it, particularly the children in Palestine,
(iii) stop providing arms to Israel, and
(iv) play a constructive role to ensure that peace and justice can be achieved in Palestine, Israel and the Middle East.

Senator Milne to move on 21 June 2007:
That the following matter be referred to the Economics Committee for inquiry and report by 6 October 2007:
An assessment of the benefits and costs of introducing renewable energy feed-in tariffs in Australia, including an evaluation of:
(a) barriers to the expansion of the renewable energy industry in general and within the electricity market in Australia in particular;
(b) the likelihood that carbon prices generated by an emission trading system will be insufficient to overcome these barriers in the near term; and
(c) options to link the Mandatory Renewable Energy Target scheme (with an increased target) with feed-in tariffs to guarantee a viable return on investment for investors in a range of prospective renewable energy technologies.

COMMITTEES
Selection of Bills Committee
Report
Senator PARRY (Tasmania) (3.39 pm)—I present the ninth report for 2007 of the Selection of Bills Committee. I seek leave to have the report incorporated in Hansard.

Leave granted.
The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 9 OF 2007
1. The committee met in private session on Tuesday, 12 June 2007 at 4.16 pm.
2. The committee resolved to recommend—
(a) the provisions of the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007 be referred immediately to the Community Affairs Committee for inquiry and report by 18 June 2007 (see appendix 1 for statements of reasons for referral);
(b) the provisions of the Australian Citizenship Amendment (Citizenship Testing) Bill 2007 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 31 July 2007 (see appendix 2 for statements of reasons for referral); and
(c) the provisions of the Fisheries Legislation Amendment Bill 2007 and the Fisheries Levy Amendment Bill 2007 be referred immediately to the Rural and Regional Affairs and Transport Committee for inquiry and report by 18 June 2007

CHAMBER
The committee resolved to recommend—
That the following bills not be referred to committees:

- Agricultural and Veterinary Chemicals (Administration) Amendment Bill 2007
- Agriculture, Fisheries and Forestry Legislation Amendment (2007 Measures No. 1) Bill 2007
- Corporations (Fees) Amendment Bill 2007
- Corporations (Review Fees) Amendment Bill 2007
- Corporations Amendment (Insolvency) Bill 2007
- Corporations Legislation Amendment (Simpler Regulatory System) Bill 2007
- Customs Tariff Amendment Bill (No. 1) 2007
- Defence Force (Home Loans Assistance) Amendment Bill 2007
- Evidence Amendment (Journalists' Privilege) Bill 2007
- Families, Community Services and Indigenous Affairs Legislation Amendment (Child Care and Other 2007 Budget Measures) Bill 2007
- Family Assistance Legislation Amendment (Child Care Management System and Other Measures) Bill 2007
- Financial Framework Legislation Amendment Bill (No. 1) 2007
- Financial Sector Legislation Amendment (Restructures) Bill 2007
- Migration (Sponsorship Fees) Bill 2007
- Migration Amendment (Statutory Agency) Bill 2007
- Product Stewardship (Oil) Amendment Bill 2007

The committee recommends accordingly.

4. The committee considered a proposal to refer the provisions of the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007 to the Community Affairs Committee, but was unable to reach agreement on whether the bill should be referred (see appendix 4 for a statement of reasons for proposed referral).

5. The committee considered a proposal to refer the provisions of the Higher Education Legislation Amendment (2007 Budget Measures) Bill 2007 to the Employment, Workplace Relations and Education Committee, but was unable to reach agreement on whether the bill should be referred (see appendix 5 for a statement of reasons for proposed referral).

6. The committee deferred consideration of the following bill to its next meeting:

(Stephen Parry)
Chair
13 June 2007

SELECTION OF BILLS COMMITTEE
REPORT NO. 9 OF 2007

Appendix 1

PROPOSAL TO REFER A BILL TO A COMMITTEE

Name of bill(s):
National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2007

Reasons for referral/principal issues for consideration
Consideration of the bill as necessary.
Possible submissions or evidence from:
Committee to which bill is to be referred:
Community Affairs
Possible hearing date(s):
18 June 2007
(signed) Stephen Parry
Whip/Selection of Bills Committee member
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
National Health Amendment (PBS) Bill 2007
Reasons for referral/principal issues for consideration
Bill proposes significant changes to the PBS which require scrutiny
Possible submissions or evidence from:
Health sector, consumer groups, DOHA
Committee to which bill is to be referred:
Community Affairs
Possible hearing date(s):
15 June
Possible reporting date:
19 June 2007
(signed) G Campbell 12/6/07
Whip/Selection of Bills Committee member
Appendix 2
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Australian Citizenship Amendment (Citizenship Testing) Bill 2007
Reasons for referral/principal issues for consideration
To examine the viability and operation of the provisions of the bill which intends to impose the requirements of a Citizenship test on prospective migrants.
Possible submissions or evidence from:
Prof Helena Rubenstein
Multicultural Development Association (MDA) – Brisbane
Migrant Resource Centres
Ethnic Communities Councils and other multicultural organisations
Southern Cross groups
Migration Institute of Australia
Committee to which bill is to be referred: Rural and Regional Affairs and Transport
Legal and Constitutional Affairs Legislation Committee
Possible hearing date(s):
Possible reporting date:
August 7th 2007
(signed) Andrew Bartlett
Whip/Selection of Bills Committee member
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Australian Citizenship Amendment (Citizenship Testing) Bill 2007

Reasons for referral/principal issues for consideration
To examine the provisions of the bill which will introduce a formal Citizenship test for prospective citizens.

Possible submissions or evidence from:
Prof Helena Rubenstein
Prof Bob Birrell,
FECCA,
MRCS
AMEP providers
Other Ethnic/Multicultural Community Organisations (especially those who made submissions to discussion paper on Citizenship Test)
Southern Cross groups

Committee to which bill is to be referred: Rural and Regional Affairs and Transport
Legal and Constitutional Affairs Legislation Committee

Possible hearing date(s):
Possible reporting date:
Week commencing 7th August
This week
Possible reporting date:
By Tuesday, Next Week 19/6/07
(signed) George Campbell 12/06/07

Whip/Selection of Bills Committee member
Appendix 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Aboriginal Land Rights (NT) Am (Township Learning) Bill 2007

Reasons for referral/principal issues for consideration
To consider the merits of township learning model, particularly the entity holding the land lease

Possible submissions or evidence from:
NT Land Councils and other relevant parties

Committee to which bill is to be referred:
Legal and Con

Possible hearing date(s):
Possible reporting date:
23/8/07
(signed) George Campbell 12/6/07

Whip/Selection of Bills Committee member
Appendix 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):

Reasons for referral/principal issues for consideration
To examine the impact of the 2007 higher education Budget measures on the university sector and university students; and
To seek further information on how these proposed measures will operate.

Possible submissions or evidence from:
Universities Australia
National Tertiary Education Union
National Union of Students
Group of Eight Universities
Australian Technology Network of Universities
Council of Australian Postgraduate Associations
Federation of Australian Scientific and Technological Societies
Department of Education, Science and Training.

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

Possible hearing date(s):
Possible reporting date: 3 August 2007
(signed) Andrew Bartlett

Whip/Selection of Bills Committee member

Senator PARRY—I move:
That the report be adopted.

Senator LUDWIG (Queensland) (3.39 pm)—Before the report is adopted, it is worth commenting on two matters, but I only want to go to one. What we have in this is a process of the Selection of Bills Committee which provides the opportunity for bills to be referred to committees, to be examined by senators and for reports to be prepared and tabled in parliament. When the committee does not reach agreement with respect to bills to be referred then they are usually listed in the committee report. Two such committee bills are the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007 and the Higher Education Legislation Amendment (2007 Budget Measures) Bill 2007. That means the committee did not come to a conclusion about the referral to a Senate committee with respect to those two bills. In respect of the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007, it is incumbent on the government in that instance to say why it should not go to a committee if there was a reference for it to go to a committee.

The statement by the government for the reasons of urgency with respect to that bill is this: timing is critical to allow Indigenous land tenure reform in the Northern Territory to proceed. Without more, the government needs to justify why it needs to pass the bill in the two weeks so it cannot go to a committee, so it cannot be considered, so you cannot have the opportunity of having the relevant stakeholders involved in the process. Of course what the reference provides for by the relevant senators is to consider the merits of a township leasing model, particularly the entity holding the land lease. It would seem that the Northern Territory land councils and other relevant parties should have been provided with an opportunity to have input into that process and to consider the merits of the various models, particularly the entity holding the land lease. That would be the relevant way, unless there were significant reasons as to why that bill could not go to a committee and be dealt with in August, as other bills are.

Of course, it now really is incumbent on this government to provide those cogent reasons. Simply stating that timing is critical to allow Indigenous land tenure reform in the Northern Territory to proceed is not sufficient reason in itself. It is a statement; it does not provide the timing. What timing is critical? Are there agreements pending? Have parties reached agreement and are now awaiting signatures? That would be helpful to know otherwise it will be assumed that this is just a bland statement without substance. It would be necessary, if the government did need the bill, to be able to at least put that case.

Senator SIEWERT (Western Australia) (3.42 pm)—I also would like to speak about the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007. The Greens would have liked to have seen this referred to the committee and the
committee being given an opportunity to examine it. When we briefly touched on this issue during estimates, I felt a great deal of concern about the fact that I could not be provided with clear answers to a number of my questions. Take, for example, the issue of $5 million that is to be provided from the ABA to the traditional owners on the Tiwi Islands. This is the issue we were specifically talking about. That $5 million was being given from the ABA to the traditional owners in advance of any lease money that was coming back. When I asked where that $5 million goes once the lease money has been received—nobody knew what I was talking about at first—I was told one answer and then, two hours later, I was told a different answer. The different answer was that once that money that was originally given, because it is not a loan, by the ABA to the traditional owners had been received in lease money it was then given to the entity to then fund the leases and the lease process in other towns. That sort of information and that sort of process needs to be examined. The department could not tell us the answer straightaway, nor could the minister. It took hours to get that information.

I think that is important information. I think that sort of detail is the sort of detail the committee needs to be asking about, and I am certainly not reassured that they have got this right. This legislation has been rushed, and I agree with Senator Ludwig—that is, that communities in the NT should have been able to examine this legislation and should have been able to appear before a committee to give us their opinion. This affects not only the Tiwi Islands; this also affects other areas in the NT. I bet the NLC and the CLC have fairly strong opinions on these issues. These are very significant issues that should be examined.

The other thing is that the minister said that an agreement had been reached between the traditional owners on the Tiwi Islands and the government. There was a big brouhaha about it, there was a media release, but in fact no such agreement has been reached. An MOU has been signed, with, I understand, still quite a bit of further work to be done. Information that was given to the Senate Standing Committee on Community Affairs during estimates turned out to be incorrect. That is the information we found out about; we do not know how much more of that was incorrect. We do not know the full implications of this legislation, and we certainly will not be able to find it out in the short time that this place will have to consider it without it going to the community affairs committee to be examined.

I do not think enough information was provided by the government to justify why this lease has to be rushed through. It is the same sort of thing that was done last time with land rights legislation. It was rushed through, despite the government saying they had done extensive consultation, and everybody knew that large parts of that legislation had not been subject to consultation. It was the same thing with native title amendments: many of those changes were not subject to consultation. Now we have yet another repeat of the government rushing through legislation and not giving us adequate time to consider it and not even having the answers themselves.

Senator BARTLETT (Queensland) (3.46 pm)—There are a few aspects of this report that I would like to comment on. Firstly, I would like to note that the report does refer the legislation dealing with the citizenship test to a committee. That committee has about six weeks to examine that issue, which is much longer than committees are used to getting these days but still not quite as long as the Democrats would have liked, as is shown in the appendix to the report. But at least there is some opportunity for that ex-
amination, which is more consultation than was provided when the whole issue was first put on the agenda at the end of last year.

The Democrats also share the concerns regarding the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007. This is compounding an error. When the very significant amendments to the land rights act were put through the Senate last year, they were sent to a committee and the time frame for that inquiry was totally inadequate. When you are dealing with an issue that is so fundamental, that is so important and that affects people’s rights so directly then you need to make sure that consultation was done properly. It was very clear that there was insufficient consultation with a whole range of affected traditional owner groups in the Northern Territory. That increased their anxiety, that increased their concern, and it was so obvious that that was going to happen.

Indeed, I can remember speaking in this chamber when such notions as changes to the land rights act were first floated by the government and saying that I welcomed the opportunity to debate those and that I did not have a closed mind; but the one thing the government had to do was to make sure that those changes were put forward and that the people who were directly affected were given an adequate opportunity to consult and to consider those changes. It was not so much that I or other senators should have been given the opportunity to look at them; it was that the people who were directly affected should have been given the opportunity to look at them so that they could inform us and inform themselves.

That process was so flawed that eventually even the minister himself—after it had gone through parliament, of course—did concede that there were a few flaws with the process and that it could have been done better. Yet what do we see here—legislation, admittedly much narrower in its focus but still dealing with issues and concerns that are very current, very alive, very controversial and very much surrounded in uncertainty, and the committee is being prevented from looking at it at all. If there were a start-up date of 1 July that relied on a budget measure or something like that then maybe you could justify it, but there is not.

There is simply not sufficient reason to say that this has to be rubber-stamped now and that there is no opportunity for community input or examination of the issues surrounding the legislation. It is an extremely serious abuse, I would argue, of the Senate’s power. It is a very dangerous precedent, one of the many precedents that have been set in this area in the last couple of years. But the trouble, of course, is that this becomes an ingrained practice and we all become used to it.

There are a couple of other Senate committees that are reporting back on Monday. Maybe we can get away with that sort of time frame for those bills, but we are getting more examples of grossly inadequate time frames that are simply not allowing the people who are directly affected to be consulted—let alone allowing the Senate, which is making these decisions, to consider the issues. If we become used to that practice being the norm, to that being usual—another rubber-stamped Senate committee—it will become ingrained in the community as well.

I am certainly starting to hear from people who are saying: ‘There’s no point in putting in a submission to a committee because the time frame is not long enough. It is not being taken seriously, it is being rushed through and it is all going to be rubber-stamped.’ Even if that is not accurate 100 per cent of the time—and it is not accurate 100 per cent of the time; I accept that the government
does sometimes listen to recommendations in committee reports—and if that is the attitude that is developing out there then that is a serious problem and it is degrading the Senate committee system.

I would also note that the Democrats wished to have the Higher Education Legislation Amendment (2007 Budget Measures) Bill 2007 referred to a committee. That has not been agreed to. I will not push that point in terms of an amendment, because there is no point. We all get used to not bothering anymore, but the point still needs to be raised that we believe it merited examination. Indeed I would suggest that other legislation dealing with journalists' privilege—which I know is important and which I know people want passed but which only appeared less than a month ago—would have merited some examination as well. It is a serious concern and one that we need to flag every time. Otherwise, these sorts of things will become accepted practice and the Senate will not be the only loser; the community will be as well.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.51 pm)—I thank most senators in this debate for having kept their contributions very brief, and I will be doing the same. In relation to the Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Bill 2007, I think it needs to be recalled that the substantive bill, the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006, was in fact referred to the relevant committee for detailed consideration. The amendment bill deals with the issue of being able to allow the first township lease to be in place on the Tiwi Islands by July, when it is expected to be signed. We hope this legislation will come into force at the end of this financial year so that Aboriginal landowners will be actually given some degree of choice, which I understand the stakeholders in fact want.

In relation to Senator Siewert’s comments on this piece of legislation, in fairness, questions that you think are important at Senate estimates are not necessarily answered as the information is not at officials’ fingertips. In Senator Siewert’s contribution she indicated that she was provided with an answer a few hours later, which I think indicates that we are as responsive as we possibly can be and, of course, so are the departmental officials present. The fact that they do not have all the information at their fingertips all the time is not a matter for which any criticism ought to be levelled. It is good news for anybody listening that the officials go away and, within a matter of hours, are able to provide the answers that are being sought.

Regarding Senator Bartlett’s contribution, I think we got a tick and a cross in relation to the Australian Citizenship Amendment (Citizenship Testing) Bill 2007. That is a new bill and we thought it appropriate that it be given appropriate time for consideration. We are looking forward to seeing full consideration by the committee in relation to that. As I said regarding the Aboriginal land rights legislation, it is just an amendment to legislation that was looked into substantively by the relevant committee only last year.

The Higher Education Legislation Amendment (2007 Budget Measures) Bill 2007 is a budget measure and needs to be passed as soon as possible to provide certainty to universities who will start receiving first-round applications in September this year. Universities need to make plans now for the courses they will be offering next year. Those are the reasons: it is a budget measure and it is something that universities need to prepare themselves for by 1 January 2008. That is why we want this piece of legislation dealt with as expeditiously as possible.

Question agreed to.
SENA TE Wednesday, 13 June 2007

CHAMBER

LEAVE OF ABSENCE

Senator PARRY (Tasmania) (3.55 pm)—by leave—I move:

That leave of absence be granted to Senator Nash today, on account of ill health.

Question agreed to.

NEW SOUTH WALES FLOOD

Senator SANDY MACDONALD (New South Wales) (3.56 pm)—I, and also on behalf of all senators from New South Wales, move the motion, as amended:

That the Senate—

(a) notes the extensive and destructive flooding of the New South Wales Central Coast and Hunter region of New South Wales over the long weekend of 9 June to 11 June 2007;

(b) recognises the pain and loss being experienced by affected communities particularly with respect to the loss of life, property, housing, buildings, roads and community infrastructure;

(c) congratulates all levels of government and community organisations, particularly police, ambulance, Australian Defence Force, state emergency service personnel from far and wide, rescue crews and all those responding to the human heartache and loss brought about by this natural disaster; and

(d) acknowledges the enduring capacity of the Australian people to respond to the needs of its community in times of distress.

Question agreed to.

COMMITTEES

Joint Standing Committee on Publications Meeting

Senator PARRY (Tasmania) (3.56 pm)—I move:

That the Joint Standing Committee on Publications be authorised to hold a public meeting during the sitting of the Senate on Monday, 18 June 2007, from 12.30 pm to 1.30 pm, to take evidence for the committee’s inquiry into printing standards for documents presented to Parliament.

Question agreed to.

KERANG RAIL ACCIDENT

Senator RONALDSON (Victoria) (3.57 pm)—I, and also on behalf of all Victorian senators, move:

That the Senate sends:

(a) its sympathies to the families of the 11 people who were tragically killed in the Kerang train disaster;

(b) a message of support to those who were injured and wish them a full and speedy recovery;

(c) its gratitude to the emergency personnel, many of whom were volunteers, who performed with great skill and dedication during the rescue operation; and

(d) its thanks to the members of the public who offered assistance at the crash site, many of whom had been passengers aboard the train.

Question agreed to.

TELSTRA

Senator CAROL BROWN (Tasmania) (3.57 pm)—I, and also on behalf of Senators O’Brien, Polley and Sherry, move:

That the Senate—

(a) notes:

(i) the comments by the Member for Bass, Mr Michael Ferguson, on 17 August 2005 that the ‘sale of Telstra will not disadvantage Northern Tasmania’,

(ii) the announcement by Telstra on 5 June 2007 that it plans to close its Launceston Service Advantage centre, which will result in the loss of 257 jobs,

(iii) that, on top of this, a further 20 Telstra technician’s jobs were axed on 6 June 2007, and

(iv) the dramatic effect these redundancies will have on the lives of workers and their families; and

(b) calls on the Minister for Communications, Information Technology and the Arts (Senator Coonan) to join Tasmanian members and senators and the Tasmanian
State Government to lobby Telstra to reverse the decision.

Question put.
The Senate divided. [4.02 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………… 34
Noes…………… 36
Majority……… 2

AYES
Allison, L.F. Bartlett, A.J.I.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Carr, K.J. Crossin, P.M.
Faulkner, J.P. Fielding, S.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Murray, A.J.M. Nettle, K.
Ray, R.F. O'Brien, K.W.K.
Stephens, U. Polley, H.
Stott Despoja, N. Siewert, R.
Wong, P. Wortley, D.

NOES
Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Boswell, R.L.D.
Boyce, S. Calvert, P.H.
Chapman, H.G.P. Colbeck, R.
Coonan, H.L. Eggleston, A.
Ellison, C.M. Ferguson, A.B.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Heffernan, W.
Humphries, G. Johnston, D.
Joyce, B. Kemp, C.R.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. Minchin, N.H.
Parry, S. * Patterson, K.C.
Payne, M.A. Patterson, A.
Scullion, N.G. Ronaldson, M.
Tood, R.B. Troeth, J.M.
Watson, I.O.W.

PAIRS
Conroy, S.M. Nash, F.
Sherry, N.J. Brandis, G.H.

* denotes teller

Senator Conroy did not vote, to compensate for the vacancy caused by the resignation of Senator Ian Campbell

Question negatived.

WATER MANAGEMENT: NORTHERN RIVERS

Senator SIEWERT (Western Australia) (4.04 pm)—I ask that general business notice of motion No. 798, standing in my name and that of Senator Nettle for today relating to water conservation, be taken as a formal motion.

The PRESIDENT—Is there any objection to this motion being taken as formal?

Senator GEORGE CAMPBELL (New South Wales) (4.04 pm)—by leave—There are a number of key reasons why the Labor Party will not be supporting the motion. Firstly, the motion is vague. Labor oppose the damming of the Clarence and Tweed rivers, and this motion does not say that in clear terms. Secondly, Labor strongly support working with local communities, local water authorities and state governments in developing options for a future water supply. Based on strong concerns raised by the New South Wales government and the Northern Rivers communities, Labor oppose the Howard government’s proposal to dam the Tweed and/or Clarence rivers. Thirdly, the last part of the motion calls on the government to focus on water efficiency standards and water conservation, which is fine, but fails to mention water recycling, rainwater tanks and stormwater capture and storage. Therefore, Labor will be opposing the motion.

The PRESIDENT—As there is no objection to this motion being taken as formal, I call Senator Siewert.
Senator SIEWERT (Western Australia) (4.04 pm)—I, and also on behalf of Senator Nettle, move:
That the Senate—
(a) notes:
(i) the impact of reduced rainfall on inflows into river systems in northern New South Wales due to the combined effects of climate change and drought,
(ii) that serious water management issues already exist in these systems, including problems with the over-allocation of water resources, and
(iii) the economic value of the range of industries that depend on these systems, from dairy farms on the floodplains through to commercial fisheries; and
(b) calls on the Government to:
(i) abandon the further assessment of damming and extracting water from these northern rivers for additional water supplies for southeast Queensland, and
(ii) focus its efforts on non-runoff dependent alternative sources to meet increasing demand, such as setting water efficiency standards and water conservation measures.
Question negatived.

FOOD ADVERTISING TO CHILDREN
Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.06 pm)—I move:
That the Senate—
(a) recognises that, according to a survey of parents commissioned by the Coalition on Food Advertising to Children:
(i) 86.2 per cent support a ban on advertising of unhealthy foods at times when children watch television, and
(ii) 88.7 per cent agree that the Government should introduce stronger restrictions on food advertising at times when children are watching television; and
(b) calls on the Government to support a ban on food advertising during peak viewing times of children.
Question negatived.

COMMITTEES
Scrutiny of Bills Committee
Report
Senator ROBERT RAY (Victoria) (4.07 pm)—I present the sixth report of 2007 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 6 of 2007, dated 13 June 2007.
Ordered that the report be printed.
Senator ROBERT RAY—I move:
That the Senate take note of the report.
In tabling the committee’s Alert Digest No. 6 of 2007, I would like to draw the Senate’s attention to two bills that seek to establish offences of strict liability, the Fisheries Legislation Amendment Bill 2007 and the Corporations Amendment (Insolvency) Bill 2007.
Proposed new subsection 100B(1A) of the Fisheries Management Act 1991, to be inserted by item 5 of schedule 2 of the Fisheries Legislation Amendment Bill 2007, and proposed new subsection 101AA(1A) of the same act, to be inserted by item 7 of schedule 2 of the bill, apply strict liability to the element of the location of a foreign fishing boat in the Australian fishing zone, contained in the offences in sections 100B and 101AA of that act. The result of these proposed amendments is that, in a prosecution under either of those sections, the prosecution will only have to establish that fishers were in the territorial sea of Australia, not that they intended to be in such waters.

The Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers states that applying strict liability to a particular physical element of an offence,
as is proposed in this instance, may be considered appropriate where there is ‘demonstrated evidence that the requirement to prove fault of that particular element is undermining or will undermine the deterrent effect of the offence, and there are legitimate grounds for penalising persons lacking “fault” in respect of that element.’

The explanatory memorandum to the bill seeks to justify the imposition of strict liability on the basis that the ‘Commonwealth Director of Public Prosecutions has not been able to prosecute people for these offences because there have been difficulties collecting sufficient evidence to prove that the people intended to be in the territorial sea.’ However, the explanatory memorandum does not outline what ‘demonstrated evidence’ there is to support this assertion and the committee remains unclear about the extent to which the imposition of strict liability in these instances is consistent with the guide.

Proposed new subsection 161A(4) of the Corporations Act 2001, to be inserted by item 50 of schedule 1 of the Corporations Amendment (Insolvency) Bill 2007, creates an offence of strict liability in respect of certain companies which fail to set out their former name on all of their public documents and negotiable instruments. The explanatory memorandum states only that these offence provisions are ‘comparable to existing subsection 541(2)’ of the Corporations Act 2001, and that ‘several other offence provisions in the [Corporations] Act have similar penalties’.

The explanatory memorandum does not indicate whether the Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers has been consulted by documenting the evidence supporting the imposition of these offences and providing a clear rationale for any deviation from the guide. The committee has sought advice from the relevant ministers with respect to each of these bills. Pending the receipt of this advice, I draw the Senate’s attention to these bills.

Senator IAN MACDONALD (Queensland) (4.13 pm)—I am not a member of this committee but used to be at one stage. Fortuitously, I am in the chamber dealing with the next report. In response to Senator Ray’s comments about the fisheries bill and his seeking some advice as to why the strict liability offences were included, I refer Senator Ray to and remind him of the chase of the Viarsa. That incident occurred when the Australian patrol vessel the Southern Supporter came across the Viarsa in Australian territory and then proceeded to chase it all the way across three oceans through 30-metre seas and ice floes and apprehended it, with the assistance of the South African Navy and the
British fisheries vessel out of the Falklands, not far from Montevideo, where the Viarsa was running to.

We brought the vessel back to Australia and then a couple of years of legal procedures transpired. The jury were hung in the first instance and were discharged, and the second jury trial went for quite a number of weeks. There were a lot of returns for directions by the judge, and there appeared to be one juror holding out but eventually all of the jurors found that the offences were not proved beyond a reasonable doubt under the standard of proof required.

I only relate this to say that it is very difficult in these types of areas to pinpoint on a map exactly where a vessel was and what its intention was. Obviously, the Commonwealth and the DPP thought they had sufficient evidence for the jury to convict—hence the two trials—but in the end result the jury were not convinced. I, of course, was not on the jury. But it was very difficult to prove the point and to get the conviction. As it turned out, we were able to forfeit the boat and the fuel and the Patagonian toothfish on board, but that was under another element of the same act.

So it was following those instances and a couple of others like it—where the difficulty in pinpointing particular locations in a vast ocean away from the normal support you would get to do that sort of pinpointing was evident—that instructions were given to the department to try and come up with some way that we could get convictions for people who quite clearly were, although it could not be proved to the jury, fishing illegally in Australian waters.

As a former lawyer, I understand Senator Ray’s hesitation about strict liability offences. They are offences that should only ever be legislated for in extreme circumstances. But I think this instance is one where those strict liability offences are very appropriate. No doubt, when the bill comes before the chamber, these matters will be gone into at greater length. But I thought it might be helpful to advise the chamber, at least in that instance and the instance of the fisheries amendment bill, of the background to why those strict liability offences have been included.

Question agreed to.

Australian Crime Commission Committee Report

Senator IAN MACDONALD (Queensland) (4.17 pm)—I present the report of the Parliamentary Joint Committee on the Australian Crime Commission, Examination of the annual report of the Australian Crime Commission 2005-06, together with the Hansard record of proceedings.

Ordered that the report be printed.

Senator IAN MACDONALD—I move:

That the Senate take note of the report

The annual report of the Australian Crime Commission 2005-06 was tabled in both houses on 5 December last year, in accordance with section 61 of the Australian Crime Commission Act 2002. The role of the Parliamentary Joint Committee on the Australian Crime Commission includes examining and reporting to parliament on any matter appearing in, or arising out of, each annual report of the Australian Crime Commission. To examine the commission’s annual report for 2005-06, the committee held a hearing in Canberra on 30 March this year. This year’s report covers the third full year of the commission’s operation and gives the committee, the parliament and the electorate the opportunity to evaluate the Australian Crime Commission’s progress and its performance in enhancing Australian law enforcement capacity and combating serious and organised crime in Australia.
Unlike the committee’s reports from previous years, this year’s report makes no recommendations. However, a number of recommendations from previous reports are highlighted as being of enduring relevance and worth. These include the recommendation that the Commissioner of Taxation be appointed to the board of the Australian Crime Commission—that recommendation is awaiting a government response—and a further recommendation that the ACC annually prepare and release a declassified version of the Picture of Criminality in Australia report.

The government accepted this recommendation in its response of 17 August last year, and the committee looks forward to this publication informing both public debate and the committee’s work in the future.

An abiding issue surrounding not only the ACC but also police agencies more generally is the question of how performance is measured in an accurate, meaningful and useful way. Better systems of assessing and reporting on police agencies’ performance allow more objective and qualitative assessments of their essential work and enable more strategic and efficient allocation and targeting of physical and financial resources to areas of crime. The committee is therefore pleased to note that the report outlines the ACC’s current efforts, in partnership with an academic institution and a partner agency, to develop a system to better measure the true effectiveness and value of intelligence information. The committee regards the development of this effectiveness and efficiency framework as emblematic of the ACC’s commitment to continuously improving its systems of reporting and to facilitating the operation of the accountability mechanisms that govern its operations. The committee awaits with interest the outcome of this project and expects its inquiries in the future to be enhanced by the availability of more sophisticated and informative assessments of the value of the ACC’s work and achievements.

The committee also wants to place on record its acknowledgement of the assistance of the chairman of the ACC board, Commissioner Mick Keelty; the CEO, Mr Alastair Milroy; and the officers of the Australian Crime Commission. Throughout the reporting period, the ACC has provided considerable assistance to the committee through written reports, ad hoc briefings and formal presentations. The commission’s accessibility has been of great assistance and has contributed to the creation of a transparent and cooperative relationship between the Australian Crime Commission and the parliamentary committee.

The committee further acknowledges the assistance of Professor John McMillan, the Commonwealth Ombudsman; Dr Vivienne Thom, who is currently the Acting Commonwealth Ombudsman; and their staff. The Ombudsman’s office provides a useful annual briefing to the committee and more generally defines the standards of accountability and professionalism to which public agencies must be held.

Finally, on behalf of the committee, I thank Dr Jacqueline Dewar, Anne O’Connell, Ivan Powell and the other staff of the secretariat for their work on this report and for the continued support they provide to the committee. I commend the report to the Senate.

Question agreed to.

DELEGATION REPORTS

Parliamentary Delegation to Malta, Spain and Kuwait

The ACTING DEPUTY PRESIDENT (Senator Crossin) (4.23 pm)—I present the report of the Australian parliamentary delegation to the Republic of Malta and to Spain, which took place from 14 to 24 April 2007,
and on a visit to Kuwait, which took place from 24 to 26 April 2007.

DEPARTMENT OF THE SENATE

The ACTING DEPUTY PRESIDENT
(4.23 pm)—For the information of the Senate, I present a report, dated 2007, prepared by Eureka Strategic Research for the Department of the Senate on senators’ satisfaction with departmental services.

AUDITOR-GENERAL’S REPORTS

Report No. 43 of 2006-07

The ACTING DEPUTY PRESIDENT
(4.23 pm)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Audit report No. 43 of 2006-07: Performance Audit: managing security issues in procurement and contracting.

COUNCIL OF THE NATIONAL LIBRARY OF AUSTRALIA

The ACTING PRESIDENT
(4.24 pm)—The President has received a letter from the Leader of the Government in the Senate, Senator Minchin, nominating a senator to be a member of the Council of the National Library of Australia.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (4.24 pm)—by leave—I move:

That, in accordance with the provisions of the National Library Act 1960, the Senate elect Senator Troad to be a member of the Council of the National Library of Australia on and from 13 June 2007, for a period of 3 years.

Question agreed to.

EVIDENCE AMENDMENT (JOURNALISTS’ PRIVILEGE) BILL 2007

FAMILY ASSISTANCE LEGISLATION AMENDMENT (CHILD CARE MANAGEMENT SYSTEM AND OTHER MEASURES) BILL 2007

FISHERIES LEGISLATION AMENDMENT BILL 2007

FISHERIES LEVY AMENDMENT BILL 2007

MIGRATION AMENDMENT (STATUTORY AGENCY) BILL 2007

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (4.26 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the three bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (4.27 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—
EVIDENCE AMENDMENT (JOURNALISTS’ PRIVILEGE) BILL 2007

This Bill implements an important reform to the Commonwealth Evidence Act 1995 by introducing a privilege that will protect confidential communications between journalists and their sources. This privilege will assist journalists to reconcile their ethical obligations with their legal duty to provide courts with relevant evidence when requested. In applying the privilege, courts will be required to give consideration to the protection of interests including freedom of the press and the public’s right—or need—to know.

There has been significant recent commentary about the need to ensure and maintain the freedom of the press. Currently, except in New South Wales, if a court compels a journalist to produce evidence about a confidential source or information provided by that source, there is no legal basis for the journalist to seek to refuse. Yet, journalists also operate under a strict code of ethics which stipulates a clear obligation to keep a source’s confidence.

This conflict between legal reality and ethical obligation can lead—and indeed has led—to situations where journalists have been forced to choose between protecting their sources or being charged with contempt of court and facing imprisonment.

This Bill seeks to achieve a balance by introducing a privilege—at the trial and pre-trial stages of civil and criminal proceedings—for communications made in confidence to journalists.

The proposed privilege is based on recommendations made by the Australian, New South Wales and Victorian Law Reform Commissions in their Uniform Evidence Law report tabled in this place on 8 February 2006. The report proposed a privilege based on New South Wales provisions that have been operating since 1998.

In the interests of achieving a national, uniform approach to this issue the Australian Government has accepted the recommended model.

The new privilege will not be absolute. Instead, the proposed provisions set out a guided discretion for the court to exclude evidence which would disclose confidential communications made to a journalist who is under an ethical obligation not to disclose that information. The protected information can be information provided to the journalist, information about the source’s identity, or information that would make it possible for that identity to be discovered.

In deciding whether to exclude the evidence, a court will take into account:

- the nature of the proceedings
- the importance of the evidence
- the likely harm to the journalist’s source
- other means to obtaining the evidence, and
- the means available to limit the impact of disclosure.

Further, in a modification to the New South Wales model, the court will be required to give greatest weight to the risk of prejudice to national security. This deviation from the model is a justified and necessary update.

The Bill also amends the Family Law Act 1975 to ensure that the privilege can be claimed on behalf of a child and that the best interests of the child are paramount when a court is determining whether confidential communications should be disclosed.

While this Bill implements a new privilege, there are some recognised situations where it would not be appropriate for it to apply. Accordingly, the Bill makes consequential amendments to the Proceeds of Crime Act 2002 and the James Hardie (Investigations and Proceedings) Act 2004 to ensure that the journalists’ privilege does not apply in circumstances where legal professional privilege has already been abrogated for public policy reasons.

Further, the privilege will not apply if the communications between the journalist and his or her source involve misconduct such as furtherance of fraud or another offence.

Protection of journalists and their sources is a national issue. It is important that any approach be a national one. The amendments being introduced today will protect journalists in federal proceedings, but to ensure protection before the other courts, the States and the Northern Territory will need to enact similar legislation. I will be continuing to encourage my State and Territory...
counterparts to introduce similar amendments as expeditiously as possible.

The Standing Committee of Attorneys-General has also been considering a variety of other amendments to the Uniform Evidence Acts. I remain committed to working to achieve model uniform evidence laws as this will be a great outcome for all Australians. It is my hope that I will soon be introducing another bill that will implement more general reforms to the Evidence Act. However, the protection of journalists is too important an issue to wait for the finalisation of that other bill.

This Bill represents a significant amendment to the Evidence Act. It will assist the courts to balance the interests of justice in needing to make evidence available with the public interest in ensuring a free press by protecting confidential communications between journalists and their sources.

FAMILY ASSISTANCE LEGISLATION AMENDMENT (CHILD CARE MANAGEMENT SYSTEM AND OTHER MEASURES) BILL 2007

This bill is an important step towards fulfilling the Government’s recent child care initiatives for Australian families.

It provides in particular for the Child Care Management System (the CCMS), which is a significant investment in improving the supply of information and accountability across the child care sector. The CCMS is a national child care computer system and recognises the need for better management and information underpinning the Government’s projected $11 billion investment over four years in child care.

The new system will provide the best information on child care supply and usage that has ever been available across Australia for families, child care services and government. In part, this will support the Child Care Access Hotline, which gives families access to up-to-date information on child care vacancies, in that child care services will now have simplified arrangements for reporting to the hotline.

Just as importantly, the CCMS will simplify and standardise the administration of Child Care Benefit for families. All approved child care services will be brought online to give weekly information on child care usage and fees directly to the Department of Families, Community Services and Indigenous Affairs and Centrelink, to allow swift calculation of child care fee reductions and weekly delivery of payments to services in arrears. Families will also be able to access directly an online statement through the Family Assistance Office about their child care usage and Child Care Benefit payments made on their behalf to their child care services.

The CCMS will reduce the administrative burden on child care services. It does, however, represent a significant change to the way in which services currently interact with government. All Australian Government approved child care services, and therefore very many families, will benefit from the improvements from the CCMS. Accordingly, the new system will be rolled out progressively across child care services from 1 July 2007 over a period of two years.

The CCMS will complement the child care compliance strategy announced in the 2006 Budget to protect the integrity of payments made in support of families using child care. This bill also provides these compliance measures, which will strengthen the relationship between government and the child care sector as a means of maintaining the focus on Australian families and their child care needs. This measure will target projected funding of around $1.7 billion per annum in Child Care Benefit. Child Care Benefit is most commonly delivered to families through their child care services. Approval of services to participate in the Child Care Benefit program is based on their compliance with certain conditions and it is this compliance system that is being strengthened.

In combination with the new CCMS, the new compliance measures will help to minimise the risk of incorrect payments and fraud, and to detect them as soon as possible should they occur. They will also help to increase services’ awareness of their obligations and the consequences of non-compliance with their obligations.

An essential new element of strengthening the compliance system is the introduction of a civil penalties scheme. The civil penalty scheme pro-
vides for the imposition of a pecuniary penalty on a service that contravenes a civil penalty provision. This bill sees the introduction of a new obligation on a service to provide information in relation to the Child Care Access Hotline on time. This obligation is a civil penalty provision. The delivery of up-to-date information on time to the Hotline means that families are able to be fully informed of any vacancies at child care services in their local area. The information is also a source of information and an indicator enabling the assessment of child care place needs in a particular location or region.

The civil penalties scheme will operate in conjunction with an infringement notice scheme. An infringement notice that is issued to a child care service will provide the service with the option of paying the lesser penalty set out in the notice or proceeding to a court to determine liability.

The civil penalty and infringement notice scheme will be developed further in the future. Its introduction will provide a wider range of penalties that may be applied to child care services to ensure that penalty is suited to the level of non-compliance. This will require further legislative amendment.

The civil penalties and infringement notice scheme will not directly impact on families receiving Child Care Benefit. A family will only be affected where an approved child care service consistently fails to comply with its obligations under family assistance law, such as through the application of existing sanction provisions.

Families are entitled to know if the service’s approval is under threat or terminated because their Child Care Benefit may stop and they may become liable for full fees. Therefore, if a particular child care service should fail to comply with one of its conditions of approval, or have its approval suspended or cancelled, another compliance measure in this bill will allow the Department to pass that information on to the families who have their children in care with the service.

Other compliance measures are included in the bill. The bill also includes other measures that make improvements to Child Care Benefit administration. For example, the amendments to the absence provisions will reduce the administrative burden on both families and services.

Care Benefit will be paid for the first 42 days of absence from care for each child, regardless of the reason for the absence and without the need for documentation. Other amendments of a similar order are also made by this bill.

FISHERIES LEVY AMENDMENT BILL 2007

The Fisheries Levy Amendment Bill 2007 (the Bill) contains amendments which are consequential to the Fisheries Legislation Amendment Bill 2007 and complements the Howard Government’s efforts to modernise legislation affecting the governance and management of the Torres Strait fisheries. Together, the Bills will provide the Minister and the Torres Strait Protected Zone Joint Authority (PZJA) with broader powers to implement cost recovery in these fisheries consistent with Australian Government and PZJA policy.

These amendments appear in a separate bill to the Fisheries Legislation Amendment Bill 2007 because levies are a form of taxation and, under the Constitution, require separate legislation.

The Fisheries Legislation Amendment Bill 2007 will enable the Minister and the PZJA to introduce plans of management for Torres Strait fisheries which are underpinned by output controls, for instance, a quota management system. The Bill will make it possible for the costs of managing Torres Strait fisheries governed by these management plans to be recovered from fishers. The Bill also makes it possible for levies to be collected against a new licence ‘without a boat’.

The Fisheries Levy Act 1984 (the Act) is the mechanism for collecting levies in fisheries managed under the TSF Act. Under current arrangements, the Act provides for levies to be collected against a plan of management as determined by the Fisheries Act 1952, which has been superseded by the Fisheries Management Act 1991 (FM Act). Plans of management for Torres Strait fisheries are made under the TSF Act rather than the FM Act. The definition of a management plan will be amended by this Bill to include a plan determined under the TSF Act.

The Bill also consequentially amends references to “units of fishing capacity” in the Act so that these references are consistent with those in the
TSF Act and so that levies can be calculated according to arrangements set out in management plans determined under that legislation.

FISHERIES LEGISLATION AMENDMENT BILL 2007

The Fisheries Legislation Amendment Bill 2007 (the Bill) will improve the management of the Torres Strait fisheries, better enable monitoring of fishing activity in Commonwealth fisheries and deter illegal, unreported and unregulated fishing in Australian waters.

The primary focus of the legislation is to amend the Torres Strait Fisheries Act 1984 to modernise fisheries management practices. This will make them consistent with those already in place under the Fisheries Management Act 1991 and Queenland’s Fisheries Act 1994. The Torres Strait Fisheries Act 1984 has largely operated without amendment since 1985 and a range of operational and administrative practices require greater support in legislation.

These amendments will ensure that the Australian Government, including the Torres Strait Regional Authority, working in partnership with Queensland through the Torres Strait Protected Zone Joint Authority (PZJA), will be better placed to manage the commercial harvest in the Torres Strait Protected Zone fisheries. This will ensure that the Torres Strait communities, and the adjacent communities on northern Cape York, can continue to enjoy their traditional fishing rights as well as participate in the commercial fisheries.

The importance of the Torres Strait Protected Zone fisheries to the economic development of Torres Strait communities is undeniable. Commercial fishing is the primary source of non-government economic activity in the Torres Strait. It is important, therefore, that these fisheries can be managed sustainably into the future.

As I mentioned earlier, the Australian Government relies on the cooperation and support of the Queensland Government in managing these fisheries and in fulfilling its rights and obligations under the Treaty with Papua New Guinea. Where fisheries are managed by the PZJA, this Bill will provide it with the capacity to determine a management plan in the Torres Strait fisheries. This power currently sits with the Australian Government Minister only. The Bill will enable the PZJA to implement a quota system in these fisheries. To complement this regime, the Bill will also establish a register which will record all interests conferred under a plan of management.

To support these new management arrangements, the Bill enhances the existing licence regime. This includes the introduction of a new fish receivers licensing regime, a requirement for fish receivers to report on product delivered to them, and the capacity to regulate people who hand fish for commercial purposes. To provide sufficient time for industry to adapt to the new licenses, these aspects of the Bill will commence 12 months after royal assent.

To support compliance with the new quota systems, licensing regimes and requirements to provide information, this Bill also introduces penalties and, by regulation, an infringement notice scheme. These enforcement mechanisms will be consistent with those in place in other Commonwealth fisheries. The Bill also provides for a demerit point regime to be introduced by regulation to deter repeat offenders.

This new management regime will better enable the Australian Government to fulfil its catch sharing obligations with Papua New Guinea as set out in the Treaty. The Bill amends the objectives of the Torres Strait Fisheries Act 1984 so that the objectives of the Treaty are better articulated in the legislation and will ensure fisheries can be managed consistent with the requirements of the Treaty.

In addition to the amendments concerning Torres Strait fisheries, the Bill will also amend the Fisheries Management Act and the Fisheries Administration Act 1991. These amendments flow on from the Government’s successful ‘Securing our Fishing Future’ package. This initiative has led to significant reductions in fishing effort along with a $220 million adjustment package to enable fishing operators to exit, and the associated industry to adjust. The amendments will assist AFMA to implement the Ministerial Direction that was made in November 2005 by enabling it to introduce a comprehensive set of management measures involving harvest strategies and enhanced monitoring of fishing. These initiatives are de-
signed to ensure Commonwealth fish stocks are managed both sustainably and profitably in the long-term.

New management measures introduced by the legislation include clarification of AFMA’s powers to place observers on board fishing vessels. Further, the legislation will amend the Fisheries Management Act to enable AFMA to share information with environment and law enforcement agencies. This will facilitate the investigation of serious crime, fisheries and wider marine monitoring and enforcement. The type of information to be shared and the agencies with which it will be shared will be specified in regulations and, as such, be a disallowable instrument.

The Bill also contains amendments to implement government policies to prevent, deter and eliminate illegal, unreported and unregulated fishing in the Australian Fishing Zone (AFZ). The Australian Government devotes significant resources to address the risks posed by illegal foreign fishing vessels and has announced a range of additional measures in recent years, including custodial penalties to further deter illegal incursions.

The Fisheries Management Act and the Torres Strait Fisheries Act were amended in 2006 to provide for custodial penalties ranging up to a maximum of three years for foreign fishing offences in the territorial sea of Australia. These offences reflect the inherent sovereignty violation with such incursions.

Further amendments are required to deal with evidentiary problems in securing custodial convictions. For example, it is difficult proving the fishers were aware they were fishing in Australia’s territorial sea. The Bill addresses this problem by applying strict liability to this aspect of these offences, while leaving the overall offence a fault based one. The Bill also makes complementary amendments to the Surveillance Devices Act 2004 to ensure that the new custodial penalty offences can be effectively investigated and prosecuted using surveillance devices. By overcoming the current impediments to prosecuting the new offences, the Bill will strengthen the Government’s overall policy response to illegal foreign fishing.

The Bill will also strengthen forfeiture provisions allowing for the forfeiture of the boat, catch and all equipment on a foreign fishing boat that has engaged in illegal fishing in the AFZ at the time of its seizure. These amendments are intended to further deter foreign fishers from illegally fishing in the AFZ. Knowledge by illegal foreign fishers that they may be given custodial sentences, and lose the boat, catch and all equipment any time after the offence occurs also makes it more likely that the owner will exercise vigilance to prevent the vessel being used to illegally fish in the AFZ.

Finally, the Bill will amend the Fisheries Administration Act to provide certainty regarding AFMA's governance arrangements. The Australian Government has decided to establish AFMA as a commission on 1 July 2008. In keeping with this decision, the existing directors’ terms of appointment expire on 30 June 2008. The current legislation does not provide for the director’s terms to be extended. The amendment will give the Minister a temporary power to appoint the directors of AFMA for up to nine months at a time without going through the selection and appointment prescribed in the Act. The power will only be exercised if AFMA does not become a commission by the proposed date and will have a sunset clause of 30 June 2009.

In summary, these amendments will improve the Australian Government’s domestic fisheries management arrangements, it will support this Government’s strong stance against illegal unreported and unregulated fishing and it will bolster our capacity to end overfishing in Australian waters.

—- MIGRATION AMENDMENT (STATUTORY AGENCY) BILL 2007 —-

The Migration Amendment (Statutory Agency) Bill 2007 will implement the last of a range of minor changes to the legislative framework of the Migration Review Tribunal and the Refugee Review Tribunal recommended in the Uhrig Report on the Corporate Governance of Statutory Authorities and Office Holders in 2003.

The purpose of the recommended changes is to strengthen the governance of the two Tribunals and give legal effect to the practical reality that
they have progressively been administered as one agency since 2001.

The Bill will insert a new section into the Migration Act 1958 that will establish a single Statutory Agency for the purposes of the Public Service Act 1999, consisting of the Principal Member of the Refugee Review Tribunal and the Registrars, Deputy Registrars and other officers of both the Refugee Review Tribunal and Migration Review Tribunal engaged under the Public Service Act.

The new section will also provide that the Principal Member of the Refugee Review Tribunal will be the Agency Head of the Statutory Agency.

Under the current statutory arrangements, the Australian Public Service employees working at the Tribunals are legally employed by the Secretary of my Department. However, for all practical purposes, Tribunal Staff are directed by the Principal Member, who is the Executive Officer of both of the Tribunals, under powers delegated by the Secretary.

This Bill gives legal effect to the administrative arrangement that the Principal Member of the Tribunals is the employer of the Australian Public Service employees working at the Tribunals, not the Secretary of my Department.

Since 2001, the two Tribunals have progressively amalgamated their administrative operations to achieve efficiencies and savings and allow for more flexibility in managing the fluctuating caseloads of the two Tribunals. Creating a single statutory agency for the purposes of the Public Service Act is consistent with this administrative reality.

Both Tribunals are now co-located in Sydney and Melbourne and have common registries and legal, research, library, corporate and administrative facilities.

As with the Principal Member, other members are also cross-appointed to both Tribunals to allow them to hear cases in either Tribunal. The Australian Public Service staff who work at the Tribunals are covered under the same certified agreement and provide their services to either Tribunal, as required.

I said earlier that the Bill provides for the Principal Member of the Refugee Review Tribunal to be the Agency Head of the Statutory Agency established for the purposes of the Public Service Act. This is an important provision because it ensures that if in future two individuals are separately appointed as the Principal Member of the Refugee Review Tribunal and the Principal Member of the Migration Review Tribunal, there will still be certainty about who is the Head of the single Statutory Agency established for purposes of the Public Service Act.

As a statutory appointee, the Principal Member of the Migration Review Tribunal will not form part of the Statutory Agency.

The Bill provides for the Principal Member of the Refugee Review Tribunal to be the Agency Head because this is consistent with similar amendments to the Financial Management and Accountability Regulations 1997, which establish the Tribunals as a single prescribed agency for the purposes of the Financial Management and Accountability Act 1997 and makes the Principal Member of the Refugee Review Tribunal the head of that agency.

It is important to stress that this Bill will not change the functions of the two Tribunals under the Migration Act and will not diminish the role and responsibility of the position of Principal Member of the Migration Review Tribunal, under that Act.

By making the Australian Public Service employees of the two Tribunals a single Statutory Agency for the purposes of the Public Service Act the Bill will clarify the employment arrangements of the Tribunals’ staff and will bring the Tribunals into line with other merits review Tribunals which are already Statutory Agencies, such as the Administrative Appeals Tribunal.

I commend the Bill to the Chamber.

Debate (on motion by Senator Colbeck) adjourned.

Ordered that the Fisheries Legislation Amendment Bill 2007 and the Fisheries Levy Amendment Bill 2007 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.
WORKPLACE RELATIONS AMENDMENT (A STRONGER SAFETY NET) BILL 2007

First Reading

Bill received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (4.28 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 COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (4.28 pm)—I table a revised explanatory memorandum relating to this bill and 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—

Introduction

Today I am introducing the Workplace Relations Amendment (A Stronger Safety Net) Bill 2007. This Bill establishes a fairness test to strengthen the safety net for agreement making in the national workplace relations system.

The new fairness test will enhance the safety net for those making workplace agreements. It will allow employers and employees to modify or exclude protected award conditions but only where employees are fairly compensated.

The fairness test will guarantee employees fair compensation in lieu of conditions such as penalty rates and overtime and shift loadings.

Workers must be paid more, not less.

The stronger safety net will provide significant additional protection for vulnerable employees, including young people and workers from a non-English speaking background.

This Bill will reassure Australian workers that when they enter into a workplace agreement, it will be a fair one that has been approved by an independent statutory authority.

This Bill builds on the important employment and workplace relations reforms undertaken by this Government in 1996 and again in 2006.

This Bill is an important part of an employment and workplace relations system that has helped reduce unemployment to a rate of 4.4 per cent and create more 2 million jobs over the past 11 years.

This Bill will help ensure that Australia’s future economic prosperity is bolstered by a flexible and modern workplace relations system.

It was never the intention that it may become the norm for protected award conditions such as penalty rates to be traded off without proper compensation.

There was concern amongst some in the community, however, that the trading off of penalty rates and other loadings, without fair compensation, might occur with adverse consequences for final take home pay.

The introduction of the fairness test is accompanied by the establishment of two independent statutory offices – the Workplace Authority Director and the Workplace Ombudsman - to play pivotal roles in maintaining the safety net.

The Bill will require the Workplace Authority to apply the fairness test to ensure that workplace agreements provide fair compensation in lieu of protected award conditions such as penalty rates.

If an agreement doesn’t pass the Fairness Test, it will need to be changed so that it is fair and the employer will have to make up any back pay.

The Workplace Ombudsman will ensure that employers comply with their legal obligations in regard to the fairness test.

The Workplace Ombudsman will strengthen the policing role which has been undertaken by the Office of Workplace Services.

The Government is providing significant funding to ensure that these functions are well-resourced.
The legislation will make it clear that employers cannot dismiss an employee because a workplace agreement fails, or may fail, the fairness test.

The legislation will also make it clear that employers cannot coerce existing employees into modifying or removing protected award conditions.

The legislation will also make it clear that when an employer takes over a business they cannot require an employee to sign an Australian Workplace Agreement as a condition of continued employment.

For outworkers, the prohibition on the reduction of their special protections is retained unchanged.

The Bill will also make it clear that bargaining services fees and other objectionable provisions cannot be included in workplace agreements and remove the requirement for registered organisations to have a majority of members in the federal system.

The changes introduced in this Bill will ensure that the opportunities and flexibilities inherent in the national workplace relations system are used, but not abused.

**The national system**

The Workplace Relations Act 1996 provides a national regulatory framework for Australian workplaces. The framework offers flexibility and choice for employees and employers in agreement making.

This choice and flexibility is producing good outcomes for the economy, with sustainable and strong jobs growth and historically low unemployment a dominant feature of the economy.

This choice and flexibility is essential for meeting the work and family needs of working women and men.

Australian working women and men also want a fair and robust safety net of working conditions protected by the law.

And the system provides this, as well as strong, enforceable, protections against discrimination and breaches of freedom of association.

Since the reforms commenced in March 2006, more than 326,000 new jobs have been created – 85 per cent of these full-time.

Significantly, long-term unemployment has dropped to 4.4 per cent in April 2007, its lowest level since November 1974.

Real wages - which have risen by 23.4 per cent over the life of the Coalition Government – have continued to grow and strikes in 2006 reached the lowest level on record.

The fundamentals of the Government’s reform remain intact.

The goal of employment and workplace relations reform is to achieve better outcomes for both employers and employees through greater flexibility in employment arrangements in the workplace.

**The safety net**

Under the Workplace Relations Act 1996 entitlements such as minimum wages, annual leave, personal and sick leave and maternity and parental leave are set out in the Australian Fair Pay and Conditions Standard.

Agreements must still provide benefits equal to or better than the Australian Fair Pay and Conditions Standard.

That is, the entitlements in the Australian Fair Pay and Conditions Standard cannot be traded off when workplace agreements are entered into.

Protected award conditions are penalty rates (including for working on public holidays and weekends), shift and overtime loadings, monetary allowances, annual leave loadings, public holidays, rest breaks and incentive-based payments or bonuses.

These protected award conditions are not mandated in agreements - because to do so would limit flexibility in agreement making. However, they will not be able to be traded away without fair compensation.

**Fairness test**

The fairness test will apply to workplace agreements lodged on or after 7 May 2007.

Where an agreement, including an agreement made before 7 May 2007, is varied the whole agreement will be subject to the fairness test if the variation excludes or modifies protected award conditions.
The fairness test will apply to Australian Workplace Agreements covering employees with a gross basic salary of less than $75,000 per annum who are employed in an industry or occupation in which the terms and conditions are usually regulated by an award, where the agreement excludes or modifies protected award conditions.

There are more than 4000 awards.

In addition, all collective agreements covering employees in an industry or occupation in which the terms and conditions are usually regulated by an award and where the agreement excludes or modifies protected award conditions will be subject to the fairness test.

How will the fairness test be conducted?

As is currently the case, workplace agreements will operate from the day they are lodged with the Workplace Authority.

The fairness test will require the Workplace Authority to be satisfied that a workplace agreement provides fair compensation to an employee in lieu of the exclusion or modification of protected award conditions.

Protected award conditions will be drawn from the federal award which binds the employer, or from the transitional instrument based on the relevant state instrument that applied prior to the commencement of the Workplace Relations Amendment (Work Choices) Act 2005 on 27 March 2006.

If there is no such instrument and the employee is working in an industry or occupation usually regulated by a federal award, the Workplace Authority will be able to designate an appropriate federal award.

In deciding whether a workplace agreement passes, or does not pass, the fairness test, the Workplace Authority may inform itself in any appropriate way. In many cases, it will be able to assess an agreement based on the agreement and information lodged with it.

For example, when the agreement is lodged employees will be able to include information about their personal circumstances, including their family responsibilities and the significance they attach to the particular workplace flexibilities for which they have traded off protected award conditions.

The Authority will also be able to contact the employees and the employer where necessary.

Employees already receive an information statement when they are offered an Australian Workplace Agreement or collective agreement. This requirement is retained and will now also inform employees of their rights in regard to the fairness test.

The fairness test will not involve legalistic hearings. The Workplace Authority will not arbitrate agreement outcomes.

When considering whether a workplace agreement provides fair compensation, the Workplace Authority must first have regard to the monetary and non-monetary compensation that the employee or employees will receive in lieu of the protected award conditions.

The Bill defines non-monetary compensation as compensation for which there is a money-value equivalent, or where a money value can reasonably be assigned, and which confers a benefit or advantage on the employee that is of significant value to the employee.

A meal provided by an employer to an employee who is regularly required to work overtime will not constitute adequate compensation in lieu of penalty rates for overtime.

This means that, contrary to misleading claims that have been made, a slice of pizza will not constitute non-monetary compensation.

In most cases it is expected that a higher rate of pay will be agreed to in lieu of protected award conditions that have been modified or removed.

In establishing what is fair compensation the Workplace Authority must consider the work obligations of the employee or employees under the workplace agreement.

For example, the Workplace Authority would consider whether employees were required to work shift work or on weekends and would otherwise have been entitled to penalty rates.

The Workplace Authority may also have regard to the personal circumstances of an employee or employees, in particular, their family responsibilities.
For example, an agreement may well meet the fairness test where a parent wants an Australian Workplace Agreement that enables him or her to leave work one hour early on a weekday to collect his children from school and make up the normal hourly rate rather than the higher Saturday rate.

Only in exceptional circumstances, and where the Workplace Authority is satisfied that it is not contrary to the public interest to do so, may the Workplace Authority also have regard to the industry, location or economic circumstances of the employer, and the employment circumstances of the employee or employees in deciding whether fair compensation is provided.

The Workplace Authority may decide it is appropriate to consider the economic circumstances of an employer when a workplace agreement is part of a reasonable strategy to deal with a short-term crisis.

For example, employees working in a canning factory in a regional town may negotiate a one year agreement that excludes penalty rates so that the factory can remain competitive where the business is struggling due to the impact of the drought. This will keep the business alive and maintain jobs.

This is similar to the public interest test that applied to workplace agreements prior to the commencement of the Workplace Relations Amendment (Work Choices) Act 2005.

The changes I introduce today deliberately limit the circumstances in which agreements that would normally fail the test are able to operate. While it is necessary to allow for the situations where such agreements are appropriate, such agreements should be very much the exception and must not be contrary to the public interest.

In the case of a collective agreement, the Workplace Authority must be satisfied that, on balance, the collective agreement provides fair compensation, in its overall effect on the employees.

This is similar to the way the previous no disadvantage test applied to workplace agreements.

Like the no disadvantage test, where protected award conditions are removed or modified, employees will most often be compensated with a higher rate of pay for each hour worked.

What if an agreement fails the fairness test?

Where an agreement does not pass the fairness test, the Workplace Authority will provide advice to the employer and employee on how the agreement could be changed to make it fair.

The employer and employee will have 14 calendar days to make the agreement fair. Fixing a failed agreement could be done by varying the agreement or making an undertaking, which would be enforceable.

If an agreement is not fixed, it will cease to operate at the end of the 14 day period.

The entitlements of the employee or employees will revert to the arrangements that would have applied to them had they not made the unfair agreement. This could be an earlier workplace agreement or the award.

An employee with a designated award (and where no other workplace agreement is in place) will retain an entitlement to the protected award conditions from the designated award.

Where an agreement initially fails the test, but is satisfactorily rectified, the employee will generally be entitled to compensation or back pay for the period during which the agreement was unfair.

The employer will be expected to make up any back pay from the time the agreement was lodged for any entitlement the employee would otherwise have been entitled to.

Where an agreement does not pass the fairness test and an employer does not compensate the employee or employees, the Workplace Ombudsman will be able to recover any shortfall in entitlements on behalf of the affected employees. A court may also impose a penalty if compensation is not paid.

Will a proposed or draft agreement meet the fairness test?

The Workplace Authority will offer a pre-lodgement assessment of proposed agreements against the fairness test. Either an employee or an employer can request a pre-lodgement assessment of a proposed agreement.
This process helps people make fair and clear agreements from the start. It helps them to know where they stand in regard to protections, entitlements and obligations. It minimises the risk of a shortfall in payments where an agreement fails the fairness test.

The pre-lodgement assessment of a proposed agreement is an administrative, rather than a legislative process.

This is because the legislative fairness test can only be applied to a properly made and lodged agreement with identifiable parties.

Where a pre-lodgement assessment is requested, the Workplace Authority will provide written advice indicating whether or not the agreement would pass the fairness test.

Provided the circumstances have not changed when the agreement is lodged, pre-lodgement approval will result in consideration of the agreement being fast tracked on lodgement.

The Workplace Authority

The Bill establishes the Workplace Authority Director and Deputy Directors.

The Workplace Authority Director is to be appointed by the Governor-General ensuring the independence of the office.

In addition to conducting the fairness test, the Workplace Authority Director will undertake the functions of the Employment Advocate, such as accepting the lodgement of workplace agreements and providing information about agreement-making.

The Workplace Authority will have particular regard to the needs of workers in disadvantaged bargaining positions, such as young people and workers from a non-English speaking background.

The Workplace Authority will receive extra funding of around $300 million over four years to ensure its increased responsibilities are met.

The Workplace Ombudsman

The Bill establishes the Workplace Ombudsman to be appointed by the Governor-General also ensuring independence of the office.

The Workplace Ombudsman will undertake the functions of the Office of Workplace Services, such as assisting employees and employers in understanding their rights and obligations and promoting, monitoring and investigating compliance matters.

The Bill confers upon the Workplace Ombudsman the function of investigating breaches of the Workplace Relations Act, including in respect of the fairness test. The Workplace Ombudsman will be assisted in discharging his or her functions by having the power to appoint workplace inspectors.

One of the key new roles will be enforcing the prohibitions on employers from dismissing an employee because an agreement has failed the fairness test, or coercing an existing employee to agree to give up their protected award conditions.

The Workplace Ombudsman will focus on ensuring that young working Australians are not being unfairly treated in the workplace and conduct regular random audits to ensure employers are meeting their obligations to young people.

The Workplace Ombudsman will receive extra funding of more than $60 million over four years to ensure its increased responsibilities are met.

Prohibited content and bargaining services fees

The Bill will ensure that bargaining services fees and other matters defined as objectionable provisions are explicitly listed as prohibited content in the Workplace Relations Act 1996. A matter that is prohibited content cannot be included in workplace agreements.

Bargaining services fees and other objectionable provisions are already prohibited content in agreements. However, these provisions require reference to both the Workplace Relations Act 1996 and Workplace Relations Regulations 2006.

The Government believes that an individual’s right to freedom of association including not being forced to pay a bargaining services fee, should be made explicit in the primary legislation.

This amendment reinforces the right of Australians to choose whether or not they wish to engage a union to negotiate on their behalf and reflects the Government’s ongoing commitment to protecting the right to freedom of association.
Membership requirements for registration under Schedule 1

The Bill will remove the requirement that registered organisations have a majority of members in the federal system to become or remain registered under the federal system. The provisions will ensure that only some members of an organisation need to be federal system employers or employees for that organisation to be registered under the federal system.

The amendments will provide that employee and employer organisations which have members in both state and federal systems but may not have a majority in the federal system retain their registered status. This will ensure they remain subject to the stringent accountability and transparency provisions contained in Schedule 1 to the Workplace Relations Act 1996.

Conclusion

This Government has worked hard to create a balanced workplace relations regulatory framework that encourages job creation and allows Australian businesses to compete and grow.

This Bill provides a stronger safety net to underpin what is already an efficient system for a modern Australian economy.

The flexibility and opportunity created by the Government’s workplace relations reforms have played a role in contributing to the growth of our economy and the economic prosperity shared by working Australian families.

The changes I will introduce today build on this strong foundation by ensuring that choice and flexibility remain the fundamental building blocks of successful workplace arrangements while reassuring working Australians that protected award conditions cannot be traded away without fair compensation and the approval of an independent statutory authority.

Debate (on motion by Senator Colbeck) adjourned.

HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION) BILL 2007

Second Reading

Debate resumed.

Senator McLUCAS (Queensland) (4.29 pm)—As I was saying prior to the Senate moving on to other business, the principles and objectives of the radiology memorandum of understanding include the need to promote access to quality, affordable radiology services and to improve the quality and delivery of radiology services. These are objectives that we should all aspire to and that we are hopeful this legislation will in fact deliver. Labor does, though, consider that these objectives would be even better served by a greater investment in and emphasis on e-health broadly and teleradiology in particular.

In March this year my colleague Senator Conroy announced Labor’s broadband policy—an area on which the government continues to bury its head in the sand. As announced in March, federal Labor will revolutionise Australia’s internet infrastructure by creating a new national broadband network that will connect 98 per cent of Australians to high-speed broadband internet services at speeds over 40 times faster than most current speeds. Broadband offers enormous opportunities for e-health, enhancing the potential for a range of cost savings and service improvements for Australian citizens. E-health in particular has the potential to significantly improve access to healthcare services for Australians living in rural and regional areas as well as those Australians who find it difficult to leave their homes, including the elderly and those people with disabilities. It also offers ways to more flexibly and conveniently utilise our stretched health workforce.

Teleradiology, the electronic transmitting of radiographic patient images and consultative text from one location to another, is already being utilised in Australia, but enhanced broadband technology provides the key to significantly expanding these services. Given the national shortage of radiologists—another area given insufficient attention by
the current minister—expanding the use of teleradiology would also be a focus of the next radiology memorandum of understanding. When we see reports such as the one that appeared in the Hobart Mercury on 29 March 2007 stating that Tasmanian women were waiting weeks for the results of breast-screening mammograms sent to New South Wales to be read, we can see the advantages of technology that would allow digital images to be transmitted between and viewed instantaneously by surgeries and clinics, hospitals or, in this case, specialists in different states.

Recently I was on Saibai Island in the Torres Strait. There the Queensland government has installed a very high quality X-ray machine. It has installed a telehealth facility at Thursday Island hospital. This is to serve the needs, in particular, of people who are travelling from Papua New Guinea to Australia, potentially with tuberculosis, to be diagnosed quickly. That is absolutely essential not only for their health but also for the health of Australians living on Saibai Island. The Queensland government has funded that service. You can imagine what an advantage it would be if we had these e-health type services in remote parts of Australia, particularly in the Northern Territory, Madam Acting Deputy President Crossin.

I return to the bill. As I said, the proposed start date for the accreditation scheme is 1 July 2008. This was postponed from 1 September 2007 after concerns were expressed by stakeholders. Labor remain concerned that the proposed scheme will not be ready to commence by July next year. The government has failed to provide sufficient detail about how this scheme will operate. The bill does not provide operational details of the proposed scheme such as the standards to be used, the names of the approved accreditors, the accreditation process and the period of accreditation. Rather, it simply allows the minister to establish, through a legislative instrument, the rules and operational details of the scheme. Whilst we recognise the sector’s support for the introduction of an accreditation scheme, we note that representatives of the diagnostic imaging sector have previously raised concerns relating to the operational details of the scheme. Labor share their concern that the full policy implications are yet to be announced.

Labor are also critical of the situation that full costings for the introduction of the accreditation scheme are yet to be determined. According to the explanatory memorandum for the bill, the introduction of the accreditation scheme will require enhancements to Medicare’s processing systems. These costs have not yet been quantified, but they are estimated to be $1.2 million based on previous similar policies. According to the explanatory memorandum, full costings will be provided when the subordinate legislation is developed. It is expected that these costs will be funded from existing budgetary measures for the provision of diagnostic imaging services. This lack of detail is typical of the Howard government’s shabby approach to health in particular. It is a government that is tired and out of touch. Unfortunately, lack of preparation, lack of detail and lack of interest are consistent features of the Minister for Health and Ageing’s approach to legislation and the health portfolio more generally. We hope that the government allocates the requisite resources to get this accreditation process sorted out and off the ground in time for the 1 July deadline. We look forward to receiving more detail in due course.

Senator STERLE (Western Australia) (4.35 pm)—I rise to speak on the Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007. The purpose of this bill is to amend the Health Insurance Act 1973 to establish a legislative framework that will enable the introduction of an ac-
creditation scheme for practices providing diagnostic imaging services covered by the Radiology Quality and Outlays Memorandum of Understanding. The explanatory memorandum to this bill states:

There is currently no regulatory mechanism that helps to ensure all the elements involved in the delivery of diagnostic imaging services work together.

The explanatory memorandum goes on to say:

As such, there is no guarantee to patients that optimal radiology services are being provided.

This is an incredible omission by the Howard government. Medicare pays over $1.6 billion a year for radiology services. Over the last two years this cost has increased significantly compared with the previous years of 2004-2005. In 2004-05 the cost of Medicare radiology services went up by 11.5 per cent. In 2005-06 the cost went up by 8.5 per cent.

No amount of rhetoric will negate the failure of the Howard government to properly support Australia’s public hospital system. Neither the government’s GP policies and its support of private hospitals through private health insurance subsidies, nor its aged-care policies have taken pressure off public hospitals, emergency departments or the demand for public hospital beds. Madam Acting Deputy President, you will understand, therefore, my scepticism that the proposed measures to change the operation of the Pharmaceutical Benefits Scheme, the PBS, will deliver all the benefits claimed by the government.

An essential point to be made from the outset is that the PBS is an integral part of the universal health system. The PBS is not just a government cost centre that needs to be managed simply in cost-accounting terms. Access to appropriate medicine has huge health and economic benefits for the country and for individuals. Access to appropriate medicine not only saves and prolongs lives; it can greatly reduce the overall cost of illness to individuals and the economy. Australia has been well served over the past 50 years by our national government’s participation in ensuring the universal availability and affordability of medical practitioner prescribed medicines.

Senator Joyce—Are you sure!

Senator STERLE—I lost my place; I will go back to the figures I was talking about earlier. Those figures would indicate that the radiology services funding agreed to and set out in the June 2003 memorandum of understanding between the radiology profession and the private providers of diagnostic imaging services has already been breached. This should be a warning sign to the government about its ability to invoke the cooperation of the medical profession and private medical service providers to ensure that Australia has a health and medical services system that is accessible and affordable to all Australians. Even though Medicare meets approximately 83 per cent of the total cost of radiology services in this country, the government is not able to assure members of the Medicare scheme that they will receive optimal radiology care. Not only that, but the government has also admitted that neither it nor Medicare Australia has the power to enforce minimum radiological service standards. This is in spite of the fact that the current MOU between the government and the radiology profession and the diagnostic imaging service providers includes a provision that mandatory accreditation of radiology practices will be introduced by November 2005. This obviously has not occurred.

It is now four years after the signing of the agreement with the radiologists, and what do we have by way of legislation? A bill merely to establish the framework to enable the introduction of a radiology practice accredita-
tion scheme. That is not a great deal of progress in four years. Clearly, at this rate, patients are not going to see a radiology services accreditation scheme with enforceable standards any time soon. It is also interesting to note that the explanatory memorandum to this bill indicates that the peak industry body for private specialist diagnostic imaging practices—that is, ADIA—has indicated that it is not at all enthusiastic about the proposed accreditation model put forward by the Howard government. ADIA’s opposition to the proposed model appears to be because of the perceived cost of the model to diagnostic service providers, even though the cost will be minuscule compared to the revenue generated in providing government funded diagnostic medical services. With respect to the government’s radiology practice accreditation proposal, ADIA put forward an alternative model which, from the small amount of information available, seems to be very close to a form of self-regulation rather than a rigorous and independent accreditation process.

There is no question that radiology services are critical to the health of millions of Australians. What does warrant questioning is that we have large, sophisticated companies generating huge revenues annually from the government—in some cases, hundreds of millions of dollars—yet these companies appear reluctant to embrace accountability. You can see what the business strategy is. As soon as the government suggests that there should be any form of regulation to protect the interests of Australians, business immediately starts clamouring about costs in order to frighten the government into watering down the introduction of necessary standards. I have no doubt that that is what ADIA is about.

This will be a real test for the government to see whether it has the backbone to stand up to the spoiling tactics of corporate medicine when it comes to finalising the planned radiology practice accreditation scheme. But, as we know, the government’s track record on standing up to corporate medicine is pretty appalling. Corporate medicine has been rapidly building up large corporate empires on the back of the Medicare scheme and government subsidies to the private health sector through the private health insurance system. There is nothing intrinsically wrong with this if the benefits of a more cost-efficient and effective medical services system flow to all Australians. However, there is little evidence that this has occurred.

Corporatisation of Australia’s medical services organisations has not decreased the real cost to patients of medical and hospital services. All the returns from any efficiency gains have gone into the pockets of the large medical and hospital service corporations. So there we have it again: the Howard government letting down patients. The explanatory memorandum to the bill, in discussing the regulatory problem that the bill addresses, states:

Effective management, available resources, information systems capable of monitoring patient progress, and multi-disciplinary teamwork contribute to a high quality service being provided. In other words, health outcomes are impacted by each element/activity carried out by the practice when delivering a diagnostic imaging service.

In other words, a patient’s care outcome depends on how effectively all elements of the diagnostic and treatment process interact. How, then, can the accreditation of one part of the diagnostic and treatment process ensure optimum patient outcomes? What is required is a medical services accreditation and standards monitoring regime that encompasses the whole of a patient’s diagnostic and treatment process rather than the piecemeal approach adopted by the Howard government.

Furthermore, a comprehensive and coordinated approach to the management of a
patient does not look to be supported by the Australian Medical Association, the AMA. This to me seems very strange. Why wouldn’t the peak body for doctors advocate rigorous accountability across the network of medical disciplines that knit together to ensure a patient receives optimal care? This is where corporate medicine has something to offer in the way it is able to link up, for the patient’s benefit, GP, radiology and pathology services within the one service regime. The federal government has a responsibility to harness the benefits of corporate medicine and deliver those benefits to patients. And, from a patient’s point of view, until there is cross-discipline accreditation, patients cannot be assured that they are receiving optimal care.

In many ways, the proposed radiology practice accreditation scheme looks very much like a rerun of the Professional Services Review Scheme, or PSR Scheme—that is, lots of words and very little effect. Indeed, the PSR is a prime example of the incompetence of this government when it comes to setting up and supporting government regulatory bodies whose role is to protect the interests of ordinary Australians against the excesses of powerful medical interest groups and big business. The PSR is supposed to protect the integrity of the Medicare scheme and the Pharmaceutical Benefits Scheme.

I would like to quote from comments made by the director of the PSR, Dr Tony Webber. He obviously has very serious doubts about his organisation’s ability, as currently organised and resourced, to prevent exploitation of Medicare’s $9 billion-a-year benefit payments. In an article in the Sydney Morning Herald in January 2006, Dr Webber indicated that evidence was emerging that doctors working for corporatised medical chains had geared their software and patient management systems to maximise returns from Medicare. He further indicated that there was evidence that some of the services, including pathology and radiology, were inappropriate. More worryingly, Dr Webber is reported to have said:

My concern is that where corporate medicine is having a strong influence on doctors, it raises suspicion that there is a lot of money potentially being wasted.

Dr Webber went on to say:

Medicare benefits are not designed to give a doctor a reasonable income and give corporates a 20% return on investment without compromise to standards of care.

There is no doubt that the director of the PSR would not have made these comments if he had felt that he had either the power or the resources to even up the contest between the profit intentions of corporate medicine and the maintenance of the objectives and financial integrity of the Medicare scheme. These comments should set alarm bells ringing for the government in respect of its radiology practice accreditation plans.

We know from the PSR’s Report to the Professions 2005-06 that a review of possible inappropriate practice by an individual medical practitioner, in respect of claiming Medicare benefits, can take as long as three to four years to bring to completion. Even then, the final outcome is not certain if the medical practitioner concerned contests the PSR decision in the Federal Court. It is also interesting to note that in 2005-06, when a medical practitioner contested a PSR decision in the Federal Court, there was a high probability of the medical practitioner concerned having the PSR decision overturned. In 2005-06 the Federal Court handed down 17 decisions in favour of the person under review and six decisions in favour of the PSR. To claim that the PSR can be held up as the protector of the integrity of the Medicare scheme is highly questionable. The question needs to be asked: why do we have such an apparently ineffective watchdog? Why is it...
that individual doctors can incur financial sanctions for misconduct in respect of their use of Medicare but the corporations for whom they work are apparently immune from penalty?

While the corporates own the show, the government deals with the bit players. How crazy is this? The government penalises individual medical practitioners for inappropriate prescribing practices but not the corporations for whom they work. There is no indication that the Howard government understands the realities of the commercial world of medical services provision in Australia, which the government is effectively funding through Medicare. While the corporates are drawing huge revenues from Medicare, the government’s surveillance of the integrity of the Medicare scheme and of the interests of the taxpayer is concentrated on individual doctors.

The result of this action is that the corporates who employ the radiologists have managed to disappear off the government’s Medicare surveillance radar. The government has apparently no idea of the amount of Medicare funding that flows to the large corporate medical services providers. This situation has occurred because the AMA has bludgeoned the government into establishing a professional services review scheme that is completely inadequate. You would not believe it if you read it in the tabloids, but it is a reality in Australia that corporate medicine is insulated from proper accountability in respect of its use of Medicare as a cash cow. It could easily be construed that AMA self-interest has effectively emasculated the PSR.

Why the Howard government constantly allows the medical profession to mangle its regulatory responsibilities is beyond belief. On top of that, in 2005-06 the PSR—let us remember that it is the Medicare scheme watchdog—only managed to claw back approximately $1.3 million in inappropriate payments made by Medicare. On the other hand, the cost of running the PSR in 2005-06 was no less than $5.4 million. You would have to wonder what this is all about. The government’s Medicare watchdog runs at a massive loss while corporate medicine reaps huge financial returns from the Medicare scheme.

So what does this all mean for the bill we are considering? Given the four-year delay in finalising the diagnostic accreditation model, how can we be assured that the radiology practice accreditation scheme will not be watered down to the detriment of patients? When the radiology practice accreditation scheme finally comes into operation, Australian consumers will need to be able to have confidence in it. It is about time that this government lived up to its responsibility to the Australian people and to Medicare. (Quorum formed)

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.53 pm)—I would like to thank Senator McLucas and Senator Sterle for their contributions to this debate. On behalf of the government, I acknowledge the opposition’s support for the Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007. This bill establishes a framework under Medicare for the introduction of an accreditation scheme for practices providing diagnostic imaging services covered by the Radiology Quality and Outlays Memorandum of Understanding. Patients should have timely access to high-quality radiology services. From 1 July next year, accreditation against objective and realistic standards will become a condition for facilities providing Medicare eligible diagnostic imaging services. The impetus for accreditation is not a reflection on the quality of services now being provided. However, accreditation provides government and the commu-
community with extra assurance that the 12 million or so diagnostic imaging services supported by Medicare, at a cost of $1.2 billion annually, are provided by organisations that are able to meet specified standards. The presence of many senators in this chamber signifies the importance that the government attaches to this bill.

The government is working closely with the Royal Australian and New Zealand College of Radiologists and the Australian Diagnostic Imaging Association, the relevant industry body, to develop a scheme that is practical and workable and that will minimise the cost to each practice. We are seeking expert advice on the standards through our extensive consultation with a wide range of bodies and a wide range of groups. The transitional arrangements in the bill will ensure that these practices will have ample time to prepare for the accreditation process. The bill also includes a mechanism to ensure that any adverse decision regarding a practice’s accreditation status will be the subject of an independent review, and so no-one will lose access to Medicare without a full and a fair process. The government is aware that there are robust discussions going on between the college and the industry on the development of the regime. We appreciate their commitment and trust that they will be able to work in collaboration with relevant professional medical groups to reach an agreement on the nature and structure of the accreditation regime. On behalf of the government and the Minister for Health and Ageing, I restate our willingness to assist the college and industry to meet the 1 July 2008 commencement date. Early agreement on the accreditation regime will ensure the necessary planning and implementation arrangements are completed in good time. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

FIRST SPEECH

The PRESIDENT—Before I call Senator Birmingham, I remind honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator BIRMINGHAM (South Australia) (4.57 pm)—The beauty of being young is that people forgive, nay, expect, a little idealism, vision and sense of aspiration. As I rise in this chamber as its youngest member on what is my last day as a 32-year-old, I come with high hopes for our country, the people of South Australia, who I have the honour of representing, and indeed the people of the world. I am reminded of the words of the late Liberal Senator Alan Missen, a man who fought strongly within his party and within this place to uphold what he believed to be true Liberal principles, when he said:

Youth will insist on a brave new world where social problems are tackled and solved and which offers a future for incentive and pioneering spirit. I come to this place looking for us to think big for at least the next few moments, to lift up above the humdrum, the sledging and the cynicism of day-to-day retail politics, to instead recall what inspired all of us: a desire to make a difference, a positive contribution, one that improves the lives of those living today and those of the generations to come. Ours is a great country, but I genuinely believe that we can lift our great country to a new level, to an even higher plane that makes the lives of all Australians better and has a positive impact on the world around us. At this point, just seven years into the new millennium, our relatively youthful nation of around 20 million Australians packs a punch far above the weight of our population. We boast the 11th largest economy in the world and a comparable standard of living that is rightly the envy of many other nations. We have always been an adventurous country, priding ourselves on our egalitarianism and
free spiritedness. Today’s Australians, however, are reaching new levels of self-confidence, new levels of confidence that we can build an even better future. Where once we sought safety in trade barriers, protection provided by interventionist governments and comfort in highly regulated labour markets, today’s Australians—especially those of younger generations—are more accepting of risk, embracing of change, and brimming with aspirations to take on the world with confidence.

As a people, we have sought greater freedoms, and we have secured them. Today we benefit from the freer movement of goods, services and capital as a result of the gradual liberalisation of world trade. We enjoy greater freedom to expand our knowledge through the improved accessibility of information and education. We enjoy enhanced opportunities to move more freely between jobs and careers, seeking a more flexible range of workplace conditions to suit our modern lifestyles. The promotion of freedom is something that the great party that I am proud to be a member of has cherished since its foundation. In the words of our founder, Sir Robert Menzies:

The real freedoms are to worship, to think, to speak, to choose, to be ambitious, to be independent, to be industrious, to acquire skill, to seek reward. These are the real freedoms, for these are of the essence of the nature of man.

It is true that the speed of modern life, the rapid exchange of information and the capacity for once faraway conflicts to be brought to our very doorstep can make the world seem a more daunting place. However, this same shrinking of the globe provides a world full of freedom for young Australians—a world full of opportunities past generations could only dream of. Today’s Australians are more travelled than ever before; they are more worldly than ever before; and, through the hundreds of thousands of people who make up the Australian diaspora, they are making a contribution to more corners of the globe than ever before.

Australians are also more liberal than ever before. I mean that not in the party political sense—although I hope that is the case too—but in the philosophical meaning of the term ‘liberal’. A liberal belief is a fine and proud one to hold. It is a belief, above all, in the worth and dignity of the individual—each individual—and his or her inherent value. But it is not a belief that holds individuals in isolation. Liberals instead recognise that the success of each individual contributes directly to the wellbeing of all. We aim to allow each individual to have the freedom and opportunity to add the ingredients of hard work, innovation and entrepreneurialism so that we may make a large pie for all to share in. As our current Prime Minister said in his first speech to the parliament:

... it is only through the creation of community wealth by the efforts of individuals in the community that it is possible for governments to undertake social welfare and to fund their operations.

In this place we must be careful not to put undue barriers in the way of generating such individual, and therefore community, wealth. There are areas that are worthy of regulation and there is also a need for government to implement taxes. But we must do so at the lowest possible levels and with the least possible impact on the incentive to grow greater wealth and opportunities for all. I am proud to be joining a government that has done more to reduce the burden of taxation on Australians than any in our nation’s history. But there is always more that can be done to reduce complexities, to remove disincentives and to eliminate the churning of tax dollars back to people from whom they should never have been collected in the first place. When it comes to the revenue and regulatory arms...
of government, the hands of government must be as light as possible.

I do not kid myself into believing that all are born equal and with an equal opportunity to contribute or benefit. It is not the case here in Australia and it is certainly not the case overseas. Sadly, features such as ancestry and geography conspire to provide some with fewer opportunities than others. This in part is where the role of government can come in. A liberal belief relies not just on allowing individuals to rise to their highest possible level of achievement but also on promoting tolerance, on caring for others and on doing all that is reasonably possible to create opportunities for those who may otherwise miss out. It is why we promote economic strength not as an end in itself but as a means to provide a social dividend, a strong safety net and, we hope, greater opportunities. In Australia we are indeed fortunate to boast world-class health, welfare, justice and education systems. Nonetheless, in all aspects of public policy there is scope to aim higher.

Our education system provides the key to unlocking opportunity for many of those who are born to families or born in regions where opportunity may otherwise be lacking. When I was growing up, I saw this firsthand in the northern suburbs of Adelaide. As a proud product of my local government school, Gawler High School, I enjoyed some great teachers who inspired and energised but, like many students, I encountered my share of less than inspirational teachers too. For me the ups and downs of the state education system were less of an issue. I was blessed with a mother and a stepfather, Diana and Jim, who I am proud to have here in the gallery today. They both worked hard to support me, and they demonstrated a strong work ethic and encouraged excellence. Then there is my grandmother Madge, who sadly cannot be here but is listening back in Adelaide. She instilled in me the desire to learn and the passion to contribute. And then there is my aunt Margaret, who is also in the gallery. She encouraged in me a little adventurism and she instilled confidence.

But not all children are that lucky. Despite all the jobs that have been created over the last decade and the commensurate reductions in unemployment, there are still young Australians who do not enjoy the benefits and who lack the positive example set by having at least one parent in the workforce. All too often the absence of working parental role models leads to intergenerational welfare dependency. Breaking such cycles of dependency is one of the most significant steps we can take to provide greater opportunities for all young Australians. It requires the current reforms to the welfare system, which provide both carrots and sticks to help people into the workforce. Successfully breaking cycles of welfare dependency also requires us to offer the best possible educational opportunities, especially in those regions of social disadvantage. The expansion of vocational education and training and increased focus on basics such as numeracy and literacy are all pieces of the educational jigsaw. Performance based pay for teachers may well do so too. However, I believe that choice is also a major piece of the puzzle of providing the best education to young Australians. Families who can afford to choose between an overly bureaucratised government school and a responsive private school have voted with their feet in recent years. They have shifted en masse from the public sector to the private sector. Thanks to the policies of this government, more parents have been able to afford that choice.

But those who most need choice—people in areas of disadvantage, with low incomes—are those who most miss out. It is time that at least one state in at least one region trialled the implementation of school
vouchers, affording all families the opportunity of choice—the opportunity to allocate the government funding for their child and to pay the fees to the school of their choice. The neediest should not be the ones to miss out on choice and, even if more families were to opt out of the government system, administrators would have clear evidence of the need to overhaul the teaching and/or management of such schools. Many will baulk at this idea, as some often do in the face of reform or change, but great advances are not made by standing still. If we aspire to an education system that will serve us as well for the next 100 years as it has done for the last then we must be willing to embrace change.

A good education system has blessed our country, and with it some of the most inquisitive minds in the country—people who will go on to be leaders in science, research and innovation. These people are often the true but unsung heroes of modern life. Their work impacts on all aspects of our lives—in the production of food, in the development of new technologies and in the care of our health. We need their work more than ever before if we are to tackle the environmental challenges we face, continue to make breakthroughs in the treatment of disease or illness and keep pace with the increasingly technology driven world around us.

I came to this place earlier than I thought possible when preselected by my party in February this year. My arrival was brought about by the sad and premature death of Jeannie Ferris. As was noted by so many of Jeannie’s colleagues in my first day here, she gave much to the Senate and to Australia. She was passionate about much and she had much left to contribute. One of the many policy areas that Jeannie embraced, especially in her last few years, was a commitment to the pursuit of scientific and medical research. She has left a legacy that will ensure improved consciousness of gynaecological cancers. And through her support of stem cell research she has ensured that Australian scientists can tackle these and many other diseases. In fighting for change last year Jeannie asked:

Why are we dealing ourselves out of this? Why are we encouraging our own experts to go overseas if they wish to get involved in this latest research?

Thankfully, we no longer are. I look forward to seeing the breakthroughs in the prevention, diagnosis and treatment of many illnesses—cancers such as the one Jeannie had or that which took the life of my father Jack when I was just 12, or the many other forms of illness or disease that Australians face on a day-to-day basis.

Of course, we have already made enormous advances in medical research. Along with improvements in basic hygiene and food production, it is one of the reasons we face a world filled with more people than was ever imaginable. Just 100 years ago there were around 1.5 billion of us sharing this planet. It took us tens of thousands of years to reach that point, yet in the hundred years that followed we have added five billion more people. At the same time, we have advanced our way of life, especially in developed countries, so that we each consume more resources in a year than many of our ancestors would have thought possible in a lifetime.

You do not need to be Einstein to work out that continued growth using current resources will ultimately be unsustainable. You should not even need to be 100 per cent convinced of the science behind global warming to know that the environmental footprint of man across this planet must have its limitations. We need to produce more food with less; more energy with less; more fresh water without depleting that available to future generations; and, possibly, fewer people, or
at least have a better dispersal of the world’s population. Again, science has an enormous role to play. It can help Australia continue to feed and sustain a hungry world. The late Bert Kelly, a former member for Wakefield and champion of free trade long before it was fashionable, said of our role in food production:

As our scientific knowledge and technical ability expand, as we learn to invest in even more machines, as we learn to conserve more fodder and so on, so will our production continue to expand. We have the country, the climate and the ability.

We must tackle our resource and environmental challenges with an open mind—open to embracing whatever solutions will prove the most effective in balancing environmental, social and economic considerations. In pursuing clean yet reliable energy, we should include the nuclear option. In pursuing an increase in our food production, we should include the use of genetically modified organisms; and in pursuing an increased supply of fresh water, we should include desalination. In mentioning these options I am not seeking to be prescriptive but the pursuit of truly renewable resources must be our ultimate goal, and along the way we must be clear that all options should be on the table.

I believe we must also look to population policies that identify sustainable targets for Australia and the world. Whilst I am optimistic about our abilities to innovate and adapt to future challenges, we must be mindful of the social and environmental limitations of an ever-escalating population. Once we have secured the water, food and energy for new generations, Australia should be able to sustain greater populations. We should aspire to support the growth of successful regional centres like Port Lincoln and Mount Gambier into new cities. But other parts of the world should equally be encouraged to consider their population sustainability, possibly heading in the opposite direction. I am optimistic about the future—about our capacity to foster the best scientific minds; to maintain a strong economy, with strong social dividends; to enhance and improve our education system; and to lead the world in practical environmental sustainability.

I am equally optimistic about our capacity to overcome other challenges: to meet the challenges of terrorism, through a concomitant commitment to global security and the breaking down of barriers; to pave a new way for our Indigenous communities, free of suppression, paternalism or welfarism, but based on incentive, respect and opportunity; and to further extend our national self-confidence through the pursuit of excellence and, perhaps one day, the adoption of a truly Australian head of state.

Like all of us, I come here bringing the perspective of my personal background—of my family and upbringing, which I have mentioned already, and of my professional life, which for the last 10 years has been in the tourism, hospitality and wine industries. These are sectors of the economy that are critically important to my home state.

I believed, until very recently, that I was the first in my family to pursue a political passion. However, I recently learnt of my great-uncle, Peter O’Loghlen, who served as the member for Forrest in the Western Australian parliament from 1908 until his death in 1923. He was a Labor man of the old style—the son of battling Irish migrants, a timber worker who chaired two Labor national conferences. Of his death in November 1923, The Worker newspaper wrote:

This man was a brother to us all! In him was blended every good emotion and every pure aspiration of the hosts of Labor. To know him was to feel better. To consult him was to drink from a fount of refreshment. The charity of his mind was exceeded only by the generosity of his purse. He lived for his fellow man.
Although we may notionally be on opposite sides of the political fence—and I will defer for another day the argument as to which party might now be the better friend of the workers—I shall work hard to achieve even half the respect that he clearly enjoyed.

Nobody comes here without a debt of gratitude to others. I sincerely thank my immediate family, many extended family and friends and past employers, many of whom are here today. Special mention must be made of my partner, Courtney, for all her love, support, blood, sweat and tears. She would be just as capable, if not more so, of standing in this place today and does more than anyone to challenge me and keep me true to my beliefs.

I also thank my party for their faith in me and the Young Liberal Movement for fostering my political interest for many years. I particularly thank the branch members in Hindmarsh, who worked so hard to try to elect me to the other place nearly three years ago, along with those in Sturt—our paired electorate—including the member for Sturt, who supported us at every step of the way.

There are two others who I single out: my longstanding mate Kristian Dibble, who returned from London to be here today, and John Gardner, who has supported each of my political battles. I extend my thanks also to the officers of the Senate, the whip’s staff, the various parliamentary staff, my own staff, and of course my new colleagues, who have all done so much to make me feel welcome.

I shall give my all to the time I have in this place, knowing that the honour and opportunity afforded to me should never be taken for granted and can easily be withdrawn by those who ultimately judge our actions. You can expect me to play hard when required, because that is the nature of our robust, adversarial democracy. But I hope, ultimately, when somebody rises to replace me in this place, they look back and believe that I pursued the politics of construction, of achievement and of believing in a great future for our great country. Former US President Theodore Roosevelt summed it up best when he said:

Far better it is to dare mighty things, to win glorious triumphs even though checkered by failure, than to take rank with those poor spirits who neither enjoy nor suffer much because they live in the gray twilight that knows neither victory nor defeat.

Thank you.

HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION) BILL 2007

Debate resumed.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.19 pm)—by leave—I move Australian Democrat amendments (1) and (2) together:

(1) Schedule 1, page 3 (after line 12), after item 2, insert:

2A Paragraph 10AA(7) (definition of spouse)

Repeal the definition, substitute:

spouse, in relation to a person, includes:

(a) a person who is legally married to, and is not living, on a permanent basis, separately and apart from, that person; and

(b) another person, who although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person; and

(c) a person in an interdependency relationship as defined in section 10AAA.
Schedule 1, page 3 (after line 12), after item 2, insert:

2B After section 10AA

Insert:

10AAA Interdependency relationship

(1) Two persons (whether or not related by family) have an interdependency relationship under this section if:

(a) they have a close personal relationship; and
(b) they live together; and
(c) one or each of them provides the other with financial support; and
(d) one or each of them provides the other with domestic support and personal care.

(2) In addition, 2 persons (whether or not related by family) also have an interdependency relationship under this section if:

(a) they have a close personal relationship; and
(b) they do not satisfy one or more of the requirements of an interdependency relationship mentioned in paragraphs (1)(b), (c) and (d); and
(c) the reason they do not satisfy those requirements is that either or both of them suffer from a physical, intellectual or psychiatric disability.

(3) The regulations may specify:

(a) matters that are, or are not, to be taken into account in determining under subsection (1) or (2) whether 2 persons have an interdependency relationship under this section; and
(b) circumstances in which 2 persons have, or do not have, an interdependency relationship under this section.

These amendments deliver on the Prime Minister’s promise, which was made some time ago now—I think it was early last year—that he would remove financial discrimination against same-sex couples and other relationships that are interdependent. These amendments give effect to that promise in respect of the safety net which applies to Medicare. I know that this is somewhat outside the thrust of the legislation we are dealing with today but it does still apply to diagnostic imaging accreditation in the sense that diagnosis and the costs of diagnosis are captured by the Medicare safety net. The effect of these amendments would be to remove the financial discrimination that the Prime Minister said was abhorrent and to do so, as I said, for Medicare.

It would affect those in a relationship who were not previously known to be in the category of ‘partners who are legally married’. It would apply not just to those people in a same-sex relationship but also to those people who are in a relationship which is close and which is physical, in that they live together, where there is financial support provided from one to the other and where there is also a sharing of domestic support and personal care. This applies to siblings who may live together in such a relationship, to an aunt and a niece or to anyone who is not closely related but who chooses to cohabit and to have a relationship which is interdependent. There is no good argument for discrimination against such people. The same costs, the same encouragement and the same incentives should apply to those people who have such relationships and to those who are legally married—a man and his wife.

I urge the minister to accept these amendments on behalf of the government and to vote with the Democrats’ amendments, which honour the promise of the Prime Minister. If the government does not support the amendments, I would very much value advice from the minister dealing with this legislation as to when we can expect this to be the case. This was, as I understand it, an honest, sincerely made promise by the Prime Minister and now this chamber is
looking for delivery. This is a perfect opportunity to do that. This is a straightforward amendment. I think everybody can understand it. The definition of ‘interdependent relationships’ was adopted for superannuation. The so-called ‘choice’ legislation introduced this concept of interdependency for those in the private sector, so it is not new and it should not be a foreign concept to the government. Again I say: the Prime Minister promised this. When will he deliver? Will it be now? I encourage that to be the case.

**Senator STEPHENS** (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (5.24 pm)—I rise to indicate that Labor support these amendments on the basis that we would like to see some improved policy coherence on these kinds of issues. This is something that the Democrats have pursued very actively on a range of legislation, so we will support them on that basis.

**Senator MASON** (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.24 pm)—I understand that the Australian Democrats have raised, in similar contexts, amendments to include same-sex partners in the definition of a spouse. Can I indicate to Senator Allison that the government will oppose these amendments. There are no plans to change current government policy at this time irrespective of the views of individual coalition senators. Same-sex couples cannot register as a family because Medicare is limited by the definition of ‘family’ in existing Australian government legislation. As Senator Allison did indicate, the relevant provisions are section 10AA of the Health Insurance Act 1973 and section 84B of the National Health Act 1953, which state that a family comprises a person’s spouse and/or dependent child, with ‘spouse’ being further defined as a person who is legally married to that person or de facto of that person. ‘De facto spouse’ is further clarified in section 4 of the National Health Act 1953, which defines the term as ‘a person living with another person of the opposite sex on a bona fide domestic basis although not legally married to that person’. It is this section that would need amending if same-sex families were recognised for Medicare and Pharmaceutical Benefits safety net purposes. There are no plans to change current government policy at this particular time, and the government will oppose this amendment.

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (5.26 pm)—I am grateful to the minister for his advice about which act and which clause would need to be amended in order to deliver on this piece of social justice and human rights; however, I will confine my comments to his remarks about the coalition’s not acting on the comments—I think those were your words, Minister—of an individual member of the coalition. As I said to you, it was the Prime Minister who made this comment, not some backbencher in the Senate or the House of Representatives. We have become accustomed in this place to understanding that, if the Prime Minister says it, there is a fairly good chance it will happen. But, just to reiterate what you have just said, there are no plans here—or in any other legislation, presumably—to right this wrong despite the fact that the Prime Minister identified it some time ago. So that is very disappointing.

This is an issue that goes beyond the mere question of safety nets. This should be about an equitable society—where people are treated equally, particularly when it comes to benefits and measures such as the safety net. Whatever you think about the safety net and whatever you think about same-sex couples, the question is one of equality and fair treatment across the board. The Democrats see no reason to continue this discrimination. It is disappointing that, despite the fact that the
Prime Minister also sees no reason to discriminate, this discrimination will continue for the foreseeable future under a coalition government.

Senator BARTLETT (Queensland) (5.22 pm)—I do not want to detain the Senate for an excessively long period on this, but I do think it is worth emphasising what specifically is stated here. I am sure Senator Mason will listen to this information and take it on board—he is now in a position of much more power, authority and influence these days, as is Senator Johnston behind him. Senator Mason might not be aware of the full background to this, but the Prime Minister is capable of supporting amendments such as this because he did do so once—about three years ago. It was the only time during my period as leader that I chose to have a joint press conference with Mr Howard. I sat at one of those little lecterns out in his fancy courtyard, where we were able to talk about the fact that he had agreed to amendments that would open up access to superannuation entitlements for same-sex couples. It was part of reaching agreement on the superannuation choice regime. Not surprisingly, Mr Howard was more keen to talk about superannuation choice and I was keen to emphasise the same-sex couple changes; nevertheless, they were agreed to.

It took, I think, about three years. The government actually held up their own superannuation choice regime. They quite rightly thought the regime was a good idea—and, after it was tinkered with by the Democrats, it was reasonably good. But they were willing to hold up the entire thing for three years because of just this issue. I am thankful to the Prime Minister, and I think Senator Coonan in particular should be noted for enabling that change to occur. But it does need to be emphasised that the Prime Minister himself said at the end of 2005 that he does not support discrimination against same-sex couples in regard to access to entitlements, and he thinks most people would not. That is totally separate to issues of marriage, adoption and those things. But there has been no action.

We have had a HREOC inquiry in great detail that has reaffirmed the enormity of the discrimination that exists in a whole range of acts. To me, it really goes to the issue that there is a range of people in the coalition who, due to all the other distractions that we all have, have not been across the detail of what has been said on the record by the Prime Minister and what the past record is.

I would also point to some speeches. We are putting great store in the Prime Minister here, but I think we should not totally belittle the role of the humble backbencher, which every minister was once upon a time. I can recall some very fine speeches in this chamber towards the end of last year, again on this very topic and on the Democrat sexuality discrimination bill, which has been in this chamber since 1995, seeking to address issues like this. There was a very supportive speech given by Senator Brandis, as I recall. If I might say so myself, it was a better speech than the one I gave. It went to the point so well—it was so well constructed. Maybe that is the reason why he has become a minister! Perhaps Prime Minister Howard heard it and thought: ‘He’s a man after my own heart. We’ll make him a minister.’ Maybe that is why he got Arts; who knows? And it was not just Senator Brandis but one or two others as well who made very good, cogent arguments about how this is completely appropriate in principle. But still we see nothing happening.

It needs to be emphasised that it is one thing to just put up an argument and say, ‘No, this is bad policy; we don’t support it,’ for whatever reason. Frankly, in some ways it is worse to be continually making state-
ments saying, ‘Yes, we do think this discrimination is bad; we don’t think it’s good; we do think it needs to change,’ and then still have nothing happening. In some ways that is actually worse. So I urge all coalition members to revisit this issue, to look for an opportunity to add to that pressure that I know is being applied to see if we can get change. There is the report from HREOC that I think will be tabled in this parliament by the end of this sitting fortnight. I fully expect that it will strongly reinforce the case that the Democrats have been making for 12 years or so in this place, as have senators from other parties and Senate committee reports, including reports from the Senate committee on superannuation and including specific reference committee reports. There is an overwhelming mountain of evidence. There are now an overwhelming number of statements in support. All we need is that action.

I would suggest that it goes to an issue of credibility, beyond just the pros and cons of the policy. If you have statements being made continually of a certain position or belief and they are not then followed up with action, it does call into question the integrity of the belief and indeed the integrity overall of that party and their leadership. If they make repeated statements and then do not follow up on them, it is a bit hard to do anything other than draw the conclusion that perhaps they are not genuine. If they are not genuine on that then maybe they are not genuine on other things either.

It might seem like a second-order issue to a lot of people, but to many people it is a top-order issue, not least because it has been promised for so long and so little has been delivered on it, despite the bits that the Democrats have managed to get over the years, particularly in the area of superannuation. So I do urge people, in the period between now and the election, to look at that HREOC report when it is tabled and perhaps even after that consider acting on it.

I should say as well that I welcome Labor’s support on these amendments. It has not always been forthcoming on all occasions, and it is pleasing to see that being more consistently applied as well, so that it is acted on if they do get into government.

The TEMPORARY CHAIRMAN (Senator Murray)—The question is that items (1) and (2) on sheet 5279 be agreed to.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (5.35 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

NATIVE TITLE AMENDMENT (TECHNICAL AMENDMENTS) BILL 2007

Second Reading

Debate resumed from 12 June, on motion by Senator Scullion:

That this bill be now read a second time.

(Quorum formed)

Senator LUDWIG (Queensland) (5.38 pm)—I rise to speak on the Native Title Amendment (Technical Amendments) Bill 2007. This bill makes a raft of changes to Australia’s native title regime. I will not have the opportunity to touch on all of those changes in detail, so I will touch very briefly on the provisions of the bill before I proceed to outline Labor’s support for the bill and to articulate some of the concerns we have.
Before I do that, I would like to thank the government for moving significantly towards Labor’s position on this bill. I am sure that is the sort of praise they do not often get. The government’s amendments have picked up two of Labor’s key concerns about this bill. They are, firstly—and this is the view of the Senate Standing Committee on Legal and Constitutional Affairs—that the National Native Title Tribunal, rather than the registrar, hear appeals against decisions of the registrar not to register an application and, secondly, that the Federal Court retain the role of determining prescribed bodies corporate and that this role not be taken over by regulation, which is appropriate and was the view expressed in the minority report by Labor senators. I will touch on these two areas again in a moment, but Labor still has a number of minor concerns about this bill and I will go to those this evening.

Before I do that, I note that this bill, and the amendments which the government is moving, really does underscore the value of committees as part of the whole Senate process. The committee that examined the bill made a number of recommendations, and I will take the chamber to these a little further on. Also, Labor made a number of recommendations in the minority report, as I have noted. The government has now moved amendments which would put into effect two of those recommendations. It is a sensible position that the government has now adopted in agreeing to those recommendations. It is helpful when the government is prepared to take up sensible amendments to improve its legislation. Rather than commend the government, I note that it has done that and I recognise that it also joined in the committee process itself.

Returning to the bill, I will firstly provide a short overview. Schedule 1 will introduce the majority of the changes in this bill. These include amendments to the process for future Indigenous land use agreements and the making and resolving of native title claims, changes to the obligations of the registrar and a range of other changes that I will not have time this evening to go to in any detail.

Schedule 2 simplifies a range of procedures relating to representative Aboriginal and Torres Strait Islander bodies, ensuring that legal obligations on those bodies are not duplicated, improving processes for reviewing decisions, and clarifying the process for transferring documents from a superseded body to a replacement body.

Schedule 3 introduces a range of amendments to the operation of prescribed bodies corporate. It will close a loophole relating to the placement of these prescribed bodies corporate with other PBCs and prescribe a regime for the charging of fees by those prescribed bodies corporate.

Schedule 4 is composed entirely of minor technical amendments. The title of this bill goes to ‘technical amendments’, and the bill also has a technical amendments schedule within it. I do not see any need to go to those this evening.

Schedule 5 is a new schedule to the bill which has been introduced by the government in a later set of amendments. The explanatory memoranda state that this schedule ‘would rectify a drafting oversight in the transitional and application provisions of the Native Title Amendment Act 2007 (2007 Act) relating to the dismissal of unregistered claims’. Again, these appear to be mainly ‘technical amendments’, which again go to the title of this bill.

As I said earlier, and as my colleagues stated in the other place, Labor supports the vast majority of the changes in this bill and we will be voting for them, as they are technical amendments designed to streamline and improve the operation of the Native Title Act rather than to radically alter or amend it. In
addition, the government moved towards Labor’s position in two key areas which I outlined earlier. This is also of value and underpinned how Labor would address this bill. However, there are still changes in this bill which we do not agree with and which we believe could be clarified and improved in the best interests of all those who will have to operate under this scheme.

I will start with a concern that was identified in the submissions to the Senate committee—that is, the new fee system that is proposed in schedule 3 of the bill. Labor can certainly understand the arguments in favour of having a fee regime. The bodies are performing a statutory function and, as such, it is reasonable to expect at least some level of statutory prescription of fees. According to the bill, the scheme would work in this way. A registered native title body corporate would be entitled to charge a fee for the cost it incurs for certain negotiations, including negotiations for a right to negotiate an agreement or its equivalent under a state or territory scheme, or negotiations for an Indigenous land use agreement. A body corporate would be entitled to charge fees for costs it incurred in these negotiations. There are a limited number of persons of whom a body corporate cannot charge a fee, and they are set out in proposed section 60AB(4) of the bill. There are also certain types of negotiations for which a body corporate would not be entitled to charge a fee and the ability prescribed by regulation or other circumstance for which a fee cannot be charged, which is sensible.

Of course, concerns about this bill were raised in submissions to the inquiry of the Senate Standing Committee on Legal and Constitutional Affairs that the proposed fee scheme represented a restriction rather than a facilitation of the ability for bodies corporate to charge fees. The Department of Families, Community Services and Indigenous Affairs, in response, indicated otherwise. In evidence given at the Senate inquiry, their representatives argued as persuasively as they could that the statutory bodies are by law required to have either explicit or implied authority to charge fees. Having looked at the evidence of the department on this matter, Labor will not oppose proposed section 60AB.

However, the subsequent proposed section, 60AC, is not, quite frankly, good law. We call on the government to have a closer look in dealing with this area. We think the problems with proposed section 60AC revolve around the fact that it provides that a person who has been charged a fee may go to the registrar to obtain an opinion about whether or not the fee is payable. The registrar then gives an opinion, which may agree or disagree with that fee being payable. If the registrar decides that the fee is not payable, that opinion is binding on the body corporate. The government, in its latest round of amendments, has moved, as I said earlier, technical changes to this section to clarify that the registrar always retains the discretion to not give an opinion. This section also provides that the regulations may set out the scheme in greater depth. It would certainly be helpful if that were available. Usually these matters come later, but, in any event, if the department turns its mind to ensure that the regulations ensure a smooth operation in this area, it would be helpful.

In any event, though, it is our view that there are still quite a few unanswered questions about the fee system that at this stage preclude the ability for Labor to wholeheartedly give it a tick. These questions include—and these may be matters that we can raise in committee: is there a right of merit review for a native title body that believes that the registrar may have made an incorrect decision; will the regulations set fee scales; what procedures will the registrar have in place to assess the matters that are brought before
them; what assurances are there that they will make consistent decisions; will precedent be relevant; will it be based on only merit; will it be the practice of the registrar to give an opinion which includes what they think might be an appropriate fee or will they simply provide a yes or no answer; and, will they provide reasons for their decisions and will those decisions be publicly available? In addition: if so, will it eventually evolve into a situation where the registrar effectively acts as a de facto agency which sets fees? Will they be given that authority at some point or will the body of decisions that are made point to the registrar providing, in fact, an opinion method of setting fees? Other questions of this nature present themselves and the department and the minister need to be able to answer these questions before Labor can give this a tick.

We understand why such a scheme is necessary, but we do not believe that a fee scheme provides certainty for all stakeholders. If the eventual aim is to ensure there is certainty, that certainty is not apparent on the record here. However, we will not move to strike out either section from this bill, because of the complex nature of the way in which the bill has been put together, and because, in essence, it is a technical amendment to a provision.

Proposed section 60AB is necessary to allow the statutory authority to charge fees, but it is incumbent upon the government and the minister to develop a workable system and bring that back before parliament, certainly by way of regulation. It is not our role in this instance to try to come up with an alternative model that is workable; it is really incumbent upon the government to make sure that those matters that I have raised as concerns are addressed appropriately and that it certainly works reasonably for the parties and the stakeholders, because that is ultimately where we want to be. We want to ensure that the stakeholders have certainty, that the fees that are charged are reasonable and that everybody knows the process. Therefore, I repeat the request that the government, in truth, takes this away and devises a proper and more comprehensive process for the review of fees that sets out the rights of each participant and how they might exercise those rights. I appreciate that will not happen. I appreciate that the department and the minister are not going to accede to that, but I think it is still incumbent upon the government to put its case and ensure that it does work.

A second area of some minor contention in this bill relates to the provisions in the act which deal with cases in which applicants are found to be not properly authorised. As senators in this chamber may know, certain types of native title claims and applications must be made by a person who has been properly authorised. The problem under the current regime is that there is no clear indication of what would happen if it became clear during the proceedings that the applicant was not properly authorised. The proposed scheme—which we support, as I have said—would fix and clarify this situation. It would allow for the court to make an order that evidence must be produced by an applicant to show that they were authorised to make the application. If the court determined that the person was not authorised to make the application, a range of orders would be made. The court would also be entitled to continue to hear and determine the application if it believed that such a course of action were in the interests of justice.

Labor supports these provisions. I note from submissions to the Senate inquiry that these provisions are supported and welcomed by the stakeholders. However, one suggestion that was made in submissions which we think has merit—and it is never too late for the government to pick it up—is that a person who is making an application to the
court for an order to produce evidence is required to show cause as to why it should be made. This would help to make sure that such applications are not open to abuse. I will give the government an opportunity to have a second think about that. I foreshadow that I will move amendments in the committee stage to achieve that.

Another area of difficulty with this bill, minor as it may be, relates to the potential for non-Indigenous persons to be members of bodies corporate which oversee native title rights for native title holders. Native title is an area which is distinctly Indigenous and is based on Indigenous customs and laws. It is appropriate that this section be clarified to make sure that only corporations with solely Indigenous members are entitled to become prescribed bodies corporate.

Turning to the right of review—and I think my colleague Jenny Macklin flagged in the House another concern regarding the right of review—the bill before us today would introduce a right of review for persons who have had their registration refused. Initially the government proposed to give the right of review to the registrar. That would have meant that the same body that had originally refused the registration would be conducting the review. Submissions to the Senate inquiry indicated that it would be more appropriate for the scheme to allow the review to be conducted by the National Native Title Tribunal. Of course, that would mean allowing a fresh set of eyes to look over the application. The committee concluded that this was an appropriate change and made such a recommendation. In the latest set of amendments, the government has picked up the suggestion of the Senate committee, as I mentioned earlier. I thank the government for that. It is a sensible amendment and it has Labor’s support.

I will now turn to the proposed amendments that deal with and validate alternative state regimes. As the submission by the Human Rights and Equal Opportunity Commission pointed out, there are concerns that this section would act to retrospectively remove the rights of native title holders. As such, Labor believes that these items that relate to the validation of the alternative state regimes should be delayed pending consultation with native title holders.

Finally, I turn to the issue of default prescribed bodies corporate. The new provisions essentially allow for the appointment of prescribed bodies corporate in circumstances where no functioning body corporate has been nominated by the native title holder. This will mean that the functions that a prescribed body corporate normally undertakes will continue to operate in circumstances where for a variety of reasons they currently do not.

Originally, the Senate committee identified problems with this scheme, which were picked up in Labor’s minority report. The concern was that the regulations would allow the prescription of not only the types of bodies corporate that may be determined as the default PBC under the scheme but also the exact bodies corporate. The department indicated to the committee that this was not intended to be the case and that it did not believe that the powers would ever be exercised by a body other than a court. Labor picked up these comments in its minority report. I note that the government—perhaps taking a belt-and-braces approach—has also moved to rectify these concerns by foreshadowing amendments to deal with them. Again, I thank the government for at least taking those matters seriously and fixing them up.

Despite the concerns I have outlined, I indicate that Labor supports this bill. We do believe that it can be a positive development
towards cutting down the time it takes for native title matters to be resolved, which is far too long at the moment. I think that everybody recognises that and I think it is in everybody’s interests as well that we cut down the time used in making determinations. If the technical amendments go some way in granting certainty for stakeholders, I think they are worthy of support. Having both certainty and a streamlined system—although I am not convinced it is as streamlined as it could be—will ensure that decisions can be made quicker by allowing the greater use of the system in the exercise of people’s rights earlier and with some greater certainty.

I foreshadow, of course, that Labor will move amendments in line with the issues I have outlined. We do so because we believe that these will improve rather than hinder the operation of the bill. When the amendments are moved in the Senate, I hope the government—perhaps I will put it more strongly than that: I think the government should—look at them in greater detail and support them because they will improve the operation of the scheme in more general terms than this bill currently does.

Senator BARTLETT (Queensland) (5.57 pm)—Senator Ludwig has outlined most of the detail of the Native Title Amendment (Technical Amendments) Bill 2007, so I will not repeat all of that. I would note that the government have circulated a number of amendments which respond to much of the report into the legislation by the Senate Legal and Constitutional Affairs Committee, and I welcome that. These days I am regularly critical of the lack of interest by the government on many occasions in the Senate committee process, the ridiculously truncated time frames that they apply and their lack of interest in the findings of the committee at the end of the process. So, in the interests of balance, I have equally to make note of it when they do listen and pay attention to the committee’s findings.

This is the second native title amendment legislation that has been before the Senate this year. To some extent that is a symptom of the fact that the native title regime has significant imperfections. I recognise and acknowledge that the amendments that have been introduced this year are intended to address these imperfections, and some of them do go some way to doing that, but I also suggest that a lot of them revisit some of the flaws in the original native title arrangements, particularly those that were put in place under the so-called 10-point plan and heavily modified but nonetheless passed by the Senate, not with my support but obviously with majority support, quite some years ago—in 1998 if my memory serves me correctly.

Linked into that are some of the institutional shortcomings with the native title arrangements. Senator Ludwig has alluded to some of those as well. Some of the other shortcomings are those that you can never fix with law; they are the ones to do with attitudinal shortcomings, particularly at the level of state and federal governments as well as some other key stakeholders. There has been too much foot dragging, there has been too much resistance and there has been too much apprehension and fear about what native title is. Indeed, there has been grotesque misinformation in some cases. I am pleased to say there is less of that than in years gone by.

Again in the interest of balance, I note that despite its shortcomings—and they are significant—native title is delivering results. I spoke in the Senate earlier today in the matter of public interest debate about the Productivity Commission’s latest report on the state of play with Indigenous equality in Australia. There were a range of indicators in a report they have released—their third re-
port looking at indicators for Indigenous people with regard to health, education and other things—and one of the measures that has progressed is an increase in the areas that have had native title determinations or Indigenous land use agreements put over them. Not all of those land use agreements are perfect or ideal by any means, but many of them have delivered positive results for Indigenous people. Some of those that have not certainly still have the potential within them to do so, and the work still has to be done so there is potential there.

In that same speech today, I spoke about an agreement that has just been reached with the Queensland state government and traditional landowner groups on Cape York, putting in place a framework that should enable the prospects of further land use agreements and joint management over areas where native title has been recognised that have national parks put over them. Many of those things would not have been put in place or would have been harder to put in place if there was not that underpinning recognition of native title. Of course it should be noted that Far North Queensland—the Torres Strait Islands specifically, and with the Wik case on Cape York—is in one respect the birthplace of native title, in the legal sense at least. So it is delivering some results, slowly, torturously and with a lot of anguish in some cases. I do not dispute those flaws, but it is important to emphasise the positives that are being delivered in some areas. Inasmuch as these changes here today will go to further enhance those, then they should be welcomed.

I made some further comments in my contribution to the Senate committee report. I have no additional comments there, so I will not repeat those; I refer the Senate to those. As I said, the government has made some amendments that go some of the way to some of those and I have other amendments here that I can address when we get to the committee stage of the debate. It is an area that is important; it has moved out of the public and media spotlight and perhaps in some ways that is a good thing. It takes some of the heat out of it most of the time. We can focus on making it work better for everybody. But let us not forget that the primary aim of native title, certainly in the Democrats’ view, is to provide some mechanism for some limiting or halting of the damage done through dispossession of Indigenous peoples. That can never be fully reversed, of course, but it is a mechanism for halting further dispossession and, where feasible, for enabling the remaining title to be used for the benefit of Indigenous Australians.

To that end, I again implore governments, both state and federal, to do more in this area to facilitate the positive opportunities that native title represents for all Australians, not just for Indigenous people. We do still have examples, like the appeal that was launched by both state and federal governments against the Noongar land claim in Western Australia. I think the appeal against that was unfortunate. We have other circumstances in the Northern Territory. I have spoken a number of times in this place about delays in native title claims in south-east Queensland. It is not just a matter for those who are in northern areas or the remote parts of Queensland; there are claims in and around metropolitan areas, including in and around Brisbane and the Gold Coast. We have had the claim of the Githabul recognised in northern New South Wales, which is very positive. Their claim stretches over into southern Queensland—across the Mount Lindsay and Beaudesert areas—and it seems incongruous and unfortunate that it has been concluded on the New South Wales side of the border with some positive arrangements but there is still no recognition on the Queensland side. It is also important to once again repeat the call for further and more effective resourcing of
Indigenous bodies; not just the native title representative bodies, but also the PBCs and others who wish to engage in the native title process. Streamlining and promptness are important—particularly when you are dealing with establishing connection to country, some knowledge of which resides in elderly people—but it should not be at the expense of a just outcome. We need to always guard against that.

I will speak further on my amendments in the committee stage of the debate. I think that at least some of the amendments that are made to this legislation, technical though they may be, should improve the operation of the native title regime for most stakeholders. While it is important to have it operate effectively for everybody, having it operate effectively and fairly for Indigenous people has to be a primary goal. On balance, these changes do that, but, again, to some extent it comes down not just to what is in the act itself but also to the attitudes of those who engage with it and the resources and capacities available, particularly to Indigenous people, to engage with it.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.07 pm)—I would like to thank senators for their contribution to the consideration of the Native Title Amendment (Technical Amendments) Bill 2007. I also thank the Senate Legal and Constitutional Affairs Committee for its detailed consideration of this bill. The government has carefully considered the recommendations made by the Senate committee and has accepted a number of them. The government will accept recommendations 2, 3 and 5 of the Senate committee report. The government will also accept part of additional recommendation 2 from the minority report. I will discuss these recommendations further when I move government amendments to implement these recommendations. The government does not accept recommendations 1 and 4 of the Senate committee. I will deal with both these recommendations here to record the government’s response to the Senate committee’s report for the record.

With respect to recommendation 1, which was to amend proposed section 87A, the Senate committee recommended proposed subparagraph 87A(i)(c)(v) to:

... require consent from a party, with an interest in relation to land and waters in the determination area, where the Federal Court is satisfied that the interest is likely to be affected by the proposed determination.

The government does not accept this recommendation. Proposed section 87A is intended to streamline processes where there is an agreement amongst those who have an interest in the determination area and prevent those with an interest in other areas of the claim from blocking a consent determination over part of the claim.

The amendment to proposed section 87A in this bill directly implements recommendation 9 of the Senate committee’s report on the previous native title amendment bill. I note that, in its current inquiry, the committee received conflicting evidence from stakeholders. Some thought the amendment should go further; others felt the amendment was not necessary. The provision as drafted strikes an appropriate balance between the need to effectively resolve native title matters and the need to protect those with substantive interests within the claim area. Implementing this recommendation would create uncertainty as parties would not know prior to the determination being considered by the court which parties with an ‘interest’ are required to consent. This proposal would also encourage time-consuming debate about which parties should be required to consent.

With respect to recommendation 4 on the replacement of applicants, the Senate committee recommended amending the bill to
provide a separate simplified process for the removal of an applicant who consents to removal or who is deceased or incapacitated where there is no requirement to replace that applicant. Whilst the Senate committee did not specify what that simplified process could be, a submission to the Senate committee suggested that the court could remove the person on receipt of affidavit evidence that the person is in fact deceased or incapacitated or consents to his or her removal. The government does not accept this recommendation. Changes to the applicant can raise complex issues, particularly in relation to authorisation of the claim. There is a risk that claims may not be properly authorised if the bill provided for a streamlined process of the kind proposed by the Senate committee. The bill already provides that applications can be amended to replace the applicant, including where one of the persons who is an applicant dies, becomes incapacitated or consents to his or her replacement or removal without undergoing a registration test again. However, the amendments in the bill will not negate the need for the court to be satisfied that the replacement applicant is authorised to be the applicant. Whilst a change to the applicant to remove a deceased or incapacitated person may seem uncontroversial, the effect of such a change may in fact be quite significant, particularly with large claimant groups.

I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.11 pm)—by leave—I table a supplementary explanatory memorandum relating to the government amendments to be made to this bill. The memorandum was circulated to the chamber on 12 June 2007. I move government amendments (1) to (40) on sheet ZA211 together:

(1) Subclause 2(1), page 2 (table items 2 to 4), omit the table items, substitute:

| 2. | Schedule 1, items 1 to 83 | A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period. |
| 3. | Schedule 1, items 83A to 83C | The day after this Act receives the Royal Assent. |
| 4. | Schedule 1, items 84 to 89 | At the same time as the provision(s) covered by table item 2. |
| 4A. | Schedule 1, items 90 and 91 | Immediately after the commencement of Schedule 2 to the Native Title Amendment Act 2007. |
| 4B. | Schedule 1, items 91A to 91E | At the same time as the provision(s) covered by table item 3. |
| 4C. | Schedule 1, items 91F to 139 | At the same time as the provision(s) covered by table item 2. |

(2) Subclause 2(1), page 2 (table item 10), omit the table item, substitute:

| 10. | Schedule 3, items 8 to 10 | At the same time as the provision(s) covered by table item 5. |
10A. Schedule 3, item 10A
Immediately after the commencement of Schedule 1 to the *Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Act 2006* 1 July 2007

10B. Schedule 3, items 11 and 12
At the same time as the provision(s) covered by table item 5.

(3) Subclause 2(1), page 2 (at the end of the table), add:

12. Schedule 5
At the same time as the provision(s) covered by table item 2.

(4) Schedule 1, item 22, page 8 (lines 21 to 23), omit the item, substitute:

22 Subparagraph 24CL(2)(b)(ii)
Omit “subsection 190D(2)”, substitute “subsection 190F(1)”.

22A After subparagraph 24CL(2)(b)(ii)
Insert:

(iia) the claim is accepted by the Registrar for registration as a result of notification given to the Registrar by the NNTT under section 190E on application under that section, where the application was made not more than 28 days after the notice under subsection 190D(1) was given; or

(5) Schedule 1, item 31, page 10 (lines 9 to 11), omit the item, substitute:

31 Subparagraph 24FE(b)(ii)
Omit “subsection 190D(2)”, substitute “subsection 190F(1)”.

31A After subparagraph 24FE(b)(ii)
Insert:

(iia) the claim is accepted by the Registrar for registration as a result of notification given to the Registrar by the NNTT under section 190E on application under that section, where the application was made not more than 28 days after the notice under subsection 190D(1) was given; or

(6) Schedule 1, item 69, page 19 (cell at table item 5, 3rd column), omit the cell, substitute:

(a) direct the ADI to pay the amount secured (the *original amount*) to the Registrar; and

(b) pay an amount equal to the amount determined to the ultimate beneficiary; and

(c) pay the remainder to the person who secured the original amount by bank guarantee or, if that person no longer exists, apply to the Federal Court for a direction as to its payment.

(7) Schedule 1, item 69, pages 20 and 21 (cell at table item 8, 3rd column), omit the cell, substitute:

(a) direct the ADI to pay the secured amount (the *original amount*) to the Registrar; and

(b) pay an amount to the ultimate beneficiary equal to the amount the court orders to be paid; and

(c) if the amount to be paid to the ultimate beneficiary is less than the original amount—pay the remainder to the person who secured the original amount by bank guarantee or, if that person no longer exists, the person to whom the Federal Court orders it to be paid.

(8) Schedule 1, item 69, page 22 (line 4), omit “item 9”, substitute “items 5, 8 and 9”.

(9) Schedule 1, item 78, page 24 (lines 6 and 7), omit paragraph 64(3)(b), substitute:

(b) the NNTT is, under section 190E, reconsidering the claim made in the application; or

(10) Schedule 1, page 26 (after line 14), after item 83, insert:
83A Paragraph 66C(1)(c)  
Omit "and". 

83B Paragraph 66C(1)(d)  
Repeal the paragraph. 

83C Paragraph 66C(2)(b)  
Omit "paragraph 94C(1)(d)", substitute "paragraph 94C(1)(c)". 

(11) Schedule 1, item 88, page 27 (line 22), omit paragraph 84D(2)(b), substitute:  
(b) on the application of a party to the proceedings; or 

(12) Schedule 1, item 88, page 27 (lines 25 to 32), omit subsection 84D(3), substitute:  
(3) Subsection (4) applies if:  
(a) an application does not comply with section 61 (which deals with the basic requirements for applications) because it was made by a person or persons who were not authorised by the native title claim group to do so; or  
(b) a person who is or was, or one of the persons who are or were, the applicant in relation to the application has dealt with, or deals with, a matter arising in relation to the application in circumstances where the person was not authorised to do so. 

Note: Section 251B states what it means for a person or persons to be authorised to make native title determination applications or compensation applications or to deal with matters arising in relation to them. 

(13) Schedule 1, page 28 (after line 25), after item 91, insert: 

91A Paragraphs 94C(1)(b), (c) and (d)  
Repeal the paragraphs, substitute:  
(b) it is apparent from the timing of the application that it is made in response to a future act notice given in relation to land or waters wholly or partly within the area; and  
(c) the future act requirements are satisfied in relation to each future act identified in the future act notice; and  

91B After subsection 94C(1)  
Insert:  
(1A) For the purposes of paragraph (1)(b), it is apparent from the timing of an application by a person for a determination of native title in relation to an area that it is made in response to a future act notice to which the current law applies if:  
(a) the future act notice is given in relation to land or waters wholly or partly within the area; and  
(b) the application is made during the period of 3 months after the notification day specified in the future act notice; and  
(c) the person becomes a registered native title claimant in relation to any land or waters that will be affected by the act, before the end of 4 months after the notification day specified in the future act notice. 

(1B) For the purposes of paragraph (1)(b), it is apparent from the timing of an application by a person for a determination of native title in relation to an area that it is made in response to a future act notice to which the pre-1998 law applies if:  
(a) the future act notice is given in relation to land or waters wholly or partly within the area; and  
(b) the person becomes a registered native title claimant in relation to any land or waters that will be affected by the act, within the period of 2 months starting when the notice is given. 

(1C) The regulations may prescribe, for the purposes of paragraph (1)(b), other circumstances in which it is taken to be apparent from the timing of an application by a person for a determination of
native title in relation to an area that it is made in response to a future act notice, including circumstances in which it is taken to be apparent in relation to a future act notice given under alternative provisions.

(1D) For the purposes of paragraph (1)(c), the future act requirements are satisfied in relation to a future act notice to which the current law applies if one of the following paragraphs is satisfied in relation to each future act identified in the notice:

(a) subsection 32(2) (which applies if no objection is made after the giving of a notice that the act attracts the expedited procedure) allows the act to be done;

(b) a determination is made under subsection 32(4) that the act is an act attracting the expedited procedure;

(c) native title parties have lodged one or more objections in relation to the act under subsection 32(3), but all such objections are withdrawn under subsection 32(6);

(d) an agreement of the kind mentioned in paragraph 31(1)(b) is made;

(e) a determination is made under section 36A or 38 that the act may be done, or may be done subject to conditions being complied with;

(f) a determination is made under section 36A or 38 that the act must not be done;

(g) a determination that the act may be done, or may be done subject to conditions being complied with or must not be done, is declared to be overruled in accordance with section 42;

(h) a circumstance occurs in which, under the regulations, the future act requirements are satisfied.

(1E) For the purposes of paragraph (1)(c), the future act requirements are satisfied in relation to a future act notice to which the pre-1998 law applies if one of the following paragraphs is satisfied in relation to each future act identified in the notice:

(a) subsection 32(2) of the pre-1998 law (which applies where no objection is made after the giving of a notice that the act attracts the expedited procedure) allows the act to be done;

(b) a determination is made under subsection 32(4) of the pre-1998 law that the act is an act attracting the expedited procedure;

(c) a copy of an agreement that the act may be done, or may be done subject to conditions being complied with, is given to the arbitral body under section 34 of the pre-1998 law;

(d) a determination is made under section 38 of the pre-1998 law that the act may be done, or may be done subject to conditions being complied with;

(e) a determination is made under section 38 of the pre-1998 law that the act must not be done;

(f) a determination that the act may be done, or may be done subject to conditions being complied with or must not be done, is declared to be overruled in accordance with section 42 of the pre-1998 law;

(g) a circumstance occurs in which, under the regulations, the future act requirements are satisfied.

(1F) The regulations may prescribe, for the purposes of paragraphs (1D)(h) and (1E)(g), other circumstances in which future act requirements are satisfied.

(1G) The regulations may prescribe circumstances in which future act requirements are satisfied in relation to a future act notice given under alternative provisions.

91C Subsection 94C(6)
Insert:
future act notice to which the current law applies means a future act notice to which the provisions in Subdivision P of Division 3 of Part 2 of this Act apply.

91D Subsection 94C(6)

Insert:

future act notice to which the pre-1998 law applies means a future act notice to which the provisions in Subdivision B of Division 3 of Part 2 of the Native Title Act 1993 apply, as in force immediately before the commencement of the Native Title Amendment Act 1998 (including as it applies in accordance with Schedule 5 of that Act).

91E Subsection 94C(6)

Insert:

pre-1998 law means the Native Title Act 1993, as in force immediately before the commencement of the Native Title Amendment Act 1998 (including as it applies in accordance with Schedule 5 of that Act).

(14) Schedule 1, page 28, after proposed item 91E, insert:

91F After section 96

Insert:

96A Powers of Registrar—ILUAs and future act negotiations

The Registrar has the powers set out in Part 2.

(15) Schedule 1, page 28 (after line 25), after item 91, insert:

91G After subsection 108(1A)

Insert:

Reconsideration of claims

(1AA) The Tribunal has the functions in relation to applications for the reconsideration of claims made to the Tribunal under section 190E that are given to it under that section.

(16) Schedule 1, page 28 (after line 25), after item 91, insert:

91H After paragraph 123(1)(ca)

Insert:

(cb) the person who is to constitute the Tribunal for the purposes of reconsidering a decision of the Registrar not to accept a claim;

(17) Schedule 1, page 29 (after line 27), after item 96, insert:

96A Subparagraph 186(1)(g)(i)

After “the Registrar”, insert “or the NNTT”.

(18) Schedule 1, item 97, page 29 (lines 28 to 30), omit the item, substitute:

97 Paragraph 190(1)(a)

After “under section 190A”, insert “or in response to notification by the NNTT under section 190E”.

(19) Schedule 1, item 99, page 30 (lines 12 to 14), omit the item, substitute:

99 Paragraph 190(3)(b)

After “under section 190A”, insert “or in response to notification by the NNTT under section 190E”.

(20) Schedule 1, item 102, page 32 (lines 15 to 38), omit paragraph 190A(6A)(d), substitute:

(d) the Registrar is satisfied that the only effect of the amendment is to do one or more of the following:

(i) reduce the area of land or waters covered by the application, in circumstances where the information and map contained in the application, as amended, are sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed in relation to particular land or waters;

(ii) remove a right or interest from those claimed in the application;

(iii) change the name in the application of the representative body, or one of the representative bodies, recognised for the area covered by the application, in circum-
stances where the body’s name has been changed or the body has been replaced with another representative body or a body to whom funding is made available under section 203FE;

(iv) change the name in the application of the body to whom funding was made available under section 203FE in relation to all or part of the area covered by the application, in circumstances where the body’s name has been changed or the body has been replaced by another such body or a representative body;

(v) alter the address for service of the person who is, or persons who are, the applicant.

(21) Schedule 1, item 107, page 33 (line 27) to page 34 (line 17), omit section 190D, substitute:

190D If the claim cannot be registered—notice of decision

(1) If the Registrar does not accept the claim for registration, the Registrar must, as soon as practicable, give the applicant and the Federal Court written notice of his or her decision not to accept the claim, including:

(a) if the Registrar does not accept the claim because the Registrar is notified by the NNTT under section 190E that he or she should not do so—a copy of the NNTT’s statement of reasons for its decision; or

(b) otherwise—a statement of the Registrar’s reasons for his or her decision.

Content of notice where failure to satisfy physical connection test

(2) If the only reason why the claim is not accepted for registration is that the condition in subsection 190B(7) (which is about a physical connection with the claim area) is not satisfied, the notice must advise the applicant of the applicant’s right to make an application to the Federal Court under section 190F and of the power of the Court to make an order in accordance with that section in respect of the application.

Statements of reasons must specify whether section 190B satisfied

(3) If the Registrar’s decision not to accept the claim is not in response to notification by the NNTT under section 190E, the Registrar’s statement of reasons for the decision must include a statement on:

(a) whether, in the opinion of the Registrar, the claim for registration satisfies all of the conditions in section 190B; and

(b) whether, in the opinion of the Registrar, it is not possible to determine whether the claim for registration satisfies all of the conditions in section 190B because of a failure to satisfy section 190C.

(22) Schedule 1, item 107, page 34 (line 18) to page 35 (line 2), omit section 190E, substitute:

190E If the claim cannot be registered—reconsideration by the NNTT

Application to reconsider a claim

(1) If the Registrar gives the applicant a notice under subsection 190D(1), then, subject to subsections (3) and (4), the applicant may apply to the NNTT to reconsider the claim made in the application.

(2) The application must:

(a) be in writing; and

(b) be made within 42 days after the notice under subsection 190D(1) is given; and

(c) state the basis on which the reconsideration is sought.

(3) The applicant may not make an application to the NNTT for reconsideration of the claim if the applicant has already
made an application to the Federal Court under subsection 190F(1) for review of the decision.

(4) The applicant may apply to the NNTT for reconsideration of the claim no more than once.

Constitution of NNTT for purposes of reconsidering the claim

(5) For the purposes of reconsidering the claim, the NNTT must be constituted by a single member.

(6) The member of the NNTT who reconsidered the claim may not take any part in the proceeding in relation to the claim (including any review or inquiry in relation to the claim), unless the parties to the proceeding otherwise agree.

NNTT’s reconsideration of the claim

(7) In reconsidering the claim:

(a) the NNTT must have regard to any information to which the Registrar was required to have regard under subsections 190A(3) to (5) in considering the claim; and

(b) the NNTT may have regard to any other information which the NNTT regards as appropriate in reconsidering the claim.

Effect of certain notices

(8) If, either before the NNTT begins to do so or while it is doing so, a notice is given in accordance with:

(a) paragraph 24MD(6B)(c); or

(b) section 29; or

(c) a provision of a law of a State or Territory that corresponds to section 29 and is covered by a determination in force under section 43; or

(d) a provision of a law of a State or Territory that corresponds to section 29 and is covered by a determination in force under section 43A; in relation to an act affecting any of the land or waters in the area covered by the application, the member reconsidering the claim must use his or her best endeavours to finish reconsidering the claim by the end of:

(e) in a paragraph (a) case—2 months after the notice is given; or

(f) in a paragraph (b) case—4 months after the notification day specified in the notice; or

(g) in a paragraph (c) case—the period, in the law of the State or Territory, that corresponds to the period of 4 months mentioned in paragraph 30(1)(a); or

(h) in a paragraph (d) case—the period at the end of which any person who is a registered native title claimant or registered native title body corporate has a right to be consulted about the act, to object to the act or to participate in negotiations about the act.

Otherwise, claim to be reconsidered as soon as is practicable

(9) In any other case, the NNTT must finish reconsidering the claim as soon as is practicable.

Notifying the Registrar of the NNTT’s decision

(10) The NNTT must notify the Registrar that the Registrar should accept the claim for registration if the claim satisfies all of the conditions in:

(a) section 190B (which deals mainly with the merits of the claim); and

(b) section 190C (which deals with procedural and other matters).

(11) In any other case, the NNTT must notify the Registrar that the Registrar should not accept the claim, and include in that notice a statement of the NNTT’s reasons for its decision. The statement of reasons for the decision must include a statement on:

(a) whether, in the opinion of the member who reconsidered the claim, the claim for registration satisfies all of the conditions in section 190B; and
(b) whether, in the opinion of the member who reconsidered the claim, it is not possible to determine whether the claim for registration satisfies all of the conditions in section 190B because of a failure to satisfy section 190C.

(12) For the purposes of subsection (10), sections 190B and 190C apply as if a reference to the Registrar in those sections were a reference to the NNTT.

(13) The Registrar must comply with a notice given to the Registrar under subsection (10) or (11).

(23) Schedule 1, item 107, page 35 (line 7), at the end of subsection 190F(1), add “, provided the NNTT is not reconsidering the claim under section 190E at the time the application is made”.

(24) Schedule 1, item 107, page 36 (line 5), omit “, in the opinion of the Registrar”, substitute “, in the opinion of the Registrar or, if the claim is reconsidered under section 190E, of the member of the NNTT reconsidering the claim”.

(25) Schedule 1, page 37 (after line 14), after item 111, insert:

111A At the end of section 199B

Add:

Updating parties’ contact details

(4) If a party to an agreement notifies the Registrar of a change in the address at which the party can be contacted, the Registrar must update the Register to reflect the change.

(26) Schedule 1, item 123, page 40 (lines 19 to 24), omit the item, substitute:


The amendments made by items 22, 22A, 23, 31, 31A, 32, 78, 84, 91G, 91H, 96A, 97, 98, 99, 101, 102, 103, 104 and 107 apply in relation to claims in a native title determination application made or amended on or after the commencing day.

(27) Schedule 1, page 41 (after line 29), after item 132, insert:

132A Application of items 83A to 83C, and items 91A to 91E

The amendments made by items 83A to 83C, and by items 91A to 91E of this Schedule apply to an application under section 61 of the Native Title Act 1993, regardless of whether it is made before or after the commencing day.

(28) Schedule 1, item 136, page 42 (lines 12 to 18), omit the item, substitute:

136 Effect of amendments of sections 190A to 190D of the Principal Act on transitional arrangements in the Native Title Amendment Act 2007

To avoid doubt, the amendments made in relation to sections 190A to 190D of the Principal Act in items 22, 22A, 23, 31, 31A, 32, 78, 84, 91G, 91H, 96A, 97, 98, 99, 101, 102, 103, 104 and 107 of this Schedule (including the insertion of sections 190E and 190F) are to be disregarded for the purposes of items 89 and 90 of Schedule 2 to the Native Title Amendment Act 2007.

(29) Schedule 2, item 4, page 46 (lines 16 and 17), omit the note, substitute:

Note 1: Provisions similar to Division 4 of Part 3 of the Commonwealth Authorities and Companies Act 1997 and Schedule 2 to that Act already apply to a representative body registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006.

Note 2: Similar provisions already apply under the Corporations Act 2001 to representative bodies that are companies incorporated under that Act.

(30) Schedule 3, item 1, page 55 (lines 22 to 24), omit paragraph 56(4)(c), substitute:

(c) the determination by the Federal Court of a prescribed body corporate to replace the trustee, and any other
matter in relation to the replacement of the trustee; and

(31) Schedule 3, item 1, page 55 (lines 29 to 32), omit paragraph 56(4)(e), substitute:

(e) the determination by the Federal Court of a prescribed body corporate to perform the functions mentioned in subsection 57(3) once the trust is terminated; and

(32) Schedule 3, item 2, page 56 (lines 7 to 17), omit paragraph 56(7)(a), substitute:

(a) the determination by the Federal Court of a prescribed body corporate to hold the rights and interests from time to time comprising the native title in trust for the common law holders where:

(i) a determination is made, either under this section or under regulations made for the purposes of this section, that the rights and interests are to be held by the common law holders; and

(ii) the common law holders wish a prescribed body corporate to instead hold those rights and interests in trust; and

(33) Schedule 3, item 5, page 57 (lines 2 to 7), omit section 59, substitute:

59 Kinds of prescribed bodies corporate may be determined

(1) The regulations may prescribe the kinds of body corporate that may be determined under paragraph 56(2)(b) or 57(2)(b).

(2) The regulations may prescribe the body corporate, or the kinds of body corporate, that may be determined under paragraph 57(2)(c).

(3) The regulations may prescribe the body corporate, or the kinds of body corporate, that may be determined under paragraph 56(4)(c) or (e), 56(7)(a) or 60(b).

(34) Schedule 3, item 6, page 57 (lines 19 to 21), omit paragraph 60(b), substitute:

(b) the determination by the Federal Court of the replacement PBC; and

(35) Schedule 3, item 7, page 59 (lines 29 and 30), omit paragraph 60AC(5)(a).

(36) Schedule 3, item 8, page 60 (line 19), omit “another”, substitute “a”.

(37) Schedule 3, item 8, page 60 (line 19), omit “appointed as”, substitute “determined to be”.

(38) Schedule 3, page 60 (after line 31), after item 10, insert:

10A Section 253 (definition of registered native title body corporate)

Repeal the definition, substitute:

registered native title body corporate means:

(a) a prescribed body corporate whose name and address are registered on the National Native Title Register under paragraph 193(2)(e) or subsection 193(4); or

(b) a body corporate whose name and address are registered on the National Native Title Register under paragraph 193(2)(f).

(39) Schedule 3, item 11, page 61 (lines 3 to 11), omit the item, substitute:

11 Application of items 1, 5 and 6

(1) To avoid doubt, nothing in the amendments made by items 1, 5 and 6 of this Schedule is intended to affect:

(a) regulations made under section 56, 59 or 60 of the Native Title Act 1993 that were in force before, or are in force on or after, the commencement of this Schedule; or

(b) anything done under those regulations.

(2) Nothing in paragraph (1)(a) affects the power to amend or repeal regulations mentioned in that paragraph.

(40) Page 65 (after line 9), at the end of the Bill, add:
Schedule 5—Applications not considered or reconsidered under items 89 and 90 of the Native Title Amendment Act 2007

1 Applications not considered or reconsidered under items 89 and 90 of the Native Title Amendment Act 2007

(1) This item applies to a native title determination application amended before the day on which this item commences by a person or persons claiming to hold native title if:

(a) the application as amended is not one to which item 89 or 90 of the Native Title Amendment Act 2007 applies; and

(b) either:

(i) the Registrar has decided not to accept the claim made in the application, as amended, for registration before the day on which this item commences; and

(ii) the decision of the Registrar is one to which section 190D of the Native Title Act 1993, as in force immediately before the commencement of Schedule 2 to the Native Title Amendment Act 2007, applies; and

or:

(iii) the Registrar has not yet decided whether to accept the claim made in the application, as amended, for registration by the day on which this item commences; and

(iv) section 190D of the Native Title Act 1993, as in force immediately before the commencement of Schedule 2 to the Native Title Amendment Act 2007, will apply if the Registrar decides not to accept the claim; and

(c) the claim is not on the Register of Native Title Claims on the day on which this item commences.

(2) The Registrar must:

(a) reconsider the claim under section 190A, as in force immediately before the commencement of this item or, if the claim has not already been considered under that section, consider the claim under that section; and

(b) use his or her best endeavours to finish doing so by the end of one year after the day on which this item commences.

If the Registrar does not do so by that time, the Registrar must reconsider or consider (as the case requires) the claim under that section as soon as reasonably practicable afterwards.

(3) If, either before the Registrar begins to reconsider, or consider, the claim in accordance with subitem (2), or while the Registrar is doing so, a notice is given in accordance with:

(a) paragraph 24MD(6B)(c), as in force immediately before the commencement of this item; or

(b) section 29, as in force at that time; or

(c) a provision of a law of a State or Territory that corresponds to section 29, as in force at that time, and is covered by a determination in force under section 43, as in force at that time; or

(d) a provision of a law of a State or Territory that corresponds to section 29, as in force at that time, and is covered by a determination in force under section 43A, as in force at that time;

in relation to an act affecting any of the land or waters in the area covered by the application, the Registrar must use his or her best endeavours to finish considering the claim under section 190A, as in force at that time, by the end of:

(e) in a paragraph (a) case—2 months after the notice is given; or
(f) in a paragraph (b) case—4 months after the notification day specified in the notice; or

(g) in a paragraph (c) case—the period, in the law of the State or Territory, that corresponds to the period of 4 months after the notification day specified in a notice under section 29, as in force at that time; or

(h) in a paragraph (d) case—the period at the end of which any person who is a registered native title claimant or registered native title body corporate has a right to be consulted about the act, to object to the act or to participate in negotiations about the act.

(4) In reconsidering, or considering, a claim in accordance with subitem (2) or (3), the Registrar must:

(a) in addition to having regard to information in accordance with sub-section 190A(3), as in force immediately before the commencement of this item, also have regard to any information provided by the applicant after the application was made; and

(b) apply section 190A, as in force at that time, as if the conditions in sections 190B and 190C, as in force at that time, requiring that the application:

(i) contain or be accompanied by certain information or other things; or

(ii) be certified or have other things done in relation to it;

also allowed the information or other things to be provided, or the certification or other things to be done, by the applicant or another person after the application is made; and

(c) for the purposes of paragraphs (a) and (b) of this subitem, advise the applicant that the Registrar is reconsidering, or considering, the claim, and allow the applicant a reasonable opportunity to provide any further information or other things, or to have any things done, in relation to the application.

(5) If the claim does not satisfy all of the conditions in sections 190B and 190C, as in force immediately before the commencement of this item:

(a) the Registrar must give written notice as required by subsection 190D(1), as in force at that time; and

(b) the other provisions of section 190A to 190D, as in force at that time, apply as if the notice given under paragraph (a) were given under subsection 190D(1), as in force at that time; and

(c) after the Registrar has complied with subitems (2) to (4) and this subitem (in so far as they are applicable), the Registrar is taken to have complied with section 190A.

The government amendments will implement those Senate committee recommendations accepted by government and make other minor or technical amendments to the bill or the Native Title Act 1993. The government amendments implement many of the Senate committee recommendations. These amendments will implement recommendations 2, 3 and 5 of the Senate committee report and also partially implement additional recommendation 2 from the minority report.

With respect to recommendation 2 on simultaneous review of registration decisions by the National Native Title Tribunal and the Federal Court, the Senate committee recommended that proposed section 190F be amended to clarify that an applicant may not apply to the Federal Court for review of the Native Title Registrar’s decision not to accept a claim while the National Native Title Tribunal is reconsidering the claim under proposed section 190E. Whilst it would be
unusual for an applicant to seek simultaneous review from the tribunal and the court, I consider that it would be beneficial for there to be an amendment to prevent simultaneous review processes being undertaken. This recommendation will be implemented by government amendment (23).

With respect to recommendation 3, the committee also recommended that reconsideration of the Native Title Registrar’s decision not to accept a claim should be carried out by a member of the tribunal rather than the registrar himself in this instance. The basis for this recommendation was that there may be a perception of bias if reconsideration is undertaken by the registrar or his or her delegate. The government has accepted this recommendation. It will be implemented by government amendments (4), (5), (9), (15), (16), (17), (18), (19), (21), (22) and (24). The amendments will also restrict a member who reviews a registration decision from taking further part in subsequent related proceedings unless the parties to the proceedings consent. This restriction is similar to the restrictions placed on members who, for example, preside over mediations in confidence or conduct a connection review.

With respect to recommendation 5, which concerned drafting errors, the committee recommended that drafting errors in items 88, 123 and 138 of schedule 1 of the bill and section 94C of the Native Title Act be rectified. Government amendments (1), (10), (11), (13) and (27) will implement this recommendation.

The minority report by the opposition also made an additional five recommendations. The government has partially accepted recommendation 2 of the minority report. The bill inserts new regulation-making powers dealing with the replacement of prescribed bodies corporate. As drafted, these powers are broad enough to allow persons or bodies other than the Federal Court to determine replacement prescribed bodies corporate. However, the court is the only entity that could realistically be given this role. Government amendments (30), (31), (32) and (34) will make clear that only the court can determine the prescribed body corporate that replaces another prescribed body corporate. This amendment will achieve the same result as amendments (4), (5) and (7) sought to be moved by the Australian Democrats.

The remaining government amendments would rectify drafting errors to clarify the provisions included in the bill. These other amendments would correct oversights in the amendments made by the Native Title Amendment Act 2007, which came into force earlier this year. Finally, government amendment (25) would include a new proposal that would enable the contact details for parties to an Indigenous land use agreement listed on the register of ILUAs to be kept up to date. Government amendment (25) would enable the registrar to amend the register on receipt of advice from a party that their contact details had changed. This proposal responds to concerns expressed by some parties that this issue was not addressed in the bill.

Senator LUDWIG (Queensland) (6.15 pm)—There is one issue on which I probably need guidance from the chair. In the running sheet, government amendment (11) on sheet ZA211 is in conflict with opposition amendment (1) on sheet 5274. If it is in conflict then I do not want it dealt with together with amendments (1) to (40). When I look at what our amendment will do I can accept government amendment (11), because our amendment seeks to amend government amendment (11) to add words. So it would be logical if I sought leave, when I came to opposition amendment (1), to amend the amended amendment—if that makes sense. This underscores that we have a bill that has
technical amendment upon technical amendment and error upon error, but that is the government’s doing.

The TEMPORARY CHAIRMAN (Senator Crossin)—We can accommodate that, Senator Ludwig. I will clarify that. In relation to the 40 government amendments that are before us, you are seeking to amend one of those amendments; is that correct?

Senator LUDWIG—That is right. If it stood as printed, my amendment would be amending the existing amendment. We can come to that in greater detail later, as long as we understand that that is the position that the opposition is seeking to take.

The TEMPORARY CHAIRMAN—I suggest that you move opposition amendment (1) on sheet 5274 as an amendment to government amendment (11).

Senator LUDWIG (Queensland—Manager of Opposition Business in the Senate) (6.18 pm)—I move opposition amendment (1) on sheet 5274:

(1) Schedule 1, item 88, page 27 (line 22), after “proceedings”, insert “if that party has shown cause to the Federal Court as to why the order should be made”.

The issue that comes up in the amendments moved by the government underscores, as I have said, one of the problems in this area. The government has brought forward a technical amendments bill but, after a committee inquiry which generally would not be necessary for a technical amendments bill and in which there were a couple of recommendations that the government needed to pick up, we find that there is a whole raft of amendments, 40-odd in total, that have come afterwards. Certainly there were not 40 recommendations to the Senate inquiry. It shows the complexity of getting it right in this area.

I encourage the government, in getting it right, to ensure that when they deal with this they do not create a position in which certainty is not guaranteed to stakeholders by building technical amendments on technical amendments. One thing the government could do to alleviate some of the uncertainty that surrounds these issues is in the fee structure area. It sometimes comes down to money. I understand where the government wants to be with sections 60AB and 60AC in ensuring that there is an appropriate and reasonable fee structure and that it is reviewable, but it leads to a range of questions about whether there is a right of merits review for a native title body which believes that its registrar may have made an incorrect decision, whether the regulations will set fee scales and what procedures the registrar will have in place to assess the matters that are brought before it. It is important that decisions it makes are consistent and that they are followed but that they do not become a de facto way of setting fees by providing opinions which provide, when the stakeholders look at them, an idea of what fees they should be charging. These things should be set separately, and the system should ensure that they can charge reasonable fees and set them according to the requirements they have. I am hopeful that the government can provide an answer on those matters today as well.

It is also important to ensure that the opinions preclude a system evolving in which the registrar becomes a central—that is, a de facto—agency for setting fees for the relevant stakeholders. That would seem to be self-defeating. Labor would be encouraged to hear an answer to some of those questions today. If they cannot be provided today then Labor will accept written confirmation about how those matters will be dealt with at some not-too-distant point in the future so that stakeholders can understand how the system will work effectively for them to provide beneficial outcomes for all parties.
As I have said, with the way those two sections work, in truth I do not think the government has got it right. But we are willing to suspend our judgement and see how it works and see how the answers are given. That is why Labor will ultimately, as we have said, support the passage of this bill. We are not in the business of rewriting how your fee schedules and systems should work. It is a complex area; we acknowledge that. But we do accept that the onus is on the government to ensure that we are not revisiting it back here with further technical amendments to get it right. If you say that you can answer these questions, that the regulations will work, then we would like to hear that assurance, because what the stakeholders do not want to hear is that it will be a running amendment system until we get it right. That is not helpful to anyone. Certainty is the aim here.

I will not go through all of the details themselves other than saying—I cannot resist this; my apologies—that it does seem that a range of errors have been picked up, not only by the committee but also by the drafters. I am pleased that they have picked them up, although I think in this instance that you should look at the number of them—fixing a drafting error with amendment (20); technical corrections of drafting errors in amendments (26) and (27); further technical amendments to update; and another technical amendment at (38). The government should have paid a little bit more attention to the original technical amendments bill in the first instance, to get it right and to have a comprehensive position. That would have enabled and ensured that the committee system itself would have had all the technical amendments before it and would have been able to work through them systematically, as it did with the original bill, rather than having the piecemeal approach that the government has adopted by presenting it in this way. Labor did not seek then to have those technical amendments in the second round, if I could call it that, sent back to the committee. We do see the need for this legislation. We do think this area is in need of assistance to streamline the process. On that basis we are willing to suspend part—not all, but some—of our judgement as to how this system will work, to ensure that these amendments pass through the Senate during this sitting period and are available for the participants as early as possible. With those comments, Labor supports the second round of technical amendments.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.25 pm)—With respect to the charging of fees by prescribed body corporates, can I say that the detail of the new scheme for such fees and charges will be dealt with by regulation—which is entirely unremarkable—and that the nuts and bolts of the practical operation of that system is to some extent for another day. With respect to the principal amendment, the government opposes this amendment. This amendment would seek to amend section 84D to specifically provide that a party making an application under subsection 84D(2) must show cause. As with all applications made to the court, I expect the court would only make an order that the applicant produce evidence of authorisation if it is satisfied there are grounds so to do. As the Senate Legal and Constitutional Affairs Committee noted in its report, the court is not required to make an order when an application is made. The court has a discretion as to whether an order should be made at all. The committee was satisfied that the court will be able to require the parties seeking the order to provide information as to why the order is so required.

Senator LUDWIG (Queensland) (6.26 pm)—In response to that, what the Labor Party believes is that certainty is more im-
important than sometimes the process which has been outlined in the bill. Labor thinks that the legislation in this instance would benefit from that greater certainty being provided to the courts in that instance. It is disappointing that the government will not pick up the amendment to ensure certainty to ensure that the courts, when dealing with these amendments, have the ability to make orders that are necessary and expedient for the circumstances that the Labor Party has outlined in moving that amendment. Nevertheless, we do see the numbers in this place and know that the reality is that the government will prevail. But we do make the point that it would be helpful if the government did pick it up. We note that they are not going to pick it up, but as I said we are not going to die in a ditch over it. But we do hope that the government do not come back here with a technical amendment to deal with it in the future.

Senator BARTLETT (Queensland) (6.27 pm)—To add a comment on behalf of the Democrats on these amendments: for what it is worth, we would support Labor’s amendment, which obviously is not going to impact on its success. The government amendments, as the minister has said, reflect the recommendations of the Senate committee report. I acknowledge that and voice my appreciation for a government that does actually listen to Senate committee recommendations. I think they do go some way to modifying some of the problems that were identified by the inquiry. I expressed my support for them as well in my additional comments to the report.

I should also, whilst I am on my feet, indicate that my understanding is—I think I heard the minister say this in speaking to his amendments—that the government amendments go to the issue that the Democrat amendments (4) to (6) were seeking to address regarding prescribed body corporates. If I am correct in that—I am noting a nod from the minister, so I foreshadow that I will not proceed with Democrat amendments (4) to (6) as I think they are basically addressed by the amendments the government has put forward.

Senator Johnston—(4) and (6), not (4) to (6).

The TEMPORARY CHAIRMAN (Senator Crossin)—We will deal first with opposition amendment (1) on sheet 5274, which actually amends government amendment (11) on sheet ZA211. The question is that opposition amendment (1) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question now is that government amendments (1) to (40) on sheet ZA211 be agreed to.

Question agreed to.

Senator BARTLETT (Queensland) (6.30 pm)—The Democrats oppose schedule 1 of the bill in the following terms:

(1) Schedule 1, items 62 and 63, page 16 (lines 1 to 26), TO BE OPPOSED.

(2) Schedule 1, item 127, page 41 (lines 5 to 11), TO BE OPPOSED.

(3) Schedule 1, items 138 and 139, page 42 (line 31) to page 44 (line 33), TO BE OPPOSED.

These items go the issues of alternative state regimes, conjunctive agreements and validation of the South Australian regime. I touched on this in my additional comments to the Senate committee report, as did Greens and the Labor Party in their separate comments. This is based around concerns raised in the submission from the Human Rights and Equal Opportunity Commission to the inquiry. So it is not something I have plucked out of my head; it is based on information that was provided to the inquiry. I think all senators would acknowledge the expertise of the human rights commission.
and the genuine way in which it engages with Senate committee processes, including this one.

I note the Labor senators’ comment about items 62 and 63 of schedule 1, as well as items 127, 138 and 139. The concern about retrospective validation of invalidly done future acts does have a risk of undermining Indigenous confidence in the Native Title Act. It shows that, just by passage of an amending bill, at any stage we could retrospectively validate invalidly done acts. Retrospectivity about a future act starts to get a bit confusing in the terminology, but it is retrospective validation nonetheless. I agree with the comments of the commissioner and others that further consultation with native title holders regarding validation would be desirable in this particular case. The commissioner said in their submission that retrospective validation ‘has served to undermine Indigenous confidence in the act, and undermines public confidence in parliament’s respect for and commitment to the rule of law’. The principle of doing something that adversely affects the rights and interests of others, and then retrospectively validating that act in order to avoid the consequences of it being invalid, is one that we need to be careful of. Those are the reasons behind the position the Democrats are taking on those items.

Senator LUDWIG (Queensland) (6.33 pm)—Labor understands the position that has been put by the Democrats here. We are not minded to support them. We believe that the bill should pass in its present form. The issue is important though. Labor has said that the government should take a hard look at this area, and not move it, and it should then ensure that the native title holders are consulted. The government has clearly rejected that position and it is going to proceed without taking that course. It is the better course to take—to ensure that there are clear lines of communication between all parties and to ensure that the items that relate to the validation of the alternative state regime should have certainty. The government is not minded to take that course. The difficulty is that without those provisions you may have unintended consequences. Labor has not had an opportunity to look at that. The committee report ultimately does not provide any grounds on which Labor would support Senator Bartlett’s position. I think Senator Bartlett is aware of that. But I do understand the principle upon which he seeks to oppose items in schedule 1.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.34 pm)—The government opposes the Democrat opposition to items in schedule 1. These changes would remove the provisions in the bill that put beyond doubt the validity of the current South Australian section 43 determinations in relation to mining and opal mining, which had the effect of replacing the Native Title Act ‘right to negotiate’ provisions with a ‘right to negotiate’ regime under South Australian legislation. I understand that the South Australian regimes have been operating effectively for over 11 years now. The Senate Standing Committee on Legal and Constitutional Affairs has noted its support for the enactment of these provisions, given that the amendments simply seek to place on a firm footing the understanding that parties have been operating in accord with to date.

The amendments in the bill will also provide for the inclusion in state or territory legislation of conjunctive agreement or expedited procedure provisions of the kind already included in the Native Title Act. Section 26D(2) and section 32, for example, would not in future preclude a determination being made under section 43 of the act.
The TEMPORARY CHAIRMAN (Senator Crossin)—The question is that items 62, 63 and 127 of schedule 1 stand as printed.

Question agreed to.

The TEMPORARY CHAIRMAN—The question is that items 138 and 139 of schedule 1 stand as printed.

Question agreed to.

Senator LUDWIG (Queensland) (6.36 pm)—I move amendment (2) on sheet 5274:

(2) Schedule 3, item 5, page 57 (after line 7), at the end of section 59, add:

(3) The regulations must prescribe that a body corporate with members who do not meet the Indigeneity requirement specified in section 29-5 of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 is not entitled to become a prescribed body corporate.

Of course, under the recent amendments contained in the Corporations (Aboriginal and Torres Strait Islander) Act 2006 there is scope for non-Indigenous persons to be members of Indigenous corporations, but as native title is a process which is connected so closely with Indigenous laws and customs it is Labor’s view that it is not appropriate that corporations with non-Indigenous members be eligible to be prescribed bodies corporate. The difficulty is that without that section the area is open. So I seek to close that to ensure that that is the outcome. I seek the government’s support for that.

Senator JOHNSTON (Western Australia)—Minister for Justice and Customs) (6.38 pm)—The government opposes this amendment. The amendment would mean that only corporations whose members meet the indigeneity requirement of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 can become prescribed bodies corporate. Corporations with five or more members meet the indigeneity requirement if at least a prescribed percentage of their members are Indigenous. Regulations are yet to be made under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 prescribing this percentage. Therefore it would not be appropriate to limit the scope of regulations made under the Native Title Act dealing with prescribed body corporate membership by tying them, now and in the future, to regulations made under another act. The government has stated its intention to allow non-native title holders and non-Indigenous people to become prescribed body corporate members if—and I underline this—this is what the native title holders want.

The government has also clearly indicated that, regardless of a prescribed body corporate’s membership, only native title holders will have a right to be involved in making native title decisions. If the native title holders only want Indigenous people to be members of their prescribed body corporate they will be perfectly free to impose this requirement.

Senator LUDWIG (Queensland) (6.39 pm)—I think that was a very ordinary response to a particularly germane issue.

Senator Carr—Yes, it was cavalier.

Senator LUDWIG—I may not go that far. We have seen a range of amendments to this area of native title. I have built an argument around certainty for stakeholders, certainty for those who want to engage in the process and certainty that appeal systems are in place—that certainty should come out of the native title system. In addition, Labor has been seeking a much speedier outcome all up, because to date the government has not demonstrated an ability to ensure this process moves smoothly, cleanly and without technical problems, slow-downs and a range of other things. The government has not been able to ensure that in the native title area agreements are made and we move forward.
The government has now set in train a process where I am not confident, and Labor is not confident, that you will find that this area is left for the native title holders — those people who hold the customs and laws of Indigenous people in their hands — so that they are able to seek to deal with their determinations and deal with their land in accordance with the native title legislation.

The government have addressed this legislation overall in a technical sense, but I think sometimes it takes more than that to ensure that this process works — and works effectively. The government are quite clearly not going to answer the questions that I asked earlier today. They are not going to provide the certainty that the stakeholders have asked for. The answer that the government provided earlier was that they will bring forward regulations — and that is not surprising. It is not surprising, but when will that happen? Will those regulations deal with all of the matters that the Labor Party has raised? That is the germane issue that the government has failed to answer. We are yet to see what the regulations will do. True, they may be disallowable instruments, and we will have an opportunity to look at those again, but in that process we will not have an opportunity to ask questions in the committee stage, where the government has the onus on it to provide certainty for stakeholders. The government should take the opportunity during this committee stage to demonstrate that it is serious about improving the system, that it is serious about ensuring that all the stakeholders get a fair deal out of this and that the technical amendments go to ensuring that outcome. The government should ensure that it speeds up the process because no stakeholders think that the current progress has been fair for all parties — in fact, I do not think even the government thinks that.

Those are the complaints I make — and I make them seriously — not only about the way the government has addressed this amendment but more broadly about the overall process. It is not sufficient in this area for the government to deal with this process the way it has. If you look at the way the government did nothing for quite some time and hid behind the line that the system would work, you will see that it was not until the numbers built up to 600-odd outstanding cases that the government finally acted. It did not act in a comprehensive way, but it did act. We will now wait to see how it will follow through. We now find that there are technical amendments and more technical amendments that go to addressing it.

As I said during my earlier contribution to the second reading debate on the bill as well as in the consideration of it earlier this evening, Labor will support this legislation. However, I am suspending judgement on how it will ensure that the issues that I have raised are addressed — that we will end up with a speedier process and get certainty for the stakeholders. The stakeholders will benefit all round; it is beneficial legislation, but it is incumbent upon the government to make sure that that is the outcome of it.

Before I depart from this area, I reiterate the value of the committee process. What we heard earlier today was a government denying the Senate the opportunity to have a committee inquiry into this area of Aboriginal and Torres Strait Islander issues. It said that there was no requirement for a committee inquiry — it rejected the committee process, even a short one for that matter — to deal with this legislation because it wanted the legislation dealt with urgently. I do not think the reasons for urgency that were outlined by the government this morning stack up.
The government has the numbers in this place, so when it decides to allow the committee process to work, it will find that it can pick up recommendations that will improve the overall ability of the bill to achieve its purpose. When the government acts in the way that it did this morning, it denies itself the opportunity to achieve its objectives, which are to ensure that stakeholders and other parties to the legislation—those who have to work under it—have effective legislation, that the legislation will work and that it will not have to be brought back into the parliament for further technical amendments. With those short words—

Senator Carr—Short!

Senator Ludwig—I seem to have a gallery here. Madam Chair, if you can forgive them, the issues are important and do deserve consideration.

Senator Bartlett (Queensland) (6.46 pm)—I thought I should make a few short comments to indicate support for the Labor amendment. Senator Ludwig has raised some valid points and has convinced me with the weight of the argument that he has put—

Opposition senators interjecting—

Senator Bartlett—with some surrounding noise. Nonetheless, I heard what he was saying and he made some valid points. The Democrats will support his amendment.

Senator Ludwig (Queensland) (6.47 pm)—I am still pressing for a response from the government on the matters that I raised. I will not let that go. The government has not indicated a response to the issues dealing with section 60AB and 60AC and the way the fee structure will work. The government has said in a short-form way that it will deal with it in the regulation. What the government has not indicated is how it will address the range of issues that I have put on record today. Will the government say that these issues will be dealt with by regulation in due course?

It seems to me that not all of those matters that I asked about will be dealt with by regulation. But if the government’s response is that those matters will be dealt with by regulation then I will wait to see that regulation. We will have another opportunity to go through it should it be a disallowable instrument. So the short question is: can the government confirm that it will be a disallowable instrument, that it will bring it back and that it will deals with all of the matters that I have raised? If it is a disallowable instrument and it does not deal with all of those matters, we will have an opportunity to debate it again at that point.

Senator Johnston (Western Australia—Minister for Justice and Customs) (6.48 pm)—There will not be a schedule of fees. There will be a regulated mechanism for the registrar to deal with fees.

The TEMPORARY CHAIRMAN (Senator Crossin)—The question is that opposition amendment (2) on sheet 5274 be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—Senator Bartlett, are you moving your amendments (4) to (6)?

Senator Bartlett—No.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator Johnston (Western Australia—Minister for Justice and Customs) (6.50 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

Immigration: Ministerial Response

Senator BARTLETT (Queensland) (6.52 pm)—I move:

That the Senate take note of the document.

This is a response from the Minister for Immigration and Citizenship to the report tabled today by the Commonwealth Ombudsman. I will speak to that report next. The report from the Ombudsman details the circumstances surrounding a number of people who were in immigration detention in Australia for prolonged periods of time—for over a year, in the majority of the cases for over two years and, for quite a few of them, for longer than that. The minister’s response simply details the minister’s response to the recommendations in the Commonwealth Ombudsman’s report. The first thing I would note is that there are 62 cases in the Ombudsman’s report. This report is the latest in quite a long line of reports—hundreds of cases would have been detailed in the range of reports by the Ombudsman.

The requirement for investigations to be done and reports to be written about people in long-term immigration detention was announced by the government in the middle of 2005 following significant public pressure over many years and further pressure from within the government from a number of coalition backbenchers. The report enables the Ombudsman to provide recommendations, but there is no obligation on the minister to act on those recommendations. It is worth noting that, of the 62 cases that the minister responded to—all of whom were effectively in jail for a year, two years, three years and more, many of them suffering sufficient mental health damage to end up in mental health institutions for a period of their detention—47 of them ended up getting visas. So, at the end of the process of considerations, re-examinations and appeals, the vast majority get visas, having spent the entire intervening period locked up at enormous public cost. As the Ombudsman’s report makes clear, very significant harm is done in some cases, with pretty much permanent damage to people’s health. It leads me to once again ask the question: what sort of absurd system do we have?

We can see from this example from the minister’s response that 47 out of the 62 ended up with visas and only eight returned home. Seven others are pending and I would suspect, from looking through them, that a number of those will end up with residency visas as well. It says to me that it is a completely wrongheaded policy that is delivering completely absurd results. It is costing the taxpayer a fortune and it is causing significant harm to a number of people who, as our own system demonstrates, at the end of it all have a valid claim for refugee or other humanitarian protection. Why are we traumatising these people? Why are we causing them so much damage? Why is this continuing, at such taxpayer expense, when it is not necessary? We should draw a clear lesson from this.

The other point I would make is that in a few of the cases where the Ombudsman has made recommendations—and the Ombudsman’s recommendations, in most cases, were provided back in April—the minister’s response, two months later, was to say, ‘A submission for this client is currently being prepared for my consideration,’ or, ‘We are currently assessing ministerial intervention requests.’ That was two months after reports came down about people who had already been locked up without charge for years. To say two months later, ‘Yeah, we’re still putting together a submission on this,’ is not
good enough. To me, it does not show sufficient urgency in respect of people who have had their freedom removed although they have committed no crime nor been subjected to any charge. It makes me repeat the pledge on behalf of the Democrats to continue to campaign for the removal of mandatory detention, which is a cruel, unnecessary and expensive policy. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Commonwealth Ombudsman

Senator BARTLETT (Queensland) (6.57 pm)—I move:

That the Senate take note of the document.

This is a companion document to the previous report, so I will continue on in the same vein. This is the actual report from the Commonwealth Ombudsman. It details the detention history of 62 different people, the process of their visa applications, issues relating to health and welfare, consequences of their detention and any recommendations. As I said before, the vast majority of these people have now ended up with permanent protection visas or humanitarian visas of various sorts. A few have been given permanent spouse visas and one a temporary protection visa. Health consequences are very prominent in the majority of these 62 cases, with damage having been done to people as a consequence of detention. I repeat the simple fact: these are people who have had their freedom taken away. They have committed no crime and they have been charged with no offence. It is administrative detention. It takes years and years, and it causes immense harm to many people. The Ombudsman’s report details some of that.

I can well remember the irony of showing a group of refugees—who had finally got visas—around Parliament House one day. The group had arrived here after having spent years locked up on Nauru. As people would know, in the public area of Parliament House there is a very rare and very valuable copy of the Magna Carta, from 1215. It was an immense irony to hear the Parliament House tour guide point to the Magna Carta and tell all these people, ‘This is the Magna Carta, which guaranteed that people wouldn’t be locked up without trial.’ To say that to a group of refugees when Australia had done just that for years was a supreme and not very pleasant irony.

I also draw attention to one case in here in particular, a Hazara man of 22 years of age, according to this document. If that means his current age, and I assume it does, it means that when he arrived here in 1999 he was 14 or 15. He was detained for a year from when he first arrived, at that age. As this says, his temporary protection visa, which he was granted in 2000, was then cancelled at the end of 2002 because DIMIA determined that he was a Pakistani national.

People may recall the great scare campaign that was run around the country by the minister of the day, saying: ‘There’s evidence that so many of these people aren’t really Afghans; they’re all just pretending to be. They’re all Pakistanis.’ Immense amounts of money, millions of dollars, went into re-examining these cases. Special identity units were set up in Afghanistan, trying to demonstrate this so-called fact that so many of these people were just pretend refugees and they were actually Pakistanis. That myth permeated the Australian consciousness. I remember speaking to someone just a few weeks ago, whom I will not name, who had actually employed a number of refugees and who said, ‘You know, actually they were all Pakistanis.’ So many people just assumed that myth was true.

This was one person whose visa was cancelled because the department determined that he was a Pakistani national. The case
was re-examined three years later. I presume that in that period he was put back in detention—it is not clear, but he would have to have been; otherwise he would not be in this report—until the case was re-examined three years later, when he was interviewed by Afghan and Pakistani authorities. Afghan authorities in July 2005 confirmed this person as a citizen of Afghanistan. So, for all of the intervening three years, purely because of an error—to put it politely—by the department, I would suggest driven very much by a strong political imperative to try and perpetrate this mythology that these were fake asylum seekers, this person, a genuine refugee, a young man, was locked up. There is no compensation for that—three years of unfair, unnecessary, wrongheaded imprisonment, when he should not have been imprisoned anyway. He was not charged with any offence. And yet, what does he get at the end of it? Nothing. Not even an apology for that sort of national mythology that was perpetrated.

There are many other cases in here that to me demonstrate grotesque inhumanity. Let’s remember that this is still continuing. This is still in the law. This is still allowed to happen. We must continue to campaign. Just because the number of boat arrivals has dropped does not mean that the capacity is not still there for people, including children, to be detained indefinitely without having committed a crime and without being charged with anything, unless the minister happens to decide otherwise. That is an inadequate circumstance to have under our laws, and it must be removed. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Refugee Review Tribunal

Senator BARTLETT (Queensland) (7.04 pm)—I move:
That the Senate take note of the document.

This is a report from the Refugee Review Tribunal looking at those refugee review cases that had not been completed within 90 days. This is also linked to the changes that were announced by the government in mid-2005 in an attempt to try and alleviate the public and political pressure on them to make our refugee determination system more humane and more efficient. Those changes required a report to be tabled every three months in the parliament detailing the number of cases that had not been completed within 90 days. That was an attempt to try and increase the impetus, if you like, for the speed of protection claims to be assessed and then, in this case, reviewed by the Refugee Review Tribunal.

Of course it is nice to have this data, but it does not actually make anything happen. It needs to be emphasised that all this does is report how things are going. If the deadline of 90 days is not met, there is no penalty. There is no other consequence beyond just the ability for people like me to point it out and suggest that we need to do better.

The report details the circumstance of the last reporting period, which is from November 2006 to the end of February this year. There were 1,116 reviews completed during that reporting period. I pause to emphasise that number: in that three-month period, over 1,100 reviews of refugee claims were made. It is a reminder that, particularly these days, the vast majority of asylum claims or protection claims are not from people who arrive in boats, for all the hysteria about that. For all of the perversion of our Migration Act that was driven by the hysteria, the distortions, the deceit and the exaggerations about boat arrivals, the vast majority of asylum claims, particularly these days, are not from boat arrivals.

In a three-month period, the number of just those who sought to get a review from
the tribunal was over 1,100. It demonstrates that there are still plenty of people claiming protection. Most of those would have arrived on a lawful visa. The sky did not fall in because we had 1,000 people wandering around the community who were claiming protection, and the sky has not fallen in because these people have not been locked up whilst their protection visa claims are assessed. We have the bizarre situation where some people are locked up for years and years because they seek protection, having arrived one way, and yet another group of people are not locked up at all whilst their claims are being assessed.

This report shows that, out of those 1,116 reviews, 22 per cent were decided outside the 90-day period. Another 521 cases were still on hand that had not had decisions finalised, and 85 of those, which is more than 22 per cent but less than 30 per cent, were over the 90-day period. So a significant number—around about a quarter—of the applications to the Refugee Review Tribunal are not being met within that 90-day guideline. I think the tribunal has been doing better in trying to process its claims more efficiently and, whilst speed is important, you certainly do not want that to occur if it means compromising the accuracy of decisions, particularly if it means making a wrong decision and sending a person back to face persecution. But it reinforces the fact that there are still significant delays for some of these people. Not all of them are the fault of the tribunal, but it is important to continue to highlight both the number of people who are seeking protection and how well we are proceeding in keeping those claims processed as quickly as possible.

Question agreed to.
Part B of the report lists those visa applications where the initial decision had not been finalised by the department, of which 325 had not been finalised within the three-month period. I am not so concerned about those where the department is responsible for the delay—it says there are 19 of the 325 where the department is responsible, so the department can say, ‘Out of those 325, we were not responsible for 306 of them; it was not our fault that the delay took more than 90 days.’

Looking through the brief reasons given, I note that 92 of those cases where the delay has been over 90 days are due to what is quaintly called ‘external factors’ such as an external agency, or a security assessment from a relevant agency, which in most cases would mean an ASIO assessment. I do not have a problem with ASIO assessments being made of every protection visa application, but what is apparent from this is that 92 of those 325 were delayed because of security assessments by ASIO. Looking through the dates here we note that in many cases it is not just an extra week or two. We have seven or eight applications going back to 2002 and 2003. These applications are now three or four years old. The original reason for the delay may not have been ASIO; it may have been that they needed to wait before the determination could be made because they were temporary protection visa holders. This highlights the absurdity of waiting until the end of the process before ASIO starts its work. But there are many others which are not temporary protection visa holders claiming protection visas which go back to 2005; another claim goes back to 2004.

People have been waiting for two years or more for an ASIO or security assessment to be finalised. These are vulnerable people and we need to be looking at ways to speed up that aspect of the process. I am well aware that it is something outside the hands of the immigration department directly, but it is within the hands of the government as a whole. This report highlights this as a key area where we need to be focusing on improving the speed of assessment. Often, these people who are waiting have had a lot of trauma; this continuing insecurity in their lives just compounds that trauma.

Question agreed to.

Consideration

The following government documents tabled earlier today were considered:

The following orders of the day relating to government documents were considered:


General business orders of the day Nos 18, 20 to 24, 26 and 29 relating to government documents were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Murray)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Forestry

Senator WATSON (Tasmania) (7.14 pm)—A surprising comment came from a
Tasmanian Labor senator when he recently said, ‘Timber workers must not be used as election bait by the Liberal Party at the upcoming election.’ Had the senator substituted the word ‘Greens’ or even ‘the ALP’, the senator would have been 100 per cent correct. Since I have been around for a while, I wondered at what point since the 1980s the Labor Party had taken forestry off the hook as election bait and, of course, why timber workers’ hopes have not been realised. The Labor Party’s memory seems to stretch back only as far as their last national conference. They neglect to remember turning their backs on forestry workers at the last election, while they happily fished for big-city votes on the mainland.

Federal Labor’s new forestry policy, which was adopted at the Labor Party’s national conference in May this year, shows that Labor will again go fishing for mainland Green preferences. If Labor does not intend to lock up more forests, then why did they ratify a policy at the national conference which said that they might? Why have they kept their options open again, like they did in 2004? The problem with bringing back the policy of Mark Latham was not lost recently on Labor member for Franklin, Harry Quick. When asked on ABC radio in May this year, Mr Quick highlighted the difficulty with Labor’s inability to be consistent and stick to a position on forestry. He agreed forestry would be an issue at the 2007 federal election, particularly for the seats of Bass and Braddon. He said: ‘It’s a perennial problem that comes and bites us again. You know, we’ve got a name for every bloody tree in Tasmania, I think. We’ve looked at them that often, I just wish it’d go away and we could get on to some serious issues.’ That is exactly the problem: why can’t Labor make a principled decision and stick to it? Labor cannot stick to the very people that it purports to represent.

Of course, there is a great gap in this polarised debate between ordinary Tasmanians, timber workers and environmentalists, who pick fights with machinery and forestry corporations listed on the Australian Stock Exchange. I am concerned that Tasmanians who work in the forestry industry should not be subjected to open-ended criticism and abuse for cutting down trees, planting trees and imagining a future in which a timber industry continues to exist. It should be an anathema for a person concerned about the environment to damn the careful management and selective use of a renewable resource. Let me say, after something like 28 years of representing the people of Tasmania, we have really grown weary and fatigued by this debate and its increasing permutations. Tasmania’s $1 billion forest products industry is the state’s second largest employer.

We have a strategic plan with a five-year review mechanism: the Tasmanian Regional Forest Agreement, the RFA. A decision to adopt it was made by the Commonwealth and the Tasmanian state government in November 1997 following public consultations. The agreement, of course, covers the whole state. It laid the foundation for the creation of 550 jobs in plantations, intensive forest management and infrastructure development, and was accompanied by a Commonwealth funding package of $110 million to help develop exports and value-adding. Initially the RFA received the support of both the Liberal Party and the ALP at both state and federal levels, as well as across the broad community. The RFA provides the national criteria for the conservation of forest biodiversity, old-growth forests and wilderness. These criteria form the foundation for conserving all elements of biodiversity, old-growth forests and wilderness. The RFA increased the existing conservation reserve system by almost one-fifth. It brought the total reserve system to 2.7 million hectares, nearly half of Tasma-
nia’s land area. As a result, more than two-thirds of the state’s public land is in reserves. The RFA established a program to protect conservation values on private land. So the RFA is both a compromise and a solution to complex and competing claims. No one group got their way or walked off in triumph. That is the nature of compromise.

As Mr Barry Chipman, the Tasmanian coordinator of Timber Communities Australia, said:

Compromise is important in achieving win-win outcomes on difficult land use questions. The key to an achievable outcome is the willingness of all parties to resolve the problem.

So it is disappointing that the 20-year-old fight over Tasmania’s old-growth forests is still not perceived as resolved. Governments, the majority of Tasmanian electors and industry have already reached compromises several times over, but the Greens and environmental groups consistently reject them, while Labor embraces the RFA only when it is convenient. Ironically, the foreword in the JANIS report, which was written a decade ago, begins:

For over two decades in Australia the competing demands of conservation and industry on our forests have been an area of debate and controversy. The National Forest Policy ... agreed by the Commonwealth, State and Territory Governments, provides the framework for a long term solution ...

Fifteen years ago the goals were the same. Labor says they represent the interests of timber workers, but come election time there is not even a faint echo of those voices in the Huon Valley, Geeveston, Triabunna or Scottsdale.

Tasmanian political history is littered with forest compromises. No less than 25 inquiries have been held since 1971. Not one found the Tasmanian forestry industry unsustainable. All of these policy debates, consultations, studies, analyses, agreements and compromises have led to the conservation of significant areas that were previously available for forestry. As difficult as these changes were to communities reliant on timber, they nevertheless accepted the outcomes. Each time they were told that the agreement represented the ‘final lines on the map’. It is not hard to imagine their exasperation. People who work in forestry have had the goodwill to accept the RFA and all other forestry land use compromises. The challenge is for the Tasmanian environment movement to do the same, and for those who live in inner city Melbourne and Sydney to respect the right of Tasmanians to manage and make decisions about Tasmania and its forests. Tasmanians are the custodians of these forests and they are very good at it. Tasmanians consider the interests of their children, grandchildren and future generations. We are surrounded by the beauty of our forests and value the wealth this renewable resource brings our economy.

The Howard government remains committed to developing Australia’s timber resources and generating economic wealth and jobs in a very sustainable way. The forestry industry employs about 83,000 Australians, mostly in rural and regional areas. The coalition showed in the 2004 election that it is a strong friend of Australia’s timber workers, not the ‘fair-weather’ variety. In no government that John Howard leads, or where Michael Ferguson or Mark Baker voice the interests of northern Tasmania, will ideology or short-term political expediency be put ahead of the job security and welfare of timber workers and their families. It is time to give this debate a rest.

Defence: Procurement

Senator MARK BISHOP (Western Australia) (7.23 pm)—Tonight I would like to talk to the Australian National Audit Office Audit report No. 34 2006-07: High frequency communication system modernisation pro-
ject. As you would be aware, Mr Acting Deputy President Murray, I have been addressing audit reports on defence procurement projects for quite a few years now, so forgive me if I sound somewhat like a scratched record. Unfortunately, this latest ANAO report follows a similar track to previous reports. It shows how the government has again mismanaged a multimillion-dollar defence procurement project. The consequences for taxpayers are bad enough. Worse still, however, is the effect this is having on Defence’s capability. Such delays as outlined in a succession of critical ANAO reports raise the question: if schedule slippage is so far behind, was such capability properly considered in the first place? After all, capability delayed is capability denied.

That is a salient question when reading the ANAO report into the upgrade of Defence’s high-frequency communication system. The purpose of this system is to give an alternative means of long-distance communication, especially for those defence platforms not fitted with satellite communications. It is the Defence Materiel Organisation’s second largest electronic system project. In 1997—a year after this government came into power—it signed a contract with Boeing to upgrade the system. The original contract called for 10 platforms to receive upgrades to their HF communications systems. Some of these platforms included: 18 Orion aircraft, 15 Seahawk helicopters, four guided missile frigates, four hydrographic ships, three F111 aircraft and two amphibious landing platforms.

The original budget, signed off by the government, was for some $505 million. It was not long, of course, before slippages appeared in the schedule. So the government went back to the drawing board and rescheduled the project. The fixed communications system of this contract—receivers and transmitters—ended up being 35 months behind schedule. It was finally installed in 2004. According to the ANAO report, we are still awaiting the final phase of the upgrade: the fitting of voice and data packs. The auditors placed this phase of the upgrade 43 months behind schedule, to be completed later this year. But that time frame has again been revised since the publication of the audit document. Indeed, this year’s budget statements put the project’s completion closer to early 2008. Apart from the loss of capability, such slippage inevitably comes with a price tag. The upgrade will now cost an extra $111 million, taking into account price and currency adjustments. That is an increase from $505 million to $616 million.

By now, the government was beginning to lose patience with the contractor. In 2003 it suspended earned value payments to Boeing Australia—a bit late, for worse was to come. For we now learn the project has been scaled down from 10 platforms to one. Get that: from 10 platforms to one. Indeed, the only platform to receive the upgrade to date is the Chinook helicopter, and they are being retired within five years of receiving the upgrade. The Black Hawks will not receive the full HF upgrade until at least 2010—and they are also due to be retired from service in 2015. Furthermore, such slippage means the upgrade will not be available to retiring platforms such as the F111 aircraft and the Seahawks. So there will necessarily be a major reduction in planned capability. Common sense would suggest a major reduction in price for such a drastic paring back of the upgrade. Nonsense! The discounted price is just $60 million from the original cost.

But surely inherent risks in major defence procurement projects should be identified and acted upon. After all, the government has a history of such failed procurement projects. It has had plenty of time and experience to develop a risk management strategy. While the ANAO report found that Defence had
identified a number of risks at the beginning of the contract—which, incidentally, came to pass—little was done to manage these risks. Indeed, the initial risk management strategy was not up to the job. Defence’s response to this criticism? It has since ‘instituted more rigorous requirements for development processes’. We hope so, but I remain sceptical, and here is why.

The report concludes with a ‘project maturity score’ devised by the government. The aim of this score is to communicate the risk in projects as they progress through the acquisition process. Risks include, for example: technical understanding and difficulty, commercial constraints, and operations and support. This applied to eight platforms that are still awaiting the upgrade, including the Black Hawks. The ANAO concluded that significant risks remain because the government is no longer in contract for these upgrades. It was supposed to have contracts to provide and install the second phase of the upgrade in 2004, but this, again, has not yet been done. So much for learning from mistakes!

How did the government allow such a major defence procurement project to fall into such a perilous state? After all, this could all have been avoided had it heeded a recommendation from Labor. More than two years ago, the opposition recommended the government earmark extra funding to the ANAO to conduct audits on Defence’s 30 major procurement projects. That call was backed up by the Joint Committee of Public Accounts and Audit last year. This essentially non-partisan committee unanimously recommended the ANAO be so funded by the government. But the Prime Minister continues to dither on this major initiative. Instead of making a hard commitment in this year’s budget, he referred the matter back for further discussion between the ANAO and the Defence Materiel Organisation—the DMO.

Earlier today the ANAO reported to the committee that negotiations were in their infancy with the DMO. They were discussing the form of project reporting and this process was unlikely to be concluded before the end of this year. At that stage, they would then become part of the budget process for next year. Meanwhile, defence procurement bungles such as this major upgrade continue to embarrass the government.

The ANAO audits an average four defence procurement projects each year. While quite a lot of those audits have happy endings, a significant number continue to highlight difficulties and transgressions in a range of processes. Again the taxpayer is left wondering when the government will get it right when it comes to defence procurement. Again capability is being lost when major projects experience vast slippages in their schedules. Again I fear I will be rising in the Senate to address yet another government sanctioned defence procurement fiasco. Let us try to change the record. Let us see this government come clean on its many mistakes in this area, accept responsibility and put substance to promises of reform and promises of action. Only then will we see value for money in this difficult area.

Palestine and Israel

Senator NETTLE (New South Wales) (7.32 pm)—In January I visited Palestine and Israel and 10 June this year marked the day when, 40 years ago, Israel’s military occupation of the West Bank, including East Jerusalem, the Gaza Strip and the Golan Heights began. I spent most of my time in the West Bank and Galilee in the north of Israel. It was inspirational to meet Palestinians and Israelis who were working so hard to achieve peace and justice in their country in really difficult circumstances.

I visited one of the three refugee camps in Bethlehem. There are 4,500 people living in
the refugee camp and more than 2,000 of them are children. I met the father of a two-year-old girl who was not able to talk but she could mimic the sounds of a machine-gun. Peace and justice must be achieved in Israel and Palestine, and even then it may take generations for the everyday experiences of war to no longer fill the lives of Palestinians and Israelis. The father of the two-year-old that I met lives in the refugee camp. He runs a youth centre there that Australians have contributed to and bought computers for, computers that were being used by women when I went in to visit the centre that day. The youth centre takes children from the refugee camp on excursions and gives them an opportunity to have positive interactions with Israelis. They have visited the 27 different villages around the country from which their families come. They have had interactions with Palestinian Arab citizens of Israel who are police officers and they have come back to the refugee camp saying, ‘We could live together, we could share this land.’ That has been a really positive experience for them. Some of them have been confused by it because the only Israelis they have interacted with prior to that experience have been the Israeli soldiers who have been shooting into the refugee camp where they live.

Some children took me to visit the top levels of a building in the refugee camp. Nobody lives up there because families are too scared to be there because they are the first areas that get shot at when there are Israeli troops firing into the refugee camp. The United Nations school in the refugee camp cemented its windows because its staff got sick of bullets entering the classrooms when they were trying to continue with classes.

I visited another school in Israel. It is in a village of Jewish and Palestinian Arab citizens. They set up the school in 1979 and developed their own curriculum because they wanted to bring about a more just and egalitarian relationship between Arabs and Jews and did not find that either of the curriculums taught in their two countries was able to achieve that. The Palestinian mayor of the village told me how he explained to his son a news item they had seen on the television news about the violent actions of settlers in Hebron. He told me how it took a long time to explain to his son what was going on on the television because his son was really confused. He said: ‘I have lots of Jewish friends at my school. Why am I seeing these people acting in this way?’ It took the father a long time to explain. He was really careful in all of his explanations to put forward a just and accurate representation of the relationship between Arabs and Jews in a way that did not seek to form hatred in the mind of his son.

When I visited the Israeli parliament, or Knesset, I met an Arab member of parliament. He talked with me about conversations he had had with a visiting delegation from South Africa that had been visiting the Knesset. He told me how they had been offended by suggestions that the occupation of Palestine was similar to the apartheid era in South Africa. But the reason they were offended was, as they said, that apartheid was never that bad. That was a story I heard from other Palestinians as well in their descriptions and comparisons. It is one that Jimmy Carter, the former US President, has made also.

On the weekend I spoke at a demonstration in Sydney marking 40 years since the military occupation of the West Bank and Gaza began. It was similar to many other rallies that were held around the world to mark 40 years of occupation, and all of them called for an end to the occupation. In fact, it was also similar to a demonstration that I attended on my first day in Israel which was organised by the Women in Black. It called for an end to the occupation. These Israeli women have stood on a street corner in Jeru-
salem every Friday for 19 years. The day I was there with them on my first day in Israel was one week after the anniversary of 19 years of standing there calling for an end to the occupation. The Palestinians in front of us on the street corner who had been brought into Israel to do the paving were so thrilled and pleased. They had never seen Israelis standing up for their rights in the way that these women do every Friday in Jerusalem. It was fantastic to have the opportunity to spend that occasion with them.

The situation in Israel and Palestine is a failing of the international community to enforce all of the United Nations Security Council resolutions which are relevant to this area. There have been 131 of them since 1967—the last 40 years. The Australian Greens call on the Australian government to take a lead in diplomatic efforts to find a lasting peace and justice for Palestinians and Israelis.

Last year Australia’s defence exports to Israel amounted to over $15 million. The last thing that needs to be injected into the situation in the Middle East is more arming of the occupiers. Instead of that, the Greens are calling on the government to work to achieve peace and justice for all the people involved. This is what other Australians are doing. I visited an Australian permanent resident on land that his grandfather had lived on since 1916. It was on the top of a hill in the West Bank near Bethlehem. It was the only hill you could see that did not have an Israeli settlement on top of it. He told me about the three days when Israeli settlers had brought bulldozers onto his land. It was during a curfew, so he was too scared to go outside to try to stop them in case he was shot. But three days later the court ordered that they stop the destruction they were causing on his property. He told me that his message for the Australian people was that the only way towards peace is to build bridges. He runs programs over summer on his land for children from refugee camps in Bethlehem. They have painted murals and they have learnt photography skills on his land as part of a plan to allow them to experience life outside of the refugee camps in Bethlehem. He said that the idea of the programs that he runs is to offer activities for young people in order for them to be positive and to think about a better way for a better future. He asked me what the Australian government could do to help.

I met others who wanted help from the Australian government as well. I met with the Palestinian IT Association, which is based in Ramallah. They told me about the 1,500 Palestinians who are employed in over 120 IT companies. They told me of statistics about the ownership of computers and the internet access that exists in Palestine, which I was surprised to hear were so high. They want to build a relationship with Australia through AusAID, the Australian Venture Capital Association and the Australian Information Industry Association. They want to develop relationships with Australian businesses around software development, and I have written to industry groups to ask for their assistance in developing these relationships, which is work that I think the Australian government should also be doing.

I visited a refugee camp in Tulkarm in the West Bank. I saw a pile of rubble that used to be the Palestinian Authority service centre, which provided health and education services before it was destroyed by a missile from a plane. That building is no longer there, obviously, and the limited services that the centre was able to provide are now difficult to provide when countries such as Australia refuse to allow aid to get to the people who need it, such as those in refugee camps where there are horrific health and education problems. There is a lot that the Australian government could and should be doing to
improve justice and achieve peace in Israel and Palestine. That would have a tremendous impact on the whole peace and security of the Middle East region and on all of our international community. The Greens are calling on the government to make that commitment. It has been 40 years since the military occupation of the West Bank in Gaza began and the Australian government should be contributing to achieving peace and justice—

(Time expired)

**Liberal Party**

**Senator McGauran** (Victoria) (7.42 pm)—I—

Senator Webber—No!

Senator Wong—You are not on the speakers list.

**Senator McGauran**—It may surprise the others but I stand in a most non-adversarial way. Indeed, I rise to offer some advice to the Australian Labor Party and all I get are moans and groans before I even venture my advice. What I would like to say, for those who wish to stay around and hear it—Mr Deputy President, unfortunately, you are compelled to do so—is that today and yesterday in question time we had the very unusual circumstance of an opposition Labor Party focusing on a single issue. Their centrepiece was what they claim to have been a Liberal Party of Australia fundraiser at Kirribilli. Question after question was dedicated to this particular issue. Of course, the government batted them off quite easily by saying that advice from the Department of the Prime Minister and Cabinet was that it was a non-fundraising function which, based on full cost recovery, was quite acceptable. Therefore, that is our answer to that question.

For the last two days, as I said, the Labor Party have made this the central point of their attack on the government. I point this out to the opposition and offer my advice. I offer that advice because I spent many long, cold years in opposition, I know what it is like to be in opposition. When you reach real time—that is, six months out from an election—there are a limited number of forums and venues for an opposition. I know oppositions do not get a fair go and that parliament is their forum. Governments do not like coming into parliament during question time to be attacked live on air. We sit here pondering and wondering: what are the opposition going to find on us today? What grandstanding issue are they going to come at us with today? How are they going to get their policy messages across? That is how we think. I am absolutely bewildered that they would spend the last two days, and I dare say the rest of the week, trying to mount a case on the Liberal Party function at Kirribilli. It simply shows that the opposition are not willing to do the hard work. They want to skate into government on very shallow and glib issues.

We all know that an opposition has to do what it has to do. When we were in opposition we did similar things—for example, on the Thai teak table at the Lodge, the kennel at the Lodge and, of course, Keating’s piggery, which was indeed a very serious issue. This is what oppositions do but the proper forum in which to do them is estimates. You spent hours and hours and days and days in estimates on the Kirribilli issue and now it looks like you are going to spend the two weeks before a long winter break on this single issue. What a political error. How distant from the Australian people can you be on this issue? On any analysis it shows that you are not willing to do the hard policy work. Ask us the questions that the Australian people want to hear.

It took the government side of the Senate to raise issues such as communications, the economy and industrial relations. I thought that those were your centrepiece. We barely hear a question about industrial relations from those opposite. We have had ministers
making statements and answering questions with regard to the floods in the Hunter and the rail disaster in Victoria. We had members on our own side, not from the opposition, asking questions on climate change, law and order and the arrest of Mr Mokbel. We have had Senator Nigel Scullion, who sits in front of me now, in an answer to a question, informing the Senate as to how the government has helped volunteers and the value of volunteers to the community. All of these are issues that the Australian people are interested in and that show a connection to the Australian people. But the opposition comes in here day after day to flog that single issue of a function at Kirribilli.

I say again: we know that oppositions do that sort of thing, but how can this opposition be devoid of economic industrial relations questions? Senator Hutchins, the only man with any sense on the other side, got up in this chamber to ask a question on petrol. It must have been about the sixth question down. I would have thought it was the No. 1 question to lead with. Who is running your tactics committee? As I said, I stand up in a non-adversarial manner to offer advice to the Labor Party and to their tactics committee.

The DEPUTY PRESIDENT—Senator McGauran, I advise you to address your comments to the chair and not to the—

Senator McGauran—I am looking at you.

The DEPUTY PRESIDENT—You might be, but do not address your comments to the other side.

Senator McGauran—Mr Deputy President, perhaps you can take this message back to those in the opposition. What the Labor Party—

The DEPUTY PRESIDENT—The chair is never a message carrier in this place, Senator McGauran.

Senator McGauran—I know you have connections nevertheless.

The DEPUTY PRESIDENT—You will address the chair.

Senator McGauran—Mr Deputy President, what the Labor Party should be attempting to do in this valuable period of parliament—and we are on broadcast, too—is explain to the Australian people how they are not going to destroy the mining industry through the abolition of AWAs. The mining industry is a booming sector of the economy—an industry that the opposition themselves say is carrying the economy. Yet the opposition have a policy in place that the industry seriously believes will destroy the mining boom and bring it to a grinding halt. Shouldn’t the opposition be using this opportunity in the chamber to explain their policy to the mining industry? Shouldn’t they be explaining to the building and construction industry why, in their very first term in government, they will abolish the Building and Construction Commissioner. Shouldn’t they be explaining to the Australian people the words of Kevin Reynolds when he sat up there in all his glory in his fancy apartment saying: ‘I live for the day when the Australian Building and Construction Commissioner and all the staff are all working down at Hungry Jack’s or Fast Eddy’s’ and:

I … admit that some of our disputes, like the ‘no-ticket no-start’ disputes and walking off concrete pours and things of that nature—‘wouldn’t be accepted under this government’. You bet they would not be accepted under this government. What the other side need to explain is whether it would be accepted under their industrial relations system. That is what they should be coming in here and mounting an argument for. They should be constructing their case. Instead, they waste their time on a Liberal fundraiser at Kirribilli.
Shouldn’t the opposition be constructing and explaining their case and putting their policy forward in relation to small business? Shouldn’t they be explaining to small business the absurdity of returning to their unfair dismissal laws? Shouldn’t they be explaining to small business just how they are economic conservatives? If their record in government was not economically conservative and their record in opposition is not economically conservative then can they explain to small business how they are economically conservative? It defies belief. They ought to use this opportunity in parliament—particularly in question time, which is on-air, and in take note of answers—to explain to small business the fear that they should not have. Of course they have the fear, but they are not hearing any answers from the Labor Party.

Shouldn’t they be explaining to exporters and farmers alike how their exports will get off the wharves should the Labor Party be fortunate enough to enter government—how they will get their products off the wharves when the Labor Party reinstate secondary boycotts and the MUA, the waterfront union, is back in town? That is all they need to be back in town; the return of the secondary boycott laws. That is the day they live for. They know they will be back in town when the waterfront goes out on strike and the transport unions go out on strike with it.

Shouldn’t they be explaining to the manufacturing industry that they should not fear pattern bargaining or the pattern fees that go with it? The truth of the matter is that they cannot explain it, so they are running away from the hard work of policy. They are trying to bring glib issues into the parliament and bluff their way into government. We are in real election mode now. Time is running out for the Labor Party, and their sham over the last two days has shown them up to be shallow and not fit for government.

**Liberal Party**

**Senator WONG** (South Australia) (7.52 pm)—I rise to respond very briefly, in the short time that I have, to Senator McGauran, the former National Party senator. This is a man who used to be known as the Collins Street Cocky, the bloke who was the National Party senator from the middle of Melbourne who then decided that he would rat on his party and join the Liberal Party. He is now giving political advice to the opposition! I could actually cope with that. But what he is doing is questioning the right of the opposition to ensure that this government is accountable for the Prime Minister’s extraordinary abuse of a taxpayer funded official residence for a Liberal Party fundraiser.

**Senator McGauran interjecting—**

**Senator WONG**—Let’s be clear: you actually called it the ‘right thing’. It was a Liberal Party function being held at Kirribilli House, a taxpayer funded official residence, for which the Liberal Party paid the princely sum of $5,000 and not one cent for venue hire. So you want to go out there, Senator McGauran, and say to the Australian people that you think it is just fine for the Liberal Party to go ahead and use Kirribilli House for its own political purposes. You know what that shows? It shows your arrogance and it shows the arrogance of the Prime Minister, a Prime Minister who has been around for so long that he treats this place like his own. All you have done tonight, Senator McGauran, is kick another own goal and demonstrate yet again, to anybody who is listening, just how arrogant this government is. You do not want to be held accountable. You do not want to be accountable through this chamber, through question time, through the Senate estimates process. That is how this government operates after 11 years—with a complete lack of accountability and a complete lack of regard for taxpayers’ funds,
just as you are spending millions of dollars of taxpayers’ money on government advertising in an attempt to try and improve your prospects of re-election. Everyone understands the lack of transparency and the lack of accountability in this government.

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

Senate adjourned at 7.54 pm

DOCUMENTS

Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Auslink (National Land Transport) Act—Variation to the AusLink Roads to Recovery List No. 2007/1 [F2007L01583]*.

Australian National University Act—


Residential Colleges Affiliation Statute 2007 [F2007L01681]*.

Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos—

CASA 143/07—Instructions – for approved use of P-RNAV procedures [F2007L01582]*.

CASA 172/07—Direction – number of cabin attendants [F2007L01462]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part—

105—

AD/A330/45 Amdt 3—Wing Rib 6 [F2007L01600]*.

AD/A330/74—Fuselage Longitudinal Joint at Stringer 28 RH [F2007L01563]*.

AD/AS 355/60 Amdt 2—Tail Rotor Blade Trailing Edge [F2007L01562]*.

AD/ECUREUIL/122 Amdt 1—Emergency Flotation Gear [F2007L01599]*.

AD/ERJ-170/11—Hydraulic Hose Clamps [F2007L01598]*.

AD/LJ45/10—APU Fuel Shutoff Valve [F2007L01593]*.

106—

AD/MAKILA/7 Amdt 1—Digital Engine Control Unit Software [F2007L01592]*.

AD/MAKILA/9—Engine Control Unit – Comparator/Selection Board [F2007L01591]*.

AD/TAY/9—Ultrasonic Inspection of LP Compressor Rotor Blades [F2007L01588]*.

Crimes (Overseas) Act—Select Legislative Instrument 2007 No. 140—Crimes (Overseas) (Declared Foreign Countries) Amendment Regulations 2007 (No. 1) [F2007L01543]*.

Customs Act—Tariff Concession Order 0703649 [F2007L01643]*.

Customs Administration Act—Select Legislative Instrument 2007 No. 141—Customs Administration Amendment Regulations 2007 (No. 1) [F2007L01604]*.

Financial Management and Accountability Act—


Medicare Australia Act—Medicare Australia (Functions of Chief Executive Officer) Amendment Direction 2007 (No. 1) [F2007L01674]*.

Migration Act—Migration Regulations—Instrument IMMI 06/090—Residential Postcodes, Skilled Occupations, Relevant Assessing Authorities and Points [F2007L01687]*.

National Health Act—Declarations No. PB 43 of 2007 [F2007L01698]*.

Determinations No. PB 45 of 2007 [F2007L01700]*.

Governor-General’s Proclamations—Commencement of Provisions of Acts
Australian Citizenship Act 2007—Sections 2A to 54—1 July 2007 [F2007L01653]*.

Export Finance and Insurance Corporation Amendment Act 2007—Schedule 1—1 July 2007 [F2007L01579]*.

* Explanatory statement tabled with legislative instrument.

Tabling

The following government documents were tabled:
AusLink—Report for 2005-06.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 138/07 to 199/07—Commonwealth Ombudsman’s reports.

Commonwealth Ombudsman’s reports—Government response.


Treaties—

Bilateral—Text together with national interest analysis and annexures—
Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles for the Exchange of Information with Respect to Taxes (Canberra, 1 March 2007).
Agreement on Health Care Insurance between Australia and the Kingdom of Belgium done at Canberra on 10 August 2006.
authority under the Patent Cooperation Treaty [to be signed at WIPO in Geneva in October 2007].


Treaty between Australia and the Kingdom of Thailand on Mutual Assistance in Criminal Matters, done at Kuala Lumpur on 27 July 2006.

**Multilateral**—Text together with national interest analysis, regulation impact statement and annexures—

QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Stronger Families and Communities Strategy Partnership**

(Question No. 3084)

Senator McLucas asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 28 March 2007:

With reference to the Stronger Families and Communities Strategy Partnership:

(1) For each year since the inception of the partnership: (a) how many times have the members of the partnership met face to face; and (b) how much has the department expended in support of the partnership’s work and of this expenditure, what amount corresponds to travel costs.

(2) What is the budget allocation to support the partnership: (a) in the 2006-07 budget year; and (b) for each financial year of the forward estimates.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

Since 2004 the Partnership met face to face a total of 14 times. My department has spent a total of $173,239 since 2004 in supporting the partnership’s work, and of this expenditure, $103,157 was travel related costs.

The Australian Council for Children and Parenting (ACCAP) concluded in May 2007 and will be replaced by a new advisory body. The budget for the new body is still being considered.

**Australian Council for Children and Parenting**

(Question No. 3086)

Senator McLucas asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 28 March 2007:

(1) For each year since the inception of the council: (a) how many times has the council secretariat met face to face; and (b) how much has the department expended in support of the council’s work and of this expenditure, how much has been on travel.

(2) What is the budget allocation to support the council secretariat: (a) in the 2006-07 budget year; and (b) for each financial year of the forward estimates.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question.

Since 2001, the Australian Council for Children and Parenting (ACCAP) has met face to face a total of 20 times. My department has spent a total of $1,292,772 for various projects and general running cost of the council, $176,951 of which has been spent on travel related expenses.

The ACCAP concluded in May 2007 and will be replaced by a new advisory body. The budget for the new body is still being considered.

**Macquarie Island**

(Question No. 3088)

Senator Allison asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 29 March 2007:

With reference to the Macquarie Island World Heritage Area and Nature Reserve:
QUESTIONS ON NOTICE

(1) Will the Government commit to the detailed eradication plan for rabbits and rodents on Macquarie Island; if so when will the plan be enacted; and if the plan will not be enacted, why.

(2) Will the Government provide sufficient resources to ensure the ecological future of the island; if so (a) what amount of funding will be provided; and (b) will this funding be ongoing.

(3) (a) What action is the Government taking to ensure that the World Heritage listing of the island is preserved; and (b) does the Minister agree that unless action is taken the World Heritage Status of the island will be at risk.

(4) Is it the case that the rabbit and rodent population on the island has increased; if so (a) to what extent; and (b) what is the current rabbit and rodent population.

(5) Has the rabbit and rodent population caused land degradation and a loss of plant and animal species; if so: (a) to what extent; and (b) which species are threatened or lost.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) The Australian Government has committed to work in partnership with the Tasmanian State Government to implement the eradication plan. Tasmania has management responsibility for Macquarie Island including the control of pests. The Plan can be enacted when the Tasmanian Government accepts the Australian Government’s offer to fund half the cost of implementing the plan.

(2) The Australian Government is willing to provide considerable resources to manage the Island’s ecological future. An offer has been made to provide half of the funding required ($12.3 m) for the implementation of the eradication plan over five years. A further $129,000 has been offered for specific rabbit control measures on the Island during 2006-2008.

(3) The Australian Government’s substantial funding offer to the Tasmanian Government demonstrates its commitment to preserving the World Heritage Listing. Implementation of the pest eradication plan is critical to minimise the risk of degradation and loss of the Island’s World Heritage values.

(4) Rabbit and rodent numbers have increased since the eradication of cats in 2000. This has been exacerbated by difficulty in obtaining the mixoma virus which previously controlled rabbit numbers. There has been no recent verified estimate of rabbit and rodent numbers. In 2003, rabbit numbers were estimated to be upwards of 25,000.

(5) Overgrazing by the rabbit population has resulted in erosion and land slips on steep seaward slopes of the Island and degradation of vegetation. There are no known losses of plant and animal species.

Royal Australian Navy: Fleet
(Question No. 3089)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 28 March 2007:

With reference to the answer to question on notice no. 1690 (Senate Hansard, 14 June 2006, p. 193) concerning crew levels of all ships in the Royal Australian Navy, can updated information be provided using the same format as the previous answer.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) The Royal Australian Navy fleet currently comprises 56 ships.

(2) and (3) The name, tonnage, home port, optimum crewing level and current crewing level on 16 April 2007 are indicated in the table below:
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(Question No. 3091)

Senator Mark Bishop asked the Minister representing the Minister for Defence, upon notice, on 29 March 2007:

(1) (a) Can separate figures be provided, for Australian Defence Force (ADF) personnel and Defence staff, which detail the number of personnel that have been posted overseas for: (i) less than 6 months, and (ii) more than 6 months; and (b) which locations have these staff been posted to and for what purposes.

(2) (a) For each location referred to: (i) what is the estimated cost, for each of the financial years 2006-07 and 2007-08, for supporting each of these postings, including service charges from other agencies and costs of locally engaged staff, and (ii) how many staff are locally engaged; and what security procedures apply to their selection.

Acronym | Meaning
---|---
ACPB | Armidale Class Patrol Boat
AOR | Durance Class Underway Replenishment Ship
DNB | Darwin Naval Base
FBE | Fleet Base East
FBW | Fleet Base West
FCD | Full cycle docking
FCPB | Fremantle Class Patrol Boats
FFG | Adelaide Class Guided Missile Frigate
FFH | Anzac Class Frigate
HS | Leeuwin Class Hydrographic Survey Ships
LCH | Balikpapan Class Landing Craft Heavy
LPA | Modified Newport Class Amphibious Landing Ships
LSH | Modified Sir Bedivere Class Landing Ship Heavy
MHC | Huon Class Coastal Minehunters
MSA | Minesweeper Auxiliary
SML | Paluma Class Survey Motor Launch
SSG | Collins Class Submarine
STS | Sail Training Ship

Australian Defence Force: Personnel

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

(3) (a) Can separate figures be provided, for ADF personnel and administrative staff, by rank and location, that detail the number of personnel currently seconded or attached to forces of other nations; and (b) of these personnel, how many are deployed as part of military activity outside the homeland of these forces.

(4) How many personnel of other nations are currently seconded to the ADF, by nationality.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

The information sought in the honourable senator’s questions is not readily available. To collect and assemble such information solely for the purpose of answering the question would be a major task and I am not prepared to authorise the expenditure and effort that would be required.

Mr David Hicks
(Question No. 3093)

Senator Stott Despoja asked the Minister representing the Attorney-General, upon notice, on 29 March 2007:

(1) Given that the current bilateral agreement for prisoner transfers between Australia and the United States of America (US) relates to the former and not the current military commission process, when, if at all, does the Australian Government propose to enter into a bilateral agreement for the transfer of prisoners from Guantanamo Bay.

(2) How will any bilateral agreement entered into with the US for the transfer of prisoners from Guantanamo Bay be enforced by Australian law.

(3) Is there a proposal to amend the International Transfer of Prisoners Act 1997 or promulgate new regulations to cover the situation of Mr David Hicks where there is no mirror offence in Australian law.

(4) Will the text of any agreement entered into with the US be incorporated into the Act or enabling regulations.

(5) Will the agreement be tabled and referred to the Standing Committee on Regulations and Ordinances or the Joint Standing Committee on Treaties for scrutiny.

(6) Can the Attorney-General confirm that, in the agreement, important terms relating to prisoner transfers, such as visitation rights, recognition of time served, and pardon (prerogative writs) will be enshrined in the implementing Australian law.

(7) Given that the constitutionality of the current military commission process has been appealed to the US Supreme Court, if the Court decides that the military commission process is unconstitutional and, therefore, any sentences produced by it are null and void: (a) if Mr Hicks is transferred to Australia to serve his sentence, will he still have to serve the sentence in Australia; and (b) will Mr Hicks be entitled to compensation.

(8) Given: (a) that under the International Transfer of Prisoners Act there is no right of appeal in Australia and; (b) the Attorney-General’s statement on 28 March 2007 that there will be no commutation or pardon of Mr Hick’s sentence; what, if any, administrative law rights will be available to Mr Hicks if he is transferred to South Australia to serve his sentence as a detainee of the Commonwealth.

(9) Given that Mr Hicks has never undergone an independent mental health assessment, is the Government prepared to accept the US military commission’s findings in respect of Mr Hicks’ voluntariness, or otherwise, to enter into a plea bargain and consent to a prison transfer.

(10) Given that rule 910 of the Manual for Military Commissions requires a military judge to ensure that any plea entered into is voluntary, what, if any, attempts has the Australian Government made
to ensure that an independent psychiatric assessment of Mr Hicks is completed, as provided for under rule 706.

(11) What effect, if any, will the Proceeds of Crime Act 2002 have on Mr Hicks.

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


(2) The Arrangement has been implemented into Australian law under the International Transfer of Prisoners (Military Commission of the United States of America) Regulations 2007 and the International Transfer of Prisoners (Transfer of Sentenced Persons Convention) Amendment Regulations 2007.

(3) As identified in (2) above, implementing regulations have been made. No further legislative changes are necessary.

(4) The text of the Arrangement is incorporated in schedule 1 to the International Transfer of Prisoners (Military Commission of the United States of America) Regulations 2007.

(5) The Arrangement is included in implementing regulations, which will be subject to the standard process of scrutiny by the Standing Committee on Regulations and Ordinances. The Arrangement is an agreement of less-than-treaty status and will therefore not be considered by the Joint Standing Committee on Treaties.

(6) In accordance with standard practice for agreements for the international transfer of prisoners, the Arrangement does not address the issues of visitation rights and recognition of time served. The availability of pardon is dealt with in paragraph 12 of the Arrangement.

(7) The implications for Mr Hicks of a decision by the US courts about the constitutionality of the Military Commission process would need to be considered after any judgment was handed down.

(8) Decisions that are made under the International Transfer of Prisoners Act 1997 (Cth) are subject to the provisions of the Administrative Decisions (Judicial Review) Act 1977 (Cth), as well as to any administrative law rights available at common law.

(9) During the arraignment and sentencing proceedings held at Guantanamo Bay on 26 and 30 March 2007, Mr Hicks was questioned by the military judge about his plea and the specific facts that lay behind it. The military judge needed to be satisfied that the plea was given voluntarily. Mr Hicks stated that he pleaded guilty, freely and voluntarily, because he is guilty. At the arraignment and sentencing proceedings, there were no issues raised by Mr Hicks’ counsel, the military judge or any member of the military commission as to Mr Hicks’ mental capacity. The Government understands that Mr Hicks was assessed by an independent mental health professional during the previous military commission process, as part of trial preparations by his defence counsel. Rule 706 of the Manual for Military Commissions requires defence counsel, trial counsel, the military judge or any member who has any reason to believe the accused lacks mental capacity to stand trial to communicate that fact to the authority authorised to order an inquiry into the accused’s mental condition.

(10) At the arraignment and sentencing proceedings, there were no issues raised by Mr Hicks’ counsel, the military judge or any member of the military commission as to Mr Hicks’ mental capacity. As such, no inquiry was ordered under Rule 706.
(11) If Mr Hicks derives a financial benefit in Australia from commercially exploiting any notoriety resulting from his offence, an application could be made to a court under the Proceeds of Crime Act 2002 (Cth) for a literary proceeds order. The question of whether to apply for an order would be a matter for the Commonwealth Director of Public Prosecutions.

Council of Australian Governments’ Indigenous Trials

(Question No. 3099)

Senator Carr asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 April 2007:

With reference to the Council of Australian Governments’ (COAG) Indigenous Trials:

(1) (a) For the COAG Indigenous community trials in the East Kimberley region, what is the amount that the department has expended in support of the trial to date, disaggregated to indicate administered funds and departmental expenses; and (b) for the administered funds, can the figure be further disaggregated to indicate the amount expended on individual activities or programs, not including funds for programs that would have been administered irrespective of the COAG trial.

(2) Have these trials formally ended; if so, when did they end.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (a) The following table indicates the estimated departmental expenditure by the Department on the East Kimberley COAG trial:

<table>
<thead>
<tr>
<th>Description</th>
<th>02/03($)</th>
<th>03/04($)</th>
<th>04/05 ($)</th>
<th>05/06 ($)</th>
<th>06/07($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Operational expenses</td>
<td>81,178</td>
<td>369,819</td>
<td>679,621</td>
<td>823,837#</td>
<td>471,586</td>
<td>2,426,041</td>
</tr>
<tr>
<td>Halls Creek</td>
<td>n/a</td>
<td>102,519</td>
<td>169,819</td>
<td>247,151</td>
<td>141,476</td>
<td>660,965</td>
</tr>
<tr>
<td>Canberra</td>
<td>81,178</td>
<td>267,300</td>
<td>509,802</td>
<td>576,686</td>
<td>330,110</td>
<td>1,765,076</td>
</tr>
<tr>
<td>*Projects</td>
<td>0</td>
<td>192,003</td>
<td>347,560</td>
<td>519,425</td>
<td>209,513</td>
<td>1,268,501</td>
</tr>
<tr>
<td>TOTAL</td>
<td>81,178</td>
<td>561,822</td>
<td>1,027,181</td>
<td>1,343,262</td>
<td>681,099</td>
<td>3,694,542</td>
</tr>
</tbody>
</table>

* Does not include funding through DOTARS mainstream programs such as Regional Partnerships, Remote Aerodrome Inspection Program & Sustainable Regions, or expenditure by other agencies.

#NOTE unlike previous years, 05/06 salaries are based on estimated staff time spent working directly on the Trial, not Full Time Equivalent staff who work in the Indigenous Unit and also work on other matters.

(b) There are no administered funds.

(2) No, the trial has not ended.

Backing Indigenous Ability Program

(Question No. 3104)

Senator Carr asked the Minister for Communications, Information Technology and the Arts, upon notice, on 10 April 2007:

With reference to the Minister’s press release of 23 February 2007, entitled “Telstra sale to benefit Indigenous Broadcasting”, in which a $90 million Backing Indigenous Ability program was announced as part of the Connect Australia initiative, including $51.8 million over four years to develop an Indigenous television service and restore ageing radio infrastructure:
(1) How much of this funding was, or has been, expended in each of the financial years 2005-06 and 2006-07 to date.

(2) At what stage is the development of the Indigenous television service; if the service is not currently transmitting, when is it estimated that it will be.

(3) In what ways has the radio infrastructure been upgraded.

(4) Was a needs assessment conducted in remote Indigenous communities in relation to radio infrastructure and/or television services; if so, can details be provided of: (a) the date and contents of this assessment; and (b) if the assessment was conducted by an outside contractor(s), their name and the value of the contract.

(5) Was the $90 million figure based on the results of a needs assessment or survey; if not how was it determined.

Senator Coonan—The answer to the honourable senator’s question is as follows:

(1) The $89.9m Backing Indigenous Ability (BIA) funding is available over four years from 2006-07 and the program has three elements (Telecommunications, Radio and Television). To date in 2006-07 there has been $0.649m administered expenditure on the Television program and $1.564m was allocated for departmental running costs in 2006-07 for the three BIA elements.

(2) It is expected that the National Indigenous Television service will begin transmission in July 2007.

(3) No radio infrastructure has yet been upgraded.

(4) Background information on radio requirements at remote sites was gathered during the recent rollout of Remote Indigenous Broadcasting Services television transmitters. A detailed study of the precise needs of remote radio stations will be conducted as part of the BIA radio program.

(5) An extensive consultation process has been conducted to ensure the design of the BIA program best reflects the needs of Indigenous communities. On 27 March 2006, a discussion paper on the BIA telecommunications program was released. This formed the basis of consultations in selected Indigenous centres and capital cities around Australia and 59 submissions were received. In regard to the television program, an extended period of consultation was conducted. A discussion paper on a review of the viability of creating an Indigenous television service was released on 10 May 2004 and 400 emails and 49 submissions were received. Community consultations were also held by the Department of Communications, Information Technology and the Arts in capital cities and some regional centres. This culminated in the release of a report in August 2005, Indigenous Television Review Report, which canvassed options for the Government’s consideration. In regard to radio, information on the need to upgrade ageing radio infrastructure was collected in the course of undertaking the rollout of Remote Indigenous Broadcasting Services television transmitters to Indigenous communities. The BIA program was announced on 17 August 2005.

Families, Community Services and Indigenous Affairs: Programs

(Question No. 3108)

Senator Carr asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 10 April 2007:

With reference to the answer to question on notice no. 173 of the 2006-07 supplementary budget estimates of the Community Affairs Committee:

(1) Can details also be provided, for the financial year 2005-06, of the amount of municipal services funding that each of the organisations received.

(2) For each organisation where the funding has not been transferred to a new body: (a) where has that funding gone; (b) which organisation is now providing municipal services for that area; and (c) was there a period where those communities were not provided with municipal services.
(3) For the period since 1 July 2006, can updated information be provided using the same format as the previous answer, also incorporating information requested in paragraphs (1) and (2) of this question.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:
Table 1 – Answers to Questions 1 and 2

<table>
<thead>
<tr>
<th>Organisation</th>
<th>State/ Territory</th>
<th>Community Serviced</th>
<th>local government authority/ organisation that took over</th>
<th>(a) If funding is not provided to a new body where has it gone</th>
<th>(b) Organisation that is now providing MUNS for the area</th>
<th>(c) Was there a period where Muns were not provided to the community – provide dates</th>
<th>Funding provided in 2005/06 including GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gumatj Association Incorporated</td>
<td>Northern Territory</td>
<td>Four outstations – Nhulunbuy Region: Birany Biran, Dhaliwuy Bay, Dhalinbuy and Dhanaya</td>
<td>Manngarr CGC</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$242,000</td>
</tr>
<tr>
<td>Gurungs Council Aboriginal Corporation</td>
<td>Northern Territory</td>
<td>Two town camps and outstations – Tennant Creek Region: North Camp, South Camp, Murranji, Powell Creek (Jungurlu), Jingaloo and Madinjara</td>
<td>Elliot DCGC</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$202,848</td>
</tr>
<tr>
<td>Imanpa Community Council</td>
<td>Northern Territory</td>
<td>One outstation – not permanently occupied (Angus Downs)</td>
<td>n/a</td>
<td>Allocated to other Community Housing and Infrastructure Program projects</td>
<td>Nil as outstation is unoccupied</td>
<td>2006-07</td>
<td>$16,500</td>
</tr>
<tr>
<td>Jibilwanagu Outstation Resources Association Aboriginal Corporation</td>
<td>Northern Territory</td>
<td>Croker Island - Adjamarrugu, Alamirra, Argamurrarru, Marramarri, Sandy Bay, Wanagutja Gulburn Islands - Amajtipalk, Ingiliparru, Ngijjin, Wigu Mainland - Aratia, Buni-Inwunbuluk (Annesley Point), Gumeragi, Irgul, Mariah, Wauk, Wilgi</td>
<td>Demed Association took over regional service delivery.</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$363,000</td>
</tr>
<tr>
<td>Nyangatjatjara Aboriginal Corporation Alpurrurulam Community Government Council</td>
<td>Northern Territory</td>
<td>Ipurula (Alice Spring Region)</td>
<td>Ipurula AC</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$33,156</td>
</tr>
<tr>
<td></td>
<td>Northern Territory</td>
<td>Lake Nash</td>
<td>n/a</td>
<td>Allocated to other CHIP projects</td>
<td>No change in service provider (Alpurrurulam) has been the ongoing service provider and is funded through the NT Govt.</td>
<td>NT Govt advise that funding has been ongoing without a break.</td>
<td>$5,500</td>
</tr>
<tr>
<td>Organisation</td>
<td>State/ Territory</td>
<td>Community Serviced</td>
<td>local government authority/ organisation that took over</td>
<td>(a) If funding is not provided to a new body where has it gone</td>
<td>(b) Organisation that is now providing MUNS for the area</td>
<td>(c) Was there a period where Muns were not provided to the community - provide dates</td>
<td>Funding provided in 2005/06 including GST</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>------------------</td>
<td>--------------------------</td>
<td>--------------------------------------------------------</td>
<td>-------------------------------------------------------------</td>
<td>---------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Goerta Aboriginal Corporation</td>
<td>South Australia</td>
<td>Point Pearce</td>
<td>District Council of Yorke Peninsula n/a</td>
<td>Housing type services, not eligible for MUNS funding. Under the HHA, housing is now the responsibility of the WA Govt.</td>
<td>District Council of Yorke Peninsula Goddard Indigenous Housing Organisation (GHO) is now providing the housing type services.</td>
<td>No</td>
<td>$117,164</td>
</tr>
<tr>
<td>Iragul Aboriginal Corporation</td>
<td>Western Australia</td>
<td>Iragul</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$39,543</td>
</tr>
<tr>
<td>Lamboo Gunian Aboriginal Corporation</td>
<td>Western Australia</td>
<td>Lamboo Gunian</td>
<td>Ngoonjewah Council n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$68,121</td>
</tr>
<tr>
<td>Lombadina Aboriginal Corporation</td>
<td>Western Australia</td>
<td>Lombadina</td>
<td>Funding was merged with Djarindjin community</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$119,527</td>
</tr>
<tr>
<td>Bumbu Inc</td>
<td>Western Australia</td>
<td>Bumbu</td>
<td>Marra Worra Worra Abo-</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$52,537</td>
</tr>
<tr>
<td>CCIT Aboriginal Service</td>
<td>Western Australia</td>
<td>Upurl-Uurthila Ngurratja and Paapinyala Tjarrinja organisations</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>No</td>
<td>$603962</td>
</tr>
<tr>
<td>Pilbara Meta Maya Regional Aboriginal Corporation</td>
<td>Western Australia</td>
<td>Pilbara Meta Maya</td>
<td>Kimberley Regional Service Provider n/a</td>
<td>New Service Provider. Pilbara Meta Meya did not apply in the 2006-07 funding round</td>
<td>Kimberley Regional Service Provider</td>
<td>No</td>
<td>$940,965</td>
</tr>
<tr>
<td>Winun Ngari Aboriginal Corporation</td>
<td>Western Australia</td>
<td>Winun Ngarti</td>
<td>Centre for Appropriate Technology n/a</td>
<td>Centre for Appropriate Technology</td>
<td>Centre for Appropriate Technology</td>
<td>No</td>
<td>$172,255</td>
</tr>
<tr>
<td>Napranam Aboriginal Council (NAC)</td>
<td>Queensland</td>
<td>Weipa</td>
<td>Allocated to other CHIP projects</td>
<td>The council is now funding municipal service delivery from their Financial Assistance Grants allocation</td>
<td>The QLD Govt is now providing the services previously funded through MUNS</td>
<td>No</td>
<td>$174,735</td>
</tr>
<tr>
<td>Palm Island Aboriginal Council (PIAC)</td>
<td>Queensland</td>
<td>Palm Island</td>
<td>n/a</td>
<td>Allocated to other CHIP projects</td>
<td>Allocated to other CHIP projects</td>
<td>No</td>
<td>$33,000 (through an SRA)</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
### Table 2 – Answers to Question 3

<table>
<thead>
<tr>
<th>Organisation</th>
<th>State/Territory</th>
<th>Community Serviced</th>
<th>a. Community Serviced</th>
<th>b. Local Government Authority/ Organisation that took over</th>
<th>c. Date funding ceased</th>
<th>Date MS funding transferred to the new body</th>
<th>If funding is not provided to a new body where has the funding gone</th>
<th>Organisation that is now providing MUNS for the area</th>
<th>Was there a period where MUNS were not provided to the community?</th>
<th>Funding provided in 2005-06 including GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Moungabi Housing Co-Operative Society Limited (TMHCSL)</td>
<td>Queensland</td>
<td>Burkette</td>
<td>n/a</td>
<td>Allocated to other CHIP projects</td>
<td>No</td>
<td>Funding was no longer required as organisations identified they could fund their powerhouse fuel requirements from other sources. Funding has now been approved for 2006-07</td>
<td>No</td>
<td>No</td>
<td>$34,903</td>
<td></td>
</tr>
<tr>
<td>Wujal Wujal Aboriginal Council (WWAC)</td>
<td>Queensland</td>
<td>Cooktown</td>
<td>Funding has been provided</td>
<td>n/a</td>
<td>No</td>
<td>$200,013</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Davenport Community Council           | South Australia | Davenport Community | Port Augusta City Council are now undertaking weekly rubbish collection services | 31/12/2006          | 4/01/2007             | $126,000 has been approved to the Davenport Community Council to supply some non-municipal services until the end of the financial year | Port Augusta City Council                          | Between 31/12/2006 and 4/01/2007       | $374,000                                                               |
## QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Organisation</th>
<th>State/Territory</th>
<th>a. Community Served</th>
<th>b. Local Government Authority/Organisation that took over</th>
<th>c. Date funding ceased</th>
<th>Date MS funding transferred to the new body</th>
<th>If funding is not provided to a new body where has the funding gone</th>
<th>Organisation that is now providing MUNS for the area</th>
<th>Was there a period where MUNS were not provided to the community?</th>
<th>Funding provided in 2005-06 including GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Umoona Community Council</td>
<td>South Australia</td>
<td>Umoona Community</td>
<td>Coober Pedy District Council are now undertaking weekly rubbish collection services for the Umoona community.</td>
<td>31/12/2006</td>
<td>4/01/2007</td>
<td>$183,000 has been approved to the Umoona Community Council to supply some non-municipal services until the end of the financial year</td>
<td>Coober Pedy District Council</td>
<td>Between 31/12/2006 and 4/01/2007</td>
<td>$374,000</td>
</tr>
</tbody>
</table>
Mr David Hicks
(Question No. 3109)

Senator Allison asked the Minister for Justice and Customs, upon notice, on 11 April 2007:

With reference to an edited extract of a speech by Mr Alistair Nicholson QC, former Chief Justice of the Family Court, entitled ‘Our own laws condemn Hicks’ trial’ (Age, 2 April 2007, p. 11), in which he comments that past actions of the Attorney-General and others in the Government may have constituted a war crime and/or an offence under Division 268 of the Criminal Code, will the Australian Federal Police commence proceedings against the Attorney General and others in the Federal Government for these actions; if not, why not.

Senator Johnston—The answer to the honourable senator’s question is as follows:

The investigation of offences under the Criminal Code Act 1995 is a matter for the AFP. Decisions on whether to commence criminal proceedings are a matter for the Commonwealth Director of Public Prosecutions.

Mr David Hicks
(Question No. 3110)

Senator Allison asked the Minister representing the Attorney-General, upon notice, on 11 April 2007:

(1) Did the Attorney-General receive advice from the Law Council of Australia with respect to the obligations of the Attorney-General under Division 268 of the schedule of the Criminal Code Act 1995 (the Code) with respect to the detention and proposed trial of Mr David Hicks.

(2) Can the Attorney-General confirm that the Code creates the offence of denying a person who is protected by the Geneva Conventions a fair trial, an offence the sentence for which is 10 years imprisonment.

(3) Does the Attorney-General agree with the opinion of the Law Council that (a)(i) Mr Hicks is a person protected by the Conventions; if not why not, and (ii) did the Government seek alternate legal advice on the matter; if not why not, if so what was the advice; (b) both the first and second military commission established for the purpose of trying Guantanamo Bay detainees could not provide a fair trial; if not why not; and (c) under the Code, to 'counsel' or to 'urge' another party to conduct a trial that does not meet the mandated standards can constitute a war crime.

(4) In refusing to request the Government of the United States of America (US) to repatriate Mr Hicks and by pressing the US Government to proceed with his trial before the military commission, are the Attorney-General and other members of the Government guilty of a war crime and a crime against Australian law.

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


(2) Yes.

(3) Consistent with longstanding practice, the Government will not disclose the receipt or content of any legal advice, nor comment on legal opinions received.
Water and Soil Health
(Question No. 3112)

Senator Allison asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 17 April 2007:

(1) What does the Government understand to be the capacity for deep groundwater to provide fresh water supplies for agriculture and urban use in Australia?

(2) What research, if any, is being conducted on deep groundwater mapping in Australia?

(3) Since 2003, what amount of funding has the Government provided for projects to lower the water table as a form of salinity mitigation?

(4) Is it the case that drainage projects to lower the water table are now considered largely ineffective?

(5) (a) What salinity mitigation strategy is considered most effective?

(b) What assessment has been made of the extent, from this form of salinity mitigation, of (i) dehydration of soils, and (ii) damage to the health of soils?

(6) (a) What research has been conducted on degraded agricultural soil mapping; and

(b) What assessment has been made of the extent in compacted and/or degraded soils of: (i) loss of carbon, (ii) loss of microbes and nutrients, (iii) the reduction in the capacity for water storage, (iv) the reduction in the seepage of fresh water from surface soil into surface dams and river systems, (v) the reduction in deep soil water percolation, (vi) increases in surface runoff from precipitation, (vii) salination, as caused by the concentration by the lateral flow of water through degraded soil?

(7) What research is being conducted into the science of soil health?

(8) What involvement does the department have with Healthy Soils Australia?

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) There are significant deep groundwater resources within large sedimentary basins across Australia. A sustainable yield of about 7,000 GL/yr has been identified for sedimentary basin aquifers found more than 50 metres below the land surface (Table 1). These basins cover large parts of the continent and provide water for many industries and communities. Groundwater salinity varies markedly in these basins, from fresh water to brines.

The Great Artesian Basin (GAB) is the largest deep groundwater resource, covering one-fifth of Australia and with extraction totalling about 650 GL/yr. Groundwater from over 4,000 flowing bores, some with depths exceeding 2,000 metres, is critical for the inland pastoral, mining, petroleum and tourism industries, as well as for potable water supply. Use of the groundwater for irrigation is limited due to relatively high sodium levels and the potential for soil degradation.

The Perth Basin is the most developed groundwater resource providing urban and agricultural supply. Over 250 GL/yr is extracted from the deep Yarragadee and Leederville Formations to supply Perth and other coastal centres and industries.

In Victoria, deep groundwater from the Gippsland Basin supplies about 125 GL/yr for urban use (such as the city of Sale) and irrigation. Geelong and nearby coastal towns are supplied by groundwater pumped from Otway Basin aquifers.

About 48 GL/yr is pumped from deep limestone and sand aquifers in the Murray Basin to irrigate crops such as lucerne, clover seed, potatoes, grapes and olives.
Alice Springs is dependent on over 10 GL/yr of groundwater supplied from bores up to 570 metres deep into Amadeus Basin sandstones.

Recent investigations of Sydney Basin sandstones have enabled planning of a 13 GL/yr bore field to augment the Sydney metropolitan water supply during severe droughts.

As indicated in Table 1, there is potential for further development of deep groundwater in sedimentary basins for agricultural and urban use. The major constraints for such development are groundwater salinity (including ingress of sea and salt water), chemical incompatibility with soils, variability in aquifer yield, connectivity with rivers and wetlands, ecosystem dependencies and remoteness from infrastructure and markets.

<table>
<thead>
<tr>
<th>Sedimentary Basin</th>
<th>State(s)</th>
<th>Management Area (x1000 km²)</th>
<th>Estimated Sustainable Yield (SY) (GL/yr)</th>
<th>Accuracy of SY Estimate</th>
<th>Median Salinity (mg/L)</th>
<th>Total Allocation (GL/yr)</th>
<th>Total Use (GL/yr)</th>
<th>% SY Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Great Artesian Basin</td>
<td>QLD, NSW, SA-NT</td>
<td>1,669</td>
<td>1,632</td>
<td>±25-50%</td>
<td>1,000</td>
<td>645</td>
<td>648</td>
<td>40</td>
</tr>
<tr>
<td>Otway Basin</td>
<td>VIC-SA</td>
<td>75</td>
<td>1,048</td>
<td>±10-25</td>
<td>1,500</td>
<td>108</td>
<td>88</td>
<td>8</td>
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<tr>
<td>Sydney Basin</td>
<td>NSW</td>
<td>54</td>
<td>981</td>
<td>±50%</td>
<td>1,000</td>
<td>28</td>
<td>29</td>
<td>3</td>
</tr>
<tr>
<td>Daly-Wiso-Georgina Basin</td>
<td>NT-QLD</td>
<td>462</td>
<td>936</td>
<td>±25-50%</td>
<td>500</td>
<td>14</td>
<td>82</td>
<td>9</td>
</tr>
<tr>
<td>Perth Basin</td>
<td>WA</td>
<td>38</td>
<td>507</td>
<td>±10-25</td>
<td>700</td>
<td>255</td>
<td>255</td>
<td>50</td>
</tr>
<tr>
<td>Clarence-Moreton Basin</td>
<td>NSW-QLD</td>
<td>39</td>
<td>507</td>
<td>±50%</td>
<td>800</td>
<td>8.4</td>
<td>55</td>
<td>11</td>
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<tr>
<td>Canning Basin</td>
<td>WA</td>
<td>129</td>
<td>239</td>
<td>±10-50%</td>
<td>1,700</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
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<td>NSW-VIC-SA</td>
<td>67</td>
<td>206</td>
<td>±10-50%</td>
<td>1,500</td>
<td>75</td>
<td>49</td>
<td>24</td>
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<tr>
<td>Officer Basin</td>
<td>WA-SA</td>
<td>290</td>
<td>182</td>
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<td>-</td>
<td>.05</td>
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<tr>
<td>Gippsland Basin</td>
<td>VIC</td>
<td>20</td>
<td>179</td>
<td>±10-25%</td>
<td>1,600</td>
<td>132</td>
<td>125</td>
<td>70</td>
</tr>
<tr>
<td>Amadeus Basin</td>
<td>NT-WA</td>
<td>161</td>
<td>142</td>
<td>±25-50%</td>
<td>1,200</td>
<td>15</td>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>Carnarvon Basin</td>
<td>WA</td>
<td>123</td>
<td>132</td>
<td>±25-50%</td>
<td>4,400</td>
<td>20</td>
<td>20</td>
<td>15</td>
</tr>
<tr>
<td>Eucla Basin</td>
<td>WA-SA</td>
<td>205</td>
<td>94</td>
<td>±25-50%</td>
<td>10,000</td>
<td>-</td>
<td>.001</td>
<td>0</td>
</tr>
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<td>Port Phillip Basin</td>
<td>VIC</td>
<td>5</td>
<td>65</td>
<td>±10-25%</td>
<td>4,600</td>
<td>1.5</td>
<td>1.3</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: National Land & Water Resources Audit

(2) Mapping of deep groundwater resources in Australia has focussed on sedimentary basins close to urban centres or key agricultural areas, such as the Perth, Otway, Gippsland and Port Phillip Basins. For example, the Yarragadee aquifer in the Perth Basin is being extensively investigated as part of the Perth water supply strategy. This is reflected in greater confidence in the sustainable yields for deep groundwater resources in these basins (Table 1).

In the Great Artesian Basin (GAB), groundwater mapping is available at the basin or regional scale to support the GAB Sustainability Initiative. Two projects totalling $15.7m have recently been announced as part of the National Water Initiative to increase understanding of the groundwater recharge and discharge processes in the GAB.

Hydrogeological maps at 1:250,000 scale have been compiled for the Murray Basin, including features of the deep groundwater resource.

Knowledge of groundwater systems, due to their nature, can always be improved - because subtle variations that occur in an aquifer are not always observable. To address this issue the Prime Minister’s National Plan for Water Security is funding the Bureau of Meteorology to conduct strategic investigations into groundwater systems.

(3) The purpose of the Australian Government National Action Plan for Salinity and Water Quality (NAP) programme is to identify high priority, immediate actions to address salinity, particularly dryland salinity and deteriorating water quality in key catchments and regions across Australia.

The Australian Government has invested over $505.162 million in NAP projects as at 31 December 2006, with an equal amount of funding contributed by states and territories.
It is not possible to quantify the exact amount of this programme funding directed at lowering the water table. Many projects are integrated projects that have multiple objectives/outcomes.

(4) No. An example of a current drainage scheme being very effective at lowering groundwater levels and managing salinity is the Murray Darling Basin Salt Interception Schemes (SIS).

The SIS are networks of groundwater bores designed to lower water-tables and intercept saline groundwater before it can reach the River Murray.

Salt Interception Schemes have been built in NSW, Victoria and SA to implement the Murray Darling Basin Commission (MDBC) Basin Salinity Management Strategy, of a target salinity level at Morgan (SA) of 800 EC or less for 95% of the time.

Salt Interception Schemes divert 430 000 tonnes of salt annually from reaching the River Murray.

A detailed description of the operation of Salt Interception Schemes is available from the MDBC.

(5) (a) There is no "silver bullet" for the mitigation of salinity despite many claims to the contrary. The most effective mitigation strategy should be decided based on a thorough understanding of the processes controlling salinity. These processes vary significantly in scope and timeframe.

For example, reforestation of hundreds of hectares of land will have little impact as a salinity mitigation strategy if the scale of the groundwater processes driving the salinity problem span thousands of hectares.

Other examples of salinity mitigation / management strategies include:

• implementing alternative land management practices such as replacing shallow rooted crops or grasses with deeper rooted vegetation;
• engineering solutions involving groundwater pumping / drainage; and
• living with the salt (ie. making better use of salt-tolerant species of plants).

(5) (b) (i) Other than ‘living with the salt’, the salinity mitigation strategies discussed above work by lowering the water-table, which reduces soil waterlogging and salt build-up in the root-zone. However it will not completely dry out (dehydrate) the soil.

(ii) Wetting and drying of soils is a natural process. It does not damage the health of the soil.

(6) (a) Commonwealth, state and territory governments, CSIRO, universities, and the Research and Development Corporations and Companies are collaborating and working to reduce the impact of soil degradation on agricultural production and to the environment. The National Land & Water Resources Audit (NLWRA), funded under the Australian Government Natural Heritage Trust, produced the first Australia-wide assessment of agricultural productivity and sustainability, dryland salinity, and catchment condition.

The NLWRA research included the first comprehensive assessment of water-borne soil erosion and sediment transport for agricultural catchments, rivers and estuaries. NLWRA also investigated: nutrient budgets and changes in nutrient loads to rivers; changes in landscape nutrient budgets and farm nutrient balances, the implications for on-farm nutrient management, and the impact on production for agricultural soils from soil acidification.

The results of the NLWRA research, including economic impact assessments, have been critical in understanding the nature of soil degradation in the Australian context, including where to focus current and future efforts to maintain soil health, agricultural productivity and sustainability.

(6) (b) (i) The Australian Soil Resource Information System has mapped the distribution of organic carbon in the topsoil and subsoil within Australian river basins containing intensive agriculture. In addition, CSIRO has assessed the productive capacity of Australian landscapes, as determined by both water and nutrient availability. This assessment quantified the linked bal-

QUESTIONS ON NOTICE
ances of water, biomass (carbon) and key nutrients (nitrogen and phosphorous) and the response to changes in agricultural practices.

Understanding the levels of soil organic carbon provides a good measure of soil health. Soil organic matter content is an indication of natural soil fertility and is important as it binds soil particles together into stable aggregates and buffers against degradation.

(ii) The Australian Soil Resource Information System has mapped the distribution of total phosphorous and total nitrogen in topsoils within Australian river basins containing intensive agriculture. The distribution of extractable phosphorous in topsoil was also assessed in the river basins containing intensive agriculture in New South Wales and Victoria.

The NLWRA has produced data on landscape nutrient balance, as well as farm-gate nutrient balances. Assessments were also made for the nutrient loads to Australian rivers and estuaries. A diverse, balanced and active soil biota helps to create the soil conditions necessary for sustainable crop production. Microbial biomass holds a significant amount of nitrogen and phosphorus that can be released for cropping, and is less prone to leaching.

(iii) The Australian Soil Resource Information System has mapped the distribution of available water capacity in the topsoil and subsoil for the Australian continent. This assessment provides an approximation of the water storage capacity of Australia’s agricultural soils. It can be used in association with other soil (hydraulic conductivity, nutrient status, erodibility), climate and topographic characteristics to determine the suitability of land for either dryland or irrigated agriculture.

Soil degradation such as compaction, loss of organic material and erosion of topsoil all lead to a reduction in the available water capacity of soil. An understanding of the soil-water regime is important for moisture management in agricultural regions where optimising the supply of water to the plant at critical periods is important for plant growth.

(iv) Soil compaction and degradation will result in a decline in soil permeability and therefore a reduction in the movement of water through the soil into river systems. On the other hand, however, there will likely be an increase in runoff to surface dams and river systems following precipitation as a result of soil degradation. However, the relative impact of this has not been determined.

(v) The Australian Soil Resource Information System has mapped the distribution of saturated hydraulic conductivity in the topsoil and subsoil for the Australian continent. Soil degradation due to compaction, soil structure decline and the erosion of topsoil all lead to a reduction in the permeability of soils, and therefore a reduction in deep drainage below the root zone.

Saturated hydraulic conductivity is a measure of the permeability of a soil (or how quickly water can move through the soil when it is saturated). Soil permeability, in conjunction with water storage capacity, is fundamental to controlling the soil-water regime, which determines land suitability for a range of purposes.

(vi) The Australian Soil Resource Information System has mapped soil erodibility for the Australian continent. Erodibility is a soil’s inherent tendency to be transported by water or wind, and depends on the structural stability of the soil, and its capacity to transmit water downward. Soil degradation due to compaction, soil structure decline and the erosion of topsoil all lead to an increase in surface runoff following precipitation, resulting from a decrease in the permeability of the soil.

(vii) One third of the Australian land mass is occupied by sodic soils where the clays contain sufficient exchangeable sodium to cause huge production losses in agricultural fields and pose environmental threats undermining economic progress. Sodicity is responsible for slow rates
of water (from rain or irrigation) infiltration, water logging, poor water and nutrient transport within the soil, and the build up of secondary salinity in the root zone.

This is an area of ongoing research by Australian Government and state agencies and the private sector.

(7) In 2005, the Hon Peter McGauran MP, Minister for Agriculture, Fisheries and Forestry, launched the Healthy Soils for Sustainable Farms Programme. This wide-ranging $5 million programme covers a variety of agricultural sectors across most Australian states. The programme is managed by Land and Water Australia and is funded over four years through the Australian Government Natural Heritage Trust.

The programme is working with farmers, community groups and researchers to bring together and build on existing soil health information. It offers benefits through a national approach linking industries and regions to assist the adoption of targeted, cost-effective approaches to improve soil health across Australia.

The current range of agricultural industries involved in the programme includes:
• Grain and crops;
• Cotton;
• Sheep and wool;
• Sugar;
• Vegetables; and
• Organics.

The programme aims to deliver adoption projects based on research, knowledge management, trial and demonstration sites and strategic projects. The scale of the projects supported range from multi-state projects to catchment-focused initiatives.

Adoption projects include:
• agricultural management options based on local scale healthy soil processes;
• efficient systems for monitoring soil from paddock level to the surrounding catchment level;
• tools to help producers measure, record, monitor and adaptively manage the health of their soils; and
• opportunities for learning about soils and their management.

Strategic projects include a:
• national soil management learning programme;
• national soil symposium; and
• knowledge base.

More detailed information about Healthy Soils for Sustainable Farms Programme can be found at www.healthysoils.gov.au.

(8) Nil.

The department is aware of the activities of Healthy Soils Australia via their website at www.healthysoils.com.au.
Australian Trained Doctors and Health Workers
(Question No. 3118)

Senator Nettle asked the Minister representing the Minister for Foreign Affairs, upon notice, on 17 April 2007:

(1) How many Papua New Guinean citizens has Australia trained as doctors and health workers in the period: (a) since independence was achieved in 1975; and (b) between 1996 and 2006.

(2) How many Solomon Islander citizens has Australia trained as doctors and health workers in the period: (a) since independence was achieved in 1978; and (b) between 1996 and 2006.

(3) How many East Timorese citizens has Australia trained as doctors and health workers in the period since independence was achieved in 2002.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

The resources/costs involved in gathering exact numbers of doctors and health workers that Australia has trained since independence in each of the above countries represents an unreasonable diversion of resources. However, as an indication of Australia’s support in the sector, following are numbers of AusAID fully-funded scholarships provided to citizens from Papua New Guinea, the Solomon Islands and East Timor over the past five years for health-related studies in Australia. These figures do not include specialist training for health professionals as a component of existing and ongoing AusAID health-related projects in these countries. Nor do they include numbers of AusAID funded scholarships for Solomon Islands and East Timor citizens undertaken at the Fiji School of Medicine, Fiji School of Nursing or the University of Papua New Guinea for the period 2002-2005.

AusAID Scholarships for the Health Sector (2002-2007)
PNG, 86
Solomon Islands, 44
East Timor, 25

Multi-Resistant Organisms
(Question Nos 3120 and 3121)

Senator Hutchins asked the Minister representing the Minister for Health and Ageing, upon notice, on 17 April 2007:
For each year since 1996, what were the funding allocations to programs relating to multi-resistant organisms.
For each year since 1996, how much has the Government allocated for research into multi-resistant organisms and methicillin-resistant Staphylococcus aureus.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s questions:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Funding Provided to Anti-microbial resistance-related activities(^{(1)}) (GST inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006/07</td>
<td>$471,000</td>
</tr>
<tr>
<td>2005/06</td>
<td>$308,000</td>
</tr>
<tr>
<td>2004/05</td>
<td>$509,133</td>
</tr>
<tr>
<td>2003/04</td>
<td>$497,656</td>
</tr>
<tr>
<td>2002/03</td>
<td>$105,877</td>
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</tbody>
</table>

QUESTIONS ON NOTICE
Financial Year

<table>
<thead>
<tr>
<th></th>
<th>Funding Provided to Anti-microbial resistance-related activities (GST inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001/02</td>
<td>$354,600</td>
</tr>
<tr>
<td>2000/01</td>
<td>$650,748</td>
</tr>
<tr>
<td>1999/2000</td>
<td>$63,950</td>
</tr>
<tr>
<td>1998/1999</td>
<td>$50,000</td>
</tr>
<tr>
<td>1997/1998</td>
<td>$50,000</td>
</tr>
<tr>
<td>1996/1997</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

1 Multi-resistant organism has been interpreted as antimicrobial resistant organism for the purposes of this response.
5 JETACAR established and commissioned to produce report on antibiotic resistant bacteria in animals and in humans in 1997.

Australian Passports
(Question No. 3123)

Senator Sherry asked the Minister representing the Minister for Foreign Affairs, upon notice, on 18 April 2007:
Can details be provided, for each passport category and subcategory, of the number of recipients, the revenue received, and the indexation factor applied, for: (a) the 5 financial years to 2006-07; and (b) the financial years from 2006-07 to 2010-11, as a projection.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

Note: All figures are inclusive of GST.

(a) Number of recipients:

<table>
<thead>
<tr>
<th></th>
<th>2001/02</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult passports</td>
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<td>755,298</td>
<td>863,836</td>
<td>863,681</td>
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<td>Child</td>
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<td>229,859</td>
<td>284,666</td>
<td>339,603</td>
<td>333,781</td>
</tr>
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<td>Senior</td>
<td>7</td>
<td>6,138</td>
<td>8,919</td>
<td>11,840</td>
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<td>579</td>
<td>764</td>
<td>844</td>
<td>786</td>
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<td>6,054</td>
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<td>1,096</td>
<td>955</td>
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<td>9,237</td>
<td>11,310</td>
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<tr>
<td>Provisional</td>
<td>-</td>
<td>-</td>
<td>57</td>
<td>117</td>
<td>124</td>
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<tr>
<td>Total</td>
<td>986,316</td>
<td>906,049</td>
<td>1,086,366</td>
<td>1,260,831</td>
<td>1,259,692</td>
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</table>
Revenue received:

<table>
<thead>
<tr>
<th>Revenue (A$ Million)</th>
<th>2001/02</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult passports</td>
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<td>89.54</td>
<td>109.38</td>
<td>128.00</td>
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<td>Child</td>
<td>15.96</td>
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<td>20.61</td>
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<td>27.03</td>
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<td>Senior</td>
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<td>0.88</td>
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<td>0.08</td>
<td>0.09</td>
<td>0.10</td>
</tr>
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<td>Frequent Senior</td>
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<td>0.00</td>
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<td>0.08</td>
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<td>0.37</td>
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<tr>
<td>Emergency</td>
<td>-</td>
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<td>0.22</td>
<td>0.36</td>
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<td>Priority Services</td>
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<td>Lost and Stolen</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>1.97</td>
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<tr>
<td>Total Revenue</td>
<td>114.01</td>
<td>116.36</td>
<td>145.67</td>
<td>170.81</td>
<td>186.99</td>
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</table>

Indexation factor:
- 2001-02, 3.70%
- 2002-03, 2.90%
- 2003-04, 3.40%
- 2004-05, 2.40%
- 2005-06, 3.00%

(b) Projected Recipients:

<table>
<thead>
<tr>
<th></th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult passports</td>
<td>937,127</td>
<td>972,477</td>
<td>1,042,544</td>
<td>979,991</td>
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<td>Child/Senior</td>
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<td>265,486</td>
<td>284,614</td>
<td>267,537</td>
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<tr>
<td>Freq Adult</td>
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<td>8,352</td>
<td>8,954</td>
<td>8,416</td>
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<td>1,829</td>
<td>1,898</td>
<td>2,035</td>
<td>1,913</td>
<td>1,913</td>
</tr>
<tr>
<td>United</td>
<td>4,024</td>
<td>4,176</td>
<td>4,477</td>
<td>4,208</td>
<td>4,208</td>
</tr>
<tr>
<td>Emergency</td>
<td>5,975</td>
<td>6,201</td>
<td>6,647</td>
<td>6,248</td>
<td>6,248</td>
</tr>
<tr>
<td>Total AGA</td>
<td>1,219,423</td>
<td>1,265,422</td>
<td>1,356,596</td>
<td>1,275,200</td>
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</tr>
</tbody>
</table>

Projected Revenue:

<table>
<thead>
<tr>
<th>Revenue (A$ Million)</th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult passports</td>
<td>180.87</td>
<td>194.50</td>
<td>212.68</td>
<td>204.82</td>
<td>209.72</td>
</tr>
<tr>
<td>Child/Senior</td>
<td>24.56</td>
<td>26.55</td>
<td>29.03</td>
<td>28.09</td>
<td>28.63</td>
</tr>
<tr>
<td>Freq Adult</td>
<td>2.33</td>
<td>2.51</td>
<td>2.74</td>
<td>2.64</td>
<td>2.70</td>
</tr>
<tr>
<td>Freq Child/Senior</td>
<td>0.79</td>
<td>0.85</td>
<td>0.93</td>
<td>0.90</td>
<td>0.92</td>
</tr>
<tr>
<td>Certificate of Identity</td>
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<td>0.08</td>
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<td>0.08</td>
<td>0.08</td>
<td>0.08</td>
<td>0.08</td>
</tr>
<tr>
<td>United</td>
<td>0.46</td>
<td>0.50</td>
<td>0.55</td>
<td>0.53</td>
<td>0.54</td>
</tr>
<tr>
<td>Emergency</td>
<td>0.44</td>
<td>0.47</td>
<td>0.51</td>
<td>0.49</td>
<td>0.50</td>
</tr>
<tr>
<td>Priority services</td>
<td>11.27</td>
<td>11.29</td>
<td>12.43</td>
<td>11.99</td>
<td>12.29</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
Questions on Notice

Revenue (A$ Million) 2006-07 2007-08 2008-09 2009-10 2010-11
Lost and Stolen 1.55 1.70 1.85 1.79 1.84
Total Revenue 222.39 238.52 260.89 251.41 257.31

Indexation factor:
2006-07, 3.40%
2007-08, 2.24%
2008-09, 2.60%
2009-10, 2.47%

Australian Institute of Sport
(Question No. 3124)

Senator Sherry asked the Minister for the Arts and Sport, upon notice, on 18 April 2007:
With reference to the 2006-07 Budget Measure Australian Institute of Sport – integrated sports system, can details be provided of the total uncommitted and unobligated administered and departmental costs in the 2006-07 budget and across the forward estimates for the financial years up to and including 2010-11.

Senator Brandis—The answer to the honourable senator’s question is as follows:
The funding for the Australian Institute of Sport - integrated sports system budget measure has been fully committed, including the forward estimates up to and including 2010-11.

Defence Capability Assessment Branch
(Question No. 3129)

Senator Sherry asked the Minister for Finance and Administration, in writing, on 18 April 2007:
With reference to the statement on page 27 of the department’s annual report for 2003-04 that ‘Recommendation 3 of the Defence Procurement Review was to implement a rigorous ‘two pass’ approval process for new equipment acquisitions. As a result of this recommendation, the review proposed - and the government agreed to - an enhanced role for Finance in advising on the cost estimates and financial risks involved with these proposals. To fulfil its new role, Finance has established a new Defence Capability Assessment Branch within Budget Group, which works closely with the Department of Defence to help implement the new ‘two pass’ system for government consideration of proposals to improve the Defence Force’s capability’:

(1) Since the formation of the Defence Capability Assessment Branch, what projects has it advised on cost estimates and financial risks involved with new equipment acquisitions.

(2) What benchmarking analysis has been conducted on the effect of the branch: (a) on the approved cost and timelines of approved projects and the final cost and timelines of approved projects; and (b) on the approved cost and timelines of approved projects reviewed by the branch versus those acquisitions not reviewed by the branch.

(3) What were the results of each of the analyses referred to in paragraph (2).

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) Defence Capability Assessment Branch (the Branch) was established in March 2004. The Branch scrutinises and provides advice on all Defence equipment projects with a value greater than $8 million. The vast majority of these, by number and value, are Defence Capability Plan projects. The Defence Annual Reports list the projects approved with the exception of a small number that are highly classified and not publicly disclosed. The list for financial year 2005-06 is at page 178 of the Defence Annual Report 2005-06.
Given that the Branch has only been in existence for three years, and Defence capital projects typically run for a very extended period, there has been no benchmarking undertaken to date to assess the effect of the Branch on the (a) approved cost and timelines of approved projects and the final cost and timelines of approved projects, or (b) on the approved cost and timelines of approved projects reviewed by the Branch versus those acquisitions not reviewed by the Branch.

The analyses referred to in (2) have not been undertaken. With reference to part (a), the Branch is only one element of the post-Kinnaird system and it may be difficult to assess fully the effectiveness of the Branch in isolation. With reference to part (b), as the Branch scrutinises all projects with a value greater than the Defence Minister’s delegation, it is not clear how a meaningful comparative evaluation of projects reviewed and not reviewed could be undertaken. Once the Kinnaird reforms have been in place for a sufficient period, it may be possible to evaluate the full suite of reforms relative to earlier experience.

Aged Care

(Question No. 3137)

Senator McLucas asked the Minister representing the Minister for Ageing, upon notice, on 19 April 2007:

With reference to the Prime Minister’s announcement on 11 February 2007 of the ‘Securing the Future of Aged Care for Australians’ funding package:

(1) In the current forward estimates periods, for each of the financial years up to and including 2010-11, what savings will accrue from abolishing: (a) the pensioner supplement; and (b) the adjusted basic daily care fee.

(2) For the financial years 2008-09, 2009-10 and 2010-11, what is the projected budget for the Conditional Adjustment Payment.

(3) With the implementation of the Aged Care Funding Instrument, what savings will accrue by reducing low-care subsidies in order to fund higher subsidies for the new mid/high-care categories.

(4) Has the Government conducted any research on the potential financial effect of rebadging the pensioner supplement as capital funding; if so, can a copy of this research be provided.

(5) In regard to the department’s modelling for the funding: (a) what was the assumption behind the building costs per bed; and (b) can copies of the department’s modelling be provided.

(6) Excluding the one-off $96 million, $3.50 per high-care resident to be paid from 1 July 2007 to 19 March 2008, the $82 million over 4 years to go to the new supplements in the Aged Care Funding Instrument commencing from 20 March 2008 and the $411 million over 5 years for community care places, can the Minister detail where the balance of the $1.51 billion announced will be allocated, by year and program.

Senator Ellison—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) (a) The reforms announced in the Australian Government’s $1.6 billion Securing the Future of Aged Care for Australians package do not abolish the pensioner supplement - it will continue to be paid for residents to whom it applies who have entered care before 20 March 2008. The same is true of the higher basic daily fee. For new residents from 20 March 2008 existing accommodation supplements will be replaced with a single accommodation supplement and two transitional supplements – one for high care and one for low care, which will be paid in respect of some new residents entering care from 20 March 2008 to 19 September 2011 as increases in the maximum supplement and maximum charges phase in.
The new accommodation payments do not generate savings for the Government, they increase outlays. The Australian Government will provide $577.8 million in additional funding for the new accommodation supplements over the next four years. This funding is in addition to the funding for the pensioner and concessional resident supplements already in the forward estimates.

(b) The higher basic daily fee is a fee paid by residents to whom it applies. There are no savings to the Australian Government resulting from the changes whereby new residents entering from 20 March 2008 will no longer be subject to this higher fee.

(2) The Government does not provide forward estimates for individual programs beyond the budget year.

As part of the $2.2 billion Investing in Australia’s Aged Care package in the 2004-05 Budget the Australian Government announced that in 2007-08 it would review the need for and level of the Conditional Adjustment Payment. The outcomes of this review will determine expenditure on the Conditional Adjustment Payment after 2007-08.

(3) The introduction of the Aged Care Funding Instrument results in increased outlays – it does not generate savings. Government outlays over the next four years on care subsidy for low care residents will not decrease as a result of the introduction of the Instrument.

(4) The pensioner supplement is an accommodation supplement and has been since its introduction in 1997.

(5) (a) Benchmarks for the building costs of aged care homes were developed by Professor Warren Hogan as part of his independent Review of Pricing Arrangements in Residential Aged Care (adjusted for inflation). See Section 7.2.2 – Capital and other costs (pp139 – 146) of his report. Professor Hogan recommended that the Government consider “increasing the maximum rate of the concessional resident supplement to $19.00 a day” (Recommendation 16 a). The maximum level of the new accommodation supplement which will apply to all new residents from 20 September 2011, is the indexed value of the amount Professor Hogan recommended.


(6) This detail is provided on page 10 of the booklet Securing the Future of Aged Care for Australians, which can be downloaded from the Australian Government Department of Health and Ageing’s website at http://www.health.gov.au/internet/wcms/publishing.nsf/Content/ageing-securing-the-future. A copy of that page is available from the Senate Table Office.

Child Care Benefit

(Question No. 3139)

Senator McLucas asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 19 April 2007:

For each year since the inception of the Child Care Benefit, what was the average amount paid as fee relief per: (a) family; and (b) child.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

Since the inception of the Child Care Benefit, the average amount paid as fee relief per family is as follows:
Financial year | Average Child Care Benefit paid as fee relief per family | Average Child Care Tax Rebate paid per family
--- | --- | ---
2000-2001 | $1,804 | -
2001-2002 | $1,982 | -
2002-2003 | $2,046 | -
2003-2004 | $2,046 | -
2004-2005 | $2,064 | $813 (as at 9 November 2006)
2005-2006 | $2,044 | Not available yet

In the above table, the figures quoted exclude child care benefit received as a lump sum payment. Also, the information in the table is based on pre-reconciliation child care benefits amounts paid as fee relief to families during each respective financial year.

Since the inception of the Child Care Benefit, the average amount paid as fee relief per child is as follows:

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Average Child Care Benefit paid as fee relief per child</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>$1,236</td>
</tr>
<tr>
<td>2001-2002</td>
<td>$1,353</td>
</tr>
<tr>
<td>2002-2003</td>
<td>$1,401</td>
</tr>
<tr>
<td>2003-2004</td>
<td>$1,406</td>
</tr>
<tr>
<td>2004-2005</td>
<td>$1,420</td>
</tr>
<tr>
<td>2005-2006</td>
<td>$1,409</td>
</tr>
</tbody>
</table>

In the above table, the figures quoted exclude child care benefit received as a lump sum payment. Also, the information in the table is based on pre-reconciliation child care benefits amounts paid as fee relief to families during each respective financial year.

This data was sourced from Centrelink’s Administrative Data. for financial years 2000-2001 to 2005-2006, and published data from the Department of Treasury.

**Child Care Benefit**

**(Question No. 3140)**

Senator McLucas asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 19 April 2007:

For each of the financial years 2003-04, 2004-05 and 2005-06, what was the average amount of Child Care Benefit paid by child care service type.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

For the 2003-04, 2004-05 and 2005-06 financial years, the total amount of Child Care Benefit (in $ million) paid as fee reduction by service type is as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Service Type</th>
<th>Long Day Care</th>
<th>Family Day Care</th>
<th>Occasional Care</th>
<th>Outside School Hours Care</th>
<th>Vacation Care</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td></td>
<td>$1,063m</td>
<td>$232m</td>
<td>$6m</td>
<td>$79m</td>
<td>$49m</td>
<td>$1,441m</td>
</tr>
<tr>
<td>2004-05</td>
<td></td>
<td>$1,053m</td>
<td>$241m</td>
<td>$6m</td>
<td>$77m</td>
<td>$52m</td>
<td>$1,442m</td>
</tr>
<tr>
<td>2003-04</td>
<td></td>
<td>$1,010m</td>
<td>$246m</td>
<td>$6m</td>
<td>$74m</td>
<td>$46m</td>
<td>$1,394m</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
Of the families receiving the Child Care Benefit, how many are in the income range: (a) below $34 310; (b) between $34 310 and $40 000; (c) between $40 000 and $50 000; (d) between $50 000 and $60 000; (e) between $60 000 and $70 000; (f) between $70 000 and $80 000; (g) between $80 000 and $90 000; (h) between $90 000 and $98 000; and (i) above $98 000.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:
The information for the income groups requested is not collated by the Department of Families, Community Services and Indigenous Affairs in the normal course of program management. Due to the substantial resources required to produce this information it will not be provided.

How many of the families receiving the Child Care Benefit within each of the maximum, minimum and partial rates have: (a) one; (b) two; (c) three; or (d) more than three, children in care.

Senator Scullion—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

<table>
<thead>
<tr>
<th>Number of children in care</th>
<th>% of all customers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CCB rate type</td>
</tr>
<tr>
<td></td>
<td>Max</td>
</tr>
<tr>
<td>1</td>
<td>69</td>
</tr>
<tr>
<td>2</td>
<td>25</td>
</tr>
<tr>
<td>&gt;=3</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

The above table represents the percentage of customers receiving CCB during the 2004-05 financial year, by rate type and the number of children in care. Customers are counted in the rate type category they were in at the end of the financial year. The table does not show movement between rate types during the financial year. Customers who change their rate type are counted only once within the total.

This data was sourced from Centrelink’s Administrative Data 2005-2006.
**Child Care Benefit**

*(Question No. 3143)*

**Senator McLucas** asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 19 April 2007:

(a) Can a breakdown be provided, by age, that details the number of children under the age of 12 receiving the Child Care Benefit (CCB); and (b) for each age, what is the total amount of CCB being paid.

**Senator Scullion**—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The very detailed information requested is not collated by the Department of Families, Community Services and Indigenous Affairs in the normal course of program management. Due to the substantial resources required to produce this information it will not be provided.

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**Child Care**

*(Question No. 3144)*

**Senator McLucas** asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 19 April 2007:

For each state and territory, how many families use each approved form of child care service type.

**Senator Scullion**—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The total number of families using an approved child care service by state/territory and service type is as follows:

<table>
<thead>
<tr>
<th>Customers</th>
<th>After and Before School Care</th>
<th>Family Day Care</th>
<th>Long Day Care</th>
<th>Occasional Care</th>
<th>Vacation Care</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>45,478</td>
<td>35,187</td>
<td>166,423</td>
<td>5,149</td>
<td>34,232</td>
<td>232,122</td>
</tr>
<tr>
<td>VIC</td>
<td>52,271</td>
<td>23,748</td>
<td>94,910</td>
<td>4,098</td>
<td>32,544</td>
<td>163,623</td>
</tr>
<tr>
<td>QLD</td>
<td>50,625</td>
<td>21,796</td>
<td>134,368</td>
<td>1,861</td>
<td>38,936</td>
<td>186,871</td>
</tr>
<tr>
<td>SA</td>
<td>24,281</td>
<td>8,306</td>
<td>30,289</td>
<td>391</td>
<td>18,051</td>
<td>57,039</td>
</tr>
<tr>
<td>WA</td>
<td>8,696</td>
<td>7,936</td>
<td>46,434</td>
<td>1,672</td>
<td>11,371</td>
<td>62,815</td>
</tr>
<tr>
<td>TAS</td>
<td>4,407</td>
<td>4,921</td>
<td>10,279</td>
<td>303</td>
<td>4,597</td>
<td>18,345</td>
</tr>
<tr>
<td>NT</td>
<td>2,255</td>
<td>1,225</td>
<td>4,177</td>
<td>9</td>
<td>2,124</td>
<td>6,873</td>
</tr>
<tr>
<td>ACT</td>
<td>5,193</td>
<td>1,947</td>
<td>8,555</td>
<td>317</td>
<td>2,511</td>
<td>14,237</td>
</tr>
<tr>
<td>AUS</td>
<td>192,861</td>
<td>104,826</td>
<td>490,820</td>
<td>13,794</td>
<td>143,158</td>
<td>734,639</td>
</tr>
</tbody>
</table>

In the above table, the total represents a count of distinct customers. Customers using more than one type of service, during the 2005-06 financial year, are only counted once within the total count.

Please also note that in the above table, counts for each service type represent a count of distinct customers. As some customers may have used the same type of service in more than one State/Territory, adding across States and Territories may result in a larger number than the total count.

This information was sourced from Centrelink’s Administrative Data 2005-2006.
Aged Care
(Question No. 3146)

Senator McLucas asked the Minister representing the Minister for Ageing, upon notice, on 20 April 2007:

(1) Can details be provided of the dates, form and purpose of all communications in 2006 and 2007 between Mr Russel Egan Jr and/or the Superior Care Group or their representatives, with: (a) the department; and (b) the Minister’s office.

(2) With reference to page 8 of the report of the investigation into the bed licence allocations in the South Coast Aged Care Planning Region, which describes a meeting attended by the Assistant Secretary, Residential Program Management Branch of the Ageing and Aged Care Division of the department, Mr Egan Jr, the former Senator Santo Santoro and a member of his staff: (a) who convened the meeting; (b) where was it held; and (c) can a copy be provided of the ‘dot point’ background brief for this meeting.

(3) How many other meetings were convened, with whom and when, between the then Minister and unsuccessful 2005 Aged Care Allocation Round applicants.

Senator Ellison—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) The information would be protected information under Division 86 of the Aged Care Act 1997 (the Act) in that it would comprise personal information about an individual and information about the affairs of an approved provider that was acquired in the course of performing duties or exercising powers or functions under the Act.

(2) (a) The meeting was convened by staff of the former Minister for Ageing, the Hon Santo Santoro.
(b) At Parliament House, Canberra.
(c) The background brief prepared for the Departmental staff member who attended the meeting is at Attachment A.

(3) I, as the current Minister for Ageing, do not hold records of meetings attended by the former Minister for Ageing. The Department does not retain records of all meetings held by the former Minister for Ageing.

Attachment A

Dot Points – Meeting with Russell Egan

EO Wellington Park Private Care

“In the 2005 ACAR, Redlands was identified as a community of interest (COI) for the Brisbane South Region in Qld. Can you please advise why no allocation was made to this community of interest?”

- In the 2005 ACAR 75 residential places were identified as available for allocation in the Brisbane South Aged Care Planning Region.
- Two geographic areas were identified – Outer Brisbane South and Redland.
- The planning region has an operational aged care ratio in excess of the 88 national benchmark for residential services (At 30 June 2005 it was 91.5).
- Outer Brisbane South is the only COI in the region which is below the national benchmark ratio and needs places now.
- Redland was identified as an area of future need based on predicted growth.
- Outer Brisbane South had the most urgent need.
- 20 applications for 922 places were received
13 for Outer Brisbane South, 5 for Redland, one to SW Brisbane and one to Bayside.

- The strongest applications for the 75 places were received from providers operating in Outer Brisbane South. Between them they received the 75 places:
  - 23 to the Alzheimer’s Association at Garden City
  - 46 to the Presbyterian Church for a new service at Carina and
  - 6 places to Qld Rehabilitation Services at Carindale.

- A further 24 places were allocated from the state pool to K&M Healthcare (9 of these were for non-English-speaking background – Chinese places) for its service at Eight Mile Plains (Outer Brisbane South).

- The QLD State Office is happy to provide a debrief to any applicant.

- The invitation to apply for places in the 2006 ACAR is expected to be advertised on 27 May 2006.

Illegal Fishing
(Question No. 3159)

Senator Siewert asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 24 April 2007:

(1) What is the total amount of money spent on policing illegal fishing activities in Australia?

(2) What is the cost per day to detain an illegal fisherman in Australia?

(3) (a) How many people are currently detained in Australia for illegal fishing-based offences; and (b) what is the average length of detention for such people?

(4) For each year since 2000, how many people have been prosecuted for illegal fishing activities in Australia?

(5) How many people are currently awaiting a court appearance in Australia for illegal fishing activities?

(6) Of the people referred to in paragraph (5): (a) how many are Indonesian citizens; and (b) for the remaining people, can a list be provided that disaggregates the number of people by nationality?

(7) On average, how many days does it take for a person arrested for illegal fishing activities to appear before a court to be charged?

(8) (a) How many Indonesian citizens are in Australian jails for non-payment of illegal fishing fines; and (b) for each of these people, what sentence are they serving?

(9) What are the long-term plans for policing illegal fishing activities in Australian waters and what are the projected funding implications?

Senator Abetz—The answer to the honourable senator’s question is as follows:

(1) In the period since 1999-2000 the Australian Government has allocated $872.9 million towards policing illegal foreign fishing activities in Australian waters. For Southern Ocean activities $300.8 million has been allocated and for northern waters $572.1 million. Funding runs until 2009-10.

A further $31.7m over 4 years to 2010-11 has been provided to the Australian Customs Service in the 2007-08 budget to fund the charter a new Customs vessel to increase protection of Australia’s environmentally sensitive Ashmore Reef and Cartier Island Marine Reserves, located off Australia’s remote north-west coast.

(2) The Department of Immigration and Citizenship has advised that the cost per day to detain an illegal foreign fisher in the Northern Immigration Centre (Darwin) is $125.40 (including GST).

(3) The Department of Immigration and Citizenship has advised that:
(a) as at 1 May 2007 there were 32 illegal foreign fishers in the Northern Immigration Detention Centre (Darwin), and

(b) the average length of stay for illegal foreign fishers in the Northern Immigration Detention Centre was 12.94 days (for the 35 persons removed from Australia during the month of April 2007).

(4) The number of people apprehended and prosecuted for illegal foreign fishing is shown in the following table.

<table>
<thead>
<tr>
<th>Year</th>
<th>Persons apprehended</th>
<th>Defendants prosecuted*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>603</td>
<td>178</td>
</tr>
<tr>
<td>2001</td>
<td>610</td>
<td>138</td>
</tr>
<tr>
<td>2002</td>
<td>750</td>
<td>238</td>
</tr>
<tr>
<td>2003</td>
<td>918</td>
<td>315</td>
</tr>
<tr>
<td>2004</td>
<td>1113</td>
<td>279</td>
</tr>
<tr>
<td>2005</td>
<td>2195</td>
<td>414</td>
</tr>
<tr>
<td>2006</td>
<td>2650</td>
<td>532</td>
</tr>
<tr>
<td>2007 (to 29 Apr)</td>
<td>222</td>
<td>54</td>
</tr>
</tbody>
</table>

*Source: Commonwealth Department of Public Prosecutions

(5) As at 1 May 2007, four people have been referred to the Commonwealth Department of Public Prosecutions (CDPP) and are awaiting a court appearance for illegal fishing activities. A further eight people are currently under investigation for illegal fishing activities.

(6) With reference to paragraph (5), of the four persons referred to the CDPP, three are of Indonesian nationality and one person is of Chinese nationality. Of the eight persons currently under investigation, seven are of Indonesian nationality and one is of Chinese (Taiwanese) nationality.

(7) On average it takes 29 days for a person apprehended for illegal fishing activities to appear before a court to be charged.

(8) (a) One Indonesian citizen is in jail for non-payment of illegal fishing fines.

(b) The sentence is 90 days (for default of payment of $30,000).

(9) Australia’s long term plan on policing illegal foreign fishing activities is to maintain a robust strategy of maritime surveillance and deterrence combined with cooperation with like-minded countries to deter illegal fishing at its source.

In the Southern Ocean the strategy is the maintenance of armed patrols of the Exclusive Economic Zone of Heard and McDonald Islands underpinned by bilateral cooperation and joint surveillance and enforcement activities with France, New Zealand and South Africa.

In Australia’s northern waters the strategy is one of surveillance, vessel apprehensions, vessel destruction if considered a quarantine risk, prosecutions, detentions and repatriation of offenders. Australia is also funding a public information campaign to inform Indonesian fishing communities about the consequences of illegally fishing in Australian waters.

Current funding runs until 2009-10. Future funding and activities will be assessed on an as-needs basis.
Solar Technology
(Question No. 3170)

Senator Milne asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 26 April 2007:

With reference to the statement by Origin Energy spokesperson, Mr Tony Wood, in the article ‘Eureka moment puts sliced solar cells on track’ (Science Magazine, vol. 315, 9 February 2007, p. 785) that the company plans to announce a commercial plant to manufacture SLIVER cells that will ‘likely be in Europe or North America to be closer to markets and to take advantage of government incentives for alternative energy’:

(1) Has the Minister, the department, or its officers, discussed SLIVER cells and the future of their development with Origin Energy; if so, can a list be provided of correspondence and meetings with Origin Energy, including the dates, participants and a summary of issues discussed.

(2) Can a list be provided of solar technologies which were invented, since 1996, in Australia but have been commercialised overseas.

(3) (a) What analysis has been made of the potential for SLIVER cells and other solar technologies to generate sustainable cost competitive power; and (b) can a list be provided of reports or papers where this analysis is documented, including the title, author, date and a description of the analysis.

(4) What action will, or has, the Minister taken to ensure that SLIVERs are developed to their full potential.

(5) Should Australian inventions, such as SLIVERs, be commercialised in Australia.

(6) (a) What government incentives are available in Europe and North America for alternative energy that are not available in Australia; and (b) will the Australian Government introduce comparable alternative energy incentives.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) Yes. Origin Energy has discussed its technology with the following agencies and divisions within the Department of Industry, Tourism and Resources:

AusIndustry
Energy and Environment Division
Invest Australia

(2) The Department does not have such a list.

(3) (a) We are aware of a number of papers on the potential of SLIVER cells and other solar technologies to generate sustainable cost competitive power. In terms of Government analysis, we are only aware of the one report by ACIL Tasman.


<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Potential of Renewable Energy Sources: Analysis of wind,</td>
<td>ACIL</td>
<td>September</td>
<td>The Department of Industry, Tourism and Resources commissioned ACIL Tasman to identify, consider and assess the projected technology cost</td>
</tr>
<tr>
<td>photovoltaics and solar thermal in the Australian electricity market</td>
<td>Tasman</td>
<td>2006</td>
<td>curves for the production of electricity from wind, photovoltaic and solar thermal technologies over the next 15 years (to 2020).</td>
</tr>
</tbody>
</table>
(4) The Sliver cell technology was initially developed by way of Australian Research Council grants, also funded by the Australian Government. Origin Energy’s Sliver cell technology, developed at the Australian National University, has been well supported by the Australian Government. Origin Energy was awarded a Renewable Energy Development Initiative (REDI) grant of $5 million for research, development and commercialisation of the Sliver solar cell, as well as a grant of $2 million through the Structural Adjustment Fund for South Australia. They were also awarded a grant of $1 million under the Renewable Energy Commercialisation Programme for the construction of the plant.

(5) The commercialisation of technology is essential for an effective Australian innovation system. While it is preferable that Australian inventions are commercialised in Australia, these are decisions to be made by individual companies. The Government would prefer Australian technologies to be commercialised overseas, with the royalties returning to Australia, than not commercialised at all.

(6) This question will be answered by my colleague Senator Abetz, who is representing the Minister for the Environment and Water Resources.

Tariffs

(Question No. 3174)

Senator Carr asked the Minister representing the Minister for Revenue and Assistant Treasurer (Mr Dutton), upon notice, on 30 April 2007:

With reference to the actual and estimated tariff revenue from textiles, clothing and footwear imports for each of the financial years from 2004-05 to 2009-10, detailed in Table D2 of the 2006-07 Budget Paper No. 1 (pg 38), can a breakdown be provided for these figures for: (a) clothing and finished textiles; (b) cotton sheeting, fabric, carpet and footwear; and (c) sleeping bags, table linen and footwear parts.

Senator Coonan—The Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator’s question:

Customs duty receipts for certain groups of textile, clothing, and footwear (TCF) products for the outcome year 2004-05 are provided in the table. Information on the exact product groupings specified in the question is not available (for example, as the Australian Customs Service records table linen in the cotton sheeting group with bed linen and other linen).

A breakdown of customs duty forecasts into product groups for 2005-06 to 2009-10 cannot be provided as forecasts are compiled at the aggregate TCF level, not by components.

Textiles, clothing and footwear – customs duty receipts

<table>
<thead>
<tr>
<th></th>
<th>Actual 2004-05</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Clothing and finished textiles</td>
<td>$704</td>
</tr>
<tr>
<td>b) Cotton sheeting, table linen, other linen, fabric, carpet and footwear</td>
<td>$238</td>
</tr>
<tr>
<td>c) Footwear parts</td>
<td>$2</td>
</tr>
<tr>
<td>d) Other TCF products (eg tarpaulins, yarn, twine, cordage, ropes)</td>
<td>$23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$966</strong></td>
</tr>
</tbody>
</table>

(1) Does not include sleeping bags, classified under tariff class 9404.30. Sleeping bags are reported under “Other imports” in Table D2 of the 2006-07 Budget Paper No. 1.

Total and sum of components differ slightly due to rounding.

Source: Australian Customs Service
Foreign Affairs and Trade: Budget
(Question Nos 3184 and 3185)

Senator Sherry asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 2 May 2007:
Can the uncommitted forwards estimates for each financial year up to and including 2010-11 be provided for the 2006-07 Budget measure ‘Department of Foreign Affairs and Trade – Budget Sustainability’.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs and the Minister for Trade to the honourable senator’s question:
There are no uncommitted forward estimates in the financial years up to and including 2010-11 for the 2006-07 budget measure ‘Department of Foreign Affairs and Trade - budget sustainability.’ All funds are fully committed.

Mr David Hicks
(Question No. 3187)

Senator Allison asked the Minister representing the Attorney-General, upon notice, on 3 May 2007:
With reference to a statement by the Secretary of the department, during the additional estimates hearings of the Legal and Constitutional Affairs Committee on 13 February 2007, in relation to a question on the repatriation of Mr David Hicks to Australia, that ‘there was an arrangement reached in relation to the former military commission arrangements. Now that they have changed, that agreement needs to be slightly redrafted’:

(1) What adjustments need to be made to the agreement.
(2) When will these adjustments be finalised.
(3) Why has the agreement not been made public.

Senator Johnston—The Attorney-General has provided the following answer to the honourable senator’s question:
(1) The adjustments to the Arrangement between the Governments of the United States of America and Australia on the Transfer of Persons Sentenced by a Military Commission (the Arrangement) were necessary because of the revised constitution of the Military Commission following the US Supreme Court’s decision in Hamdan v Rumsfeld. Accordingly, the adjustments made were to the titles and definitions section of the Arrangement to ensure that the Military Commission was accurately described.
(2) The revised Arrangement was signed on 23 March 2007.

Global Integration Industry Statement
(Question No. 3189)

Senator Carr asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 7 May 2007:
(1) For each of the following elements of the Global Integration industry statement, can details be provided of cost estimates, additional to the existing forward estimates, for each financial year up to and including 2016-17: (a) the Global Opportunities Program; (b) Australian Industry Productivity
(1) Attachment A provides details of cost estimates, additional to the existing forward estimates, for each financial year up to and including 2016-17 for each of the following elements of the Global Integration industry statement: (a) the Global Opportunities Program; (b) Australian Industry Productivity Centres; (c) changes to the Research and Development Tax Concession; (d) Commercial Ready Plus; (e) the Intermediary Access Program; (f) the National Nanotechnology Strategy; (g) the Niche Manufacturing National Research Flagship; (h) the Australian Business Number Business Names Registration Project; (i) the Building Entrepreneurship in Small Business Program; and (j) the Food Innovation Grants Program.

(2) All funding detailed in Attachment A is additional funding. This funding has not been included in the forward estimates prior to the announcement of the Industry Statement.
## Global Integration: Forward Estimates of Initiatives

### Impact on Fiscal Balance ($m)*

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<tbody>
<tr>
<td>(a) Global Opportunities</td>
<td>Ongoing</td>
<td>17.7</td>
<td>26.9</td>
<td>25.5</td>
<td>25.9</td>
<td>26.4</td>
<td>26.4</td>
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<td>26.4</td>
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<td>96.0</td>
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<td>(b) Australian Industry Productivity Centres</td>
<td>Ongoing</td>
<td>27.0</td>
<td>36.0</td>
<td>35.6</td>
<td>36.1</td>
<td>36.2</td>
<td>36.2</td>
<td>36.2</td>
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<td>36.2</td>
<td>36.2</td>
<td>134.6</td>
<td>351.8</td>
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<tr>
<td>(c) R&amp;D Tax Concession - Beneficial Ownership Provisions***</td>
<td>Ongoing</td>
<td>50.0</td>
<td>50.0</td>
<td>50.0</td>
<td>50.0</td>
<td>50.0</td>
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<td>50.0</td>
<td>200.0</td>
<td>500.0</td>
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<td>(d) Commercial Ready Plus</td>
<td>Ongoing</td>
<td>4.4</td>
<td>8.4</td>
<td>9.6</td>
<td>9.7</td>
<td>9.7</td>
<td>9.7</td>
<td>9.7</td>
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<td>9.7</td>
<td>9.7</td>
<td>32.1</td>
<td>90.3</td>
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<td>(e) Intermediary Access Programme****</td>
<td>Lapsing</td>
<td>1.1</td>
<td>3.6</td>
<td>4.5</td>
<td>5.8</td>
<td>5.1</td>
<td>-</td>
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<td>-</td>
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<td>-</td>
<td>15.0</td>
<td>20.1</td>
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<tr>
<td>(f) National Nanotechnology Strategy Terminating</td>
<td>Ongoing</td>
<td>3.7</td>
<td>5.8</td>
<td>6.2</td>
<td>5.7</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>21.5</td>
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<td>(g) Niche Manufacturing National Research Flagship****</td>
<td>Lapsing</td>
<td>5.3</td>
<td>6.6</td>
<td>11.4</td>
<td>12.9</td>
<td>-</td>
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<td>36.2</td>
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<td>(h) ABN Business Names Registration Project</td>
<td>Ongoing</td>
<td>13.9</td>
<td>20.9</td>
<td>7.5</td>
<td>6.7</td>
<td>6.7</td>
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<td>6.7</td>
<td>6.7</td>
<td>6.7</td>
<td>49.0</td>
<td>89.2</td>
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<td>(i) Extension of Building Entrepreneurship in Small Business Programme****</td>
<td>Lapsing</td>
<td>2.6</td>
<td>11.7</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>14.3</td>
<td>14.3</td>
</tr>
<tr>
<td>(j) Food Innovation Grants****</td>
<td>Lapsing</td>
<td>13.1</td>
<td>13.4</td>
<td>13.7</td>
<td>14.0</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>54.2</td>
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<td>Total</td>
<td></td>
<td>138.9</td>
<td>183.3</td>
<td>164.0</td>
<td>166.6</td>
<td>134.0</td>
<td>128.9</td>
<td>128.9</td>
<td>128.9</td>
<td>128.9</td>
<td>128.9</td>
<td>652.9</td>
<td>1431.5</td>
</tr>
</tbody>
</table>

**Notes:**
*Figures in italics beyond the forward estimates have not been adjusted or indexed
**Discrepancies between totals are due to rounding
***Estimated Revenue forgone due to changes. Does not include DITR or ATO delivery costs
****Funding is lapsing with future funding beyond the lapsing date subject to review

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**QUESTIONS ON NOTICE**
Thursday, 13 June 2007

SENATE

Research and Development Tax Concession
(Question No. 3190)

Senator Carr asked the Minister Representing the Minister for Industry, Tourism and Resources, in writing, on 7 May 2007:

With reference to the changes to the Research and Development Tax Concession announced as part of the Global Integration industry statement, can details be provided of the projected take-up, that is the number of additional firms accessing the 175 per cent concession, for each financial year up to and including 2016-17.

Senator Minchin—The answer to the honourable senator’s question is as follows:

As I announced to the Australian public on 8 May 2007, this change is expected to result in an extra billion dollars of R&D investment in Australia over the next four to five years. Its predicted more than 300 companies will use the concession annually under this arrangement. The Department of Treasury is responsible for costings for budget.

Research and Development Tax Concession
(Question No. 3191)

Senator Carr asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 7 May 2007:

With reference to the changes to the Research and Development Tax Concession announced as part of the Global Integration industry statement, can details be provided of the projected take-up, that is the number of additional firms accessing the 175 per cent concession, for each financial year up to and including 2016-17.

Senator Coonan—The Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator’s question:

No. There are no estimates beyond those published in the 2007-08 Budget.

Parliament House: Security
(Question No. 3205)

Senator Stott Despoja asked the President of the Senate, upon notice, on 17 May 2007:

(1) Under what legislation or regulations is the specific legislative authority to conduct background police checks on journalists, lobbyists and employees who work or visit Parliament House.

(2) If a person receives a negative outcome as a result of a background police check performed on behalf of the Department of Parliamentary Services (DPS) what might the consequences be for that person.

(3) Would a right of access for a member of parliament or a senator to a journalist in the parliamentary precinct be restricted at all, if that journalist received a negative outcome following a police record check; if so, on what grounds.

(4) In developing the policy to check the criminal history of journalists, lobbyists and employees at Parliament House, did the Secretary of DPS consult the committee that represents the press gallery; if not, why not.

(5) On what grounds have members of parliament and senators been exempted from background checks.

The President—The answer to the honourable senator’s question is as follows:

(1) It is assumed the question refers to a draft recommendation to the Presiding Officers to require a police check as part of the application for, or renewal of, a Parliament House photographic pass.
Section 6 of the Parliamentary Precincts Act 1988 specifies that the precincts are “under the control and management of the Presiding Officers”. Under that section, the Presiding Officers may, subject to any order of the House, take any action they consider necessary for the control and management of the precincts. This includes the power to determine security requirements in and for the precincts. Police checks were never proposed for general visitors to Parliament House who were not applicants for a photographic pass.

(2), (3) and (4) The draft recommendation will not be proceeded with.

(5) The draft recommendation related only to applicants for Parliament House photographic passes. Senators and Members of the House of Representatives are not required to have photographic passes to enter Parliament House.

Given that these matters are wholly the responsibility of the Presiding Officers, this answer also serves as a response to Senate question on notice no. 3204, which was directed to the Minister for Finance and Administration.