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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.

- **CANBERRA**: 103.9 FM
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—TENTH 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
Nationals Whip—Senator Fiona Joy Nash
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
Australian Democrats Whip—Senator Andrew John Julian Bartlett
Australian Greens Whip—Senator Rachel Siewert
Family First Party Whip—Senator Steve Fielding

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

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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. 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

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

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

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

Leader of the Opposition
Kevin Michael Rudd MP

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

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

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

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

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

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

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

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

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

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

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

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

Shadow Minister for Defence
Joel Andrew Fitzgibbon MP

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

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

Shadow Attorney-General and Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

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

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

Shadow Minister for Foreign Affairs
Robert Bruce McClelland MP

Shadow Minister for Ageing, Disabilities and Carers
Senator Jan Elizabeth McLucas
| Shadow Minister for Federal/State Relations, Shadow Minister for International Development Assistance and Deputy Manager of Opposition Business in the House | Robert Francis McMullan MP |
| Shadow Minister for Primary Industries, Fisheries and Forestry | Senator Kerry Williams Kelso O’Brien |
| Shadow Minister for Human Services, Shadow Minister for Housing, Shadow Minister for Youth and Shadow Minister for Women | Tanya Joan Plibersek MP |
| Shadow Minister for Health | Nicola Louise Roxon MP |
| Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services | Senator the Hon. Nicholas John Sherry |
| Shadow Minister for Education and Training | Stephen Francis Smith MP |
| Shadow Treasurer | Wayne Maxwell Swan MP |
| Shadow Minister for Finance | Lindsay James Tanner MP |
| Shadow Minister for Public Administration and Accountability, Shadow Minister for Corporate Governance and Responsibility and Shadow Minister for Workforce Participation | Senator Penelope Ying Yen Wong |
| Shadow Parliamentary Secretary for Foreign Affairs | Anthony Michael Byrne MP |
| Shadow Parliamentary Secretary for Defence and Veterans’ Affairs | The Hon. Graham John Edwards MP |
| Shadow Parliamentary Secretary for Environment and Heritage | Jennie George MP |
| Shadow Parliamentary Secretary for Treasury | Catherine Fiona King MP |
| Shadow Parliamentary Secretary for Education | Kirsten Fiona Livermore MP |
| Shadow Parliamentary Secretary to the Leader of the Opposition | John Paul Murphy MP |
| Shadow Parliamentary Secretary for Industrial Relations | Brendan Patrick John O’Connor MP |
| Shadow Parliamentary Secretary for Industry and Innovation | Bernard Fernando Ripoll MP |
| Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs | The Hon. Warren Edward Snowdon MP |
| Shadow Parliamentary Secretary to the Leader of the Opposition (Social and Community Affairs) | Senator Ursula Mary Stephens |
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 pm and read prayers.

PRESIDENT OF THE SENATE

The PRESIDENT (12.30 pm)—I wish to inform the Senate that next Tuesday, 14 August, I will wait upon His Excellency the Governor-General and tender my resignation as President of the Senate. I decided on this course of action many months ago because I believe that after 20 years in the Senate and five years as President it is, for me, an appropriate time to retire. I also intend to resign as a senator for Tasmania before the September sitting period. I will not delay the Senate now, and trust that there will be an opportunity for me to say more at an appropriate time before next Tuesday. But I want to say that I count it as a great privilege to have been your President, and I have appreciated the support of all senators in carrying out that role.

Honourable senators—Hear, hear!

CRIMES LEGISLATION AMENDMENT (NATIONAL INVESTIGATIVE POWERS AND WITNESS PROTECTION) BILL 2006 [2007]

Second Reading

Debate resumed from 29 November 2006, on motion by Senator Ellison:

That this bill be now read a second time.

Senator LUDWIG (Queensland) (12.31 pm)—I rise to speak in the debate on the Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006 [2007]. Labor welcomes what would be described as the useful upgrades which the bill makes to law enforcement capabilities. However, the bill fails to uphold a number of traditions necessary for the passing of fair and balanced legislation. In truth, the bill runs hot and cold—perhaps, like the Howard government, it is increasingly unreliable and out of touch.

In February this year, the Senate Standing Committee on Legal and Constitutional Affairs, comprising nine senators, of which the majority were Liberal Party senators, found several real problems with the bill. I will come back to that later. Labor, Liberal and Democrat participants unanimously passed recommendations to address the bill’s lack of transparency and focus. Why? Because it was the right thing to do. Labor will move amendments to improve the bill’s accountability and focus. Given that numerous Liberal senators want changes made to this bill, it would be unreasonable for the Howard government to oppose them. Obviously, we will give those on the other side an opportunity to consider their position.

As can be seen, this bill contains a number of schedules. It is, in truth, an omnibus bill. There are discrete schedules that deal with a range of issues, and I will go through them individually. I will now comment on each of the elements of schedule 1, which deals with controlled operations, assumed identities and protection of witness identity, sequentially.

With respect to controlled operations, defined as a covert or overt activity which would normally be unlawful but for which immunity is provided for the purposes of securing evidence of serious criminal offences, the bill enables controlled operations in the case of a serious Commonwealth offence or a serious state offence with a federal aspect. A controlled operation cannot be authorised where it could seriously endanger the health or safety of a person, would cause death or serious injury, would involve the commission of a sexual offence or would result in significant loss or damage to property other than illicit goods. A civilian can participate in such an operation, but only
where the authorising officer is satisfied that a law enforcement officer will not suffice.

In addition, we are pleased that the Ombudsman features in schedule 1. The Ombudsman has been given comprehensive powers of inquiry and access to any records held by an agency. That is appropriate oversight for that schedule and that power. A problem does emerge in that this bill allows the government to prescribe by regulation a serious Commonwealth offence, and such an offence need not prescribe a maximum imprisonment period of three or more years. Two legal experts on the proliferation of delegated legislation in Australia, Pearce and Argument, have stated:

Australian parliaments, and particularly the federal parliament, have passed into law an enormous number of provisions authorising the making of delegated instruments that are legislative in character but which do not obviously fit within the established categories of delegated legislation. There are four basic problems with quasi legislation. It can lead to: (1) a proliferation of quasi legislation; (2) poor quality drafting; (3) regulations that are inaccessible to the broader community; and (4) a lack of scrutiny by the legislature. Despite such advice, we are again dealing with what can only be described as more smoke-and-mirrors laws by regulation from the Howard government, and more attempts to avoid parliamentary scrutiny. The legal and constitutional affairs committee recommended that proposed sub-section 15GE(3) be deleted from the bill to prevent offences carrying a penalty of less than three years imprisonment being included in the definition of ‘serious offences’ by regulation.

The government could argue that they need the framework in order to have flexibility. They make that argument every time. It would be helpful if they could come up with another line to pin their flag to. It is not enough to run that argument, because the result would be that you could have offences which carry less than three years imprisonment being included in the definition of ‘serious offences’ by regulation, and it is inappropriate to do so. It is much better to deal with that in the legislation itself.

I will now turn to assumed identities. An assumed identity is a false identity that is used by a law enforcement or security or intelligence officer, or other persons, for a period of time for the purpose of investigating an offence or gathering intelligence, or for other security activities. The reference to law enforcement or security or intelligence officers covers the Australian Federal Police, the Australian Crime Commission, Customs, the Australian Commission for Law Enforcement Integrity, the Australian Taxation Office or any other agency specified in the regulations. Assumed identities are necessary, it is said: firstly, for the purpose of an investigation or for gathering intelligence in relation to criminal activity; secondly, for the exercise of powers and the performance of functions of an intelligence agency; thirdly, for the exercise of powers and the performance of functions under the National Witness Protection Program; fourthly, for the training of people to carry out any of these functions or powers; or, fifthly, for any administrative function in support of any of these powers or functions, which would seem obvious. That list does not provide a coherent reason in itself for assumed identities.

As you can see, Customs are a designated law enforcement agency. They can use assumed identities, but they are not covered by the operation of the new federal anti law enforcement corruption body, the Australian Commission for Law Enforcement Integrity. It is Labor’s view that ACLEI should have coverage of Customs. We have said that numerous times now. This bill highlights again the need for ACLEI to have coverage of Customs, as the government has already in-
cluded the Australian Federal Police and the ACC. Thought should also now be given to selecting the ATO employees falling under ACLEI who will perform these types of functions.

This bill makes provision for the return of evidence of the assumed identity in case of cancellation. People operating under an assumed identity, and third parties who assist them in creating and maintaining that identity, are indemnified against prosecution for acts which would otherwise be illegal. The penalties for the offences of the misuse of an assumed identity and improper disclosure of information about an assumed identity are an improvement on where we have been. Having said that, though, I think that the two-year maximum penalty does not sound particularly restrictive. Disclosing the identity of an officer could easily cost the person operating under an assumed identity their very life. Labor asserts that the maximum penalty of only two years for improper disclosure of an assumed identity does sound, in this instance, on the light side. I hope that the government can provide a reasoned and sustained argument for the basis of that and why the bill includes a penalty of only two years.

I now turn to witness protection. The witness protection provisions expand the program so that the Australian Federal Police can provide protection and assistance to former participants in the program, their families and witnesses in state or territory matters where it is necessary to protect them. The bill makes plain what these provisions do. These are tidy-up provisions. Part of the reason for having them is to ensure that we have national consistency across the various state and Commonwealth laws.

Schedule 2 covers delayed notification search warrants and provides for the establishment of a new class of search warrant. Delayed notification warrants are similar to traditional search warrants, with the exception that they do not require the occupier to be served with a notice of the search contemporaneously with the search occurring. This means that police or other eligible officers may enter and re-enter premises, conduct searches and examine, test, record, substitute or seize contents during that period without the knowledge of the occupier. The executing officer is also empowered to impersonate another person and enlist the help of a member of the public to assist with gaining entry to premises through the use of force.

Officers executing a search warrant are able to search not only material on computers located on the premises but also material accessible from those computers but located elsewhere. This will enable the tracing of a suspect’s internet activity and viewing of material accessed by the suspect. Where reasonable grounds are found to exist, the period for notification of the occupier may be extended by periods of up to six months in any one written application, up to a maximum of 18 months. It would be helpful if the government, in its response to this debate, could provide examples of how those powers might be utilised, especially when it comes to the use of computers and searching.

An extension beyond 18 months from the date of entry may be granted if the eligible issuing officer is satisfied that there are exceptional circumstances and with the written approval of the minister. This recognises that some investigations may be undertaken over an extended period. Labor asserts that this schedule is in fact too broad. The bill applies to warrants for an extensive range of so-called relevant offences. It is not only Labor that thinks this is too broad.

There are Commonwealth offences that are punishable on conviction by imprisonment for a period of 10 years or more. A state
offence that has a federal aspect is punishable on conviction by imprisonment for a period of 10 years or more. Other relevant offences are: an offence against sections 8 or 9 of the Crimes (Foreign Incursions and Recruitment) Act 1978; an offence against sections 20 or 21 of the Charter of the United Nations Act 1945; or an offence against section 147.2(1) or (3), section 270.7, section 471.11(2) or section 474.15(2) of the Criminal Code.

In considering whether to authorise an application, the process is as follows. A chief officer must have regard to a three-part test which must be satisfied before the authority can be issued. The applicant must apply the same test prior to requesting authorisation. The concern is that the safeguards in this bill are linked to the prescriptive list of relevant offences and that that list of relevant offences is too broad for such sweeping powers, and powers that can be quite invasive.

Offences punishable by 10 years are of course serious offences. But in terms of the warrant, which requires and provides such an invasive power for investigations without notification, Labor considers the prescriptive list should be linked to terrorism related crimes and to offences involving or resulting in the death of a person or an offence against the person with a maximum penalty for the offence being imprisonment for life. Labor foreshadows that it will move an amendment to that effect at the committee stage. For instance, in relation to section 29 of the Crimes Act, which deals with damage to and destruction of Commonwealth property and carries a maximum term of 10 years imprisonment, the question has to be answered whether it should fall within the ambit of the proposed power. The government asserts yes, but it has not made the case, nor did it make the case in the Senate legal and constitutional committee. It is up to it to make it here today. I do not think it can make that case, quite frankly. I think—and Labor believes—that those powers should be circumscribed in the way that the Senate legal and constitutional legislation committee has outlined. Crimes of planning to conduct a terrorist attack that could kill, maim or injure hundreds of people are very different and significantly distinguishable from damage to Commonwealth property. This bill in this part should focus on terrorist related offences activity.

Schedule 4 amends the Witness Protection Act 1994. The National Witness Protection Program provides protection and assistance to witnesses involved in serious or high-profile legal proceedings which could pose a risk to them or to their families. The amendments aim to provide greater protection for witnesses or other people who are protected under the NWPP, the National Witness Protection Program. Members of the Australian Federal Police who serve in the witness protection unit and other Australian Federal Police employees who are involved in the operation of the NWPP similarly fall in that area. There is no need to go into significant detail on the remaining schedules 5 and 6. The amendments contained in schedules 5 and 6 are primarily technical. They negate the need for communication warrants to be served on the relevant telecommunications carrier under the Telecommunications (Interception) Act 1979 to seize electronic information.

As I indicated earlier, there has been a Senate inquiry into this matter. The Senate inquiry provided a substantive report in respect of this bill. The matter first arose on 7 December 2006 for reference to the committee that I have referred to for examination and report by 7 February 2007, so a reasonable period of time has elapsed since that committee reported. Not only does it provide the usual overview of the bill but, more importantly, it highlights key issues where
amendments have been proposed by the Senate committee. I will not go to them in total, but they go to the issues that I have raised in the second reading debate today. They go to the matters where the committee recommends that proposed section 15G subsection (3) be deleted from the bill to prevent offences carrying the penalty of less than three years imprisonment being included in the definition of ‘serious offence by regulation’. They also go to recommendation 2, in which the committee recommended that the bill be amended to retain the requirement for extension of controlled operation for a three-month period to be approved by a member of the AAT. In recommendation 3 the committee recommends that the bill be amended to impose an absolute limit of 12 months on each authorised controlled operation. The committee in recommendation 4 also ensured that the Commonwealth Ombudsman would have input into the program. The committee recommendations go to the proposal that I have outlined as well, which deals with circumscribing the use for which the delayed notification warrants can be used. That can be found in recommendation 6, where the committee recommended that the federal government limit the offences in relation to which delayed notification search warrants may be issued to offences involving, as I have said, terrorism, organised crime or death or serious injury with a maximum penalty of life imprisonment.

The committee also went on to recommend a number of other things, but given the limited time I will not go to those in any great detail. I note that the government has provided a series of amendments to this bill. I have not heard yet as to how many of those recommendations have been picked up by the government. I expect that they have looked seriously at all the recommendations and that they have considered the improvements to the bill that they entail and we would hope that, in a meaningful way, they would choose to adopt all of the recommendations so that this bill not only enjoys the support of Labor but has been improved by both the committee process and by the government in adopting those recommendations. As I have said, there are significant concerns about this bill. It needs fixing. Whilst not declining to give this bill a second reading, I foreshadow that all words after ‘that’ be omitted with a view to substituting other words.

Senator STOTT DESPOJA (South Australia) (12.45 pm)—I would like to let the chamber know that this afternoon the Australian Democrats will give notice of a proposed select Senate inquiry into the nation’s antiterrorism laws. We do that for very good reasons. One is to ensure the public confidence in our nation’s laws but, more broadly, particularly in light of the Dr Haneef situation, there is good reason to review the myriad pieces of legislation that have been passed, particularly in recent years. If you add them all up, Mr Acting Deputy President, over the past few years, through you to the minister, I think possibly 40 pieces of legislation have been passed by this government in order to provide, arguably, an effective antiterrorism regime.

I preface my comments today with regard to the enactment of new and potentially very wide ranging additional powers for some of our law enforcement agencies and others. I am not sure whether that debate should be taking place now against this backdrop. Maybe we should be considering a comprehensive examination of previously passed laws, looking at how they interact with each other, before we move down this path. Having said that, I have probably read the numbers in this place, and obviously we are going to get on with the debate today in relation to the Crimes Legislation Amendment (Na-
The Democrats acknowledge that at least an ancillary aim of this legislation is to harmonise the controlled operations, assumed identities and protection of witness identity regimes across the nation. We consider that national uniformity of such laws is quite a worthy goal, particularly if it actually aids law enforcement officers in combating organised crime and acts of terrorism, which obviously permeate beyond state boundaries. However, the Australian Democrats are concerned that the legislation before us goes well beyond these aims and actually represents another example of an unwarranted attempt to extend the unsupervised powers of Commonwealth law enforcement agencies, potentially at the expense of privacy and other rights of Australian citizens.

The Law Council of Australia believes that the manifest need for these extended powers has not been demonstrated and that no further erosion of Australian citizens’ rights should be sanctioned by this parliament. I think this rings true in light of the last few weeks, particularly in the handling of the charges against Dr Haneef. I worry about the impact that that has had on public confidence and I think that is worthy of investigation. But, in relation to the bill, there are alarming aspects to this legislation. I will try and cover several in detail. Like the opposition, the Democrats have amendments, which I do not believe have been circulated, but we do not have a second reading amendment, so I look forward to seeing Senator Ludwig’s on behalf of the ALP.

A ‘controlled operation’ refers to a covert police investigation in which law enforcement officers and civilian informants are authorised to engage in unlawful conduct. Part 1AB of the Crimes Act 1914 already authorises controlled operations to be undertaken with respect to any serious Commonwealth offence attracting a penalty of over three years imprisonment. Schedule 1 of the bill is based upon model laws developed by the joint working group of the Standing Committee of Attorneys-General and the Australian Police Ministers Council. The intent of the model laws is to harmonise controlled operations, assumed identities and protection of witness identity regimes in Australia. What we have already seen across the past decade is a systematic expansion of offences to which controlled operations provisions apply.

When first introduced in 1996, the powers were confined to a limited number of drug importation offences. In 2001, an amendment was sought via the Measures to Combat Serious and Organised Crime Bill to expand their application to any Commonwealth offence, with little or no justification. Quite rightly, the proposed expansion was met with significant opposition and, based on recommendations from the legal and constitutional committee, the powers were substantially watered down. Further amendments were passed in 2004 to allow controlled operations in respect of a state offence that has a serious federal aspect and that has the characteristics of a ‘serious Commonwealth offence’.

In this bill, the effect of section 15GE is to remove the element of seriousness from the sorts of offences that will fall within the ambit of a controlled operation authorisation. This will mean that any offence carrying a three-year term of imprisonment is captured, including relatively minor offences, such as those dealing with damage to Commonwealth property. Further, the bill will allow controlled operations to be expanded to an offence prescribed by regulation, effectively allowing any Commonwealth offence to be subject to a controlled operation authorisation in the future. The justification from the government is that the expansion of powers
is required to allow law enforcement agencies to deal with emerging categories of crime and in the interests of national harmonisation, yet we have been offered no real justification, or evidence for that matter, that suggests that the present powers are insufficient. Again, this kind of response sadly reflects the current environment where law enforcement agencies are beginning to regard extraordinary powers as ordinary tools of law enforcement. Our environment is changing completely. The Democrats consider that the range of offences in relation to which controlled operations may be authorised is already, arguably, too broad and that no further expansion, as outlined in this legislation, is necessary.

Division 2 of schedule 1 of the bill deals with authorisation of unlawful conduct. Under the present regime, only designated high-ranking officers within law enforcement and intelligence agencies may hear and grant an application to conduct a controlled operation. The Democrats have concerns about the extent to which these internal authorisations lack adequate safeguards to guard against the misuse of the power to confer immunity for unlawful conduct, and we consider that there is room for a greater form of scrutiny, particularly independent scrutiny. We believe that is entirely desirable.

In the Senate committee inquiry into the 2001 bill, I note that the Victorian Bar stated: Legislation which would in effect allow a branch of the executive to choose which laws to enforce, and which laws to break, substantially diminishes the potential for independent judicial control of the exercise of police power.

Historically, the judiciary has sought to maintain public confidence in the administration of justice by insisting that those who enforce the law respect it. It has defended the right of the courts to protect the integrity of their processes by not granting implicit approval for wrongdoing by admitting evidence obtained through unlawful conduct by police. Under the regime proposed by the legislation, a high-ranking authorising officer will be able to issue a very broad authorisation of unlawful conduct and delegate effective responsibility for nominating who is authorised to engage in unlawful conduct, including, potentially, civilians and themselves. That is, there is the possibility to delegate that to an authorising operational officer. This represents a departure not only from the Crimes Act provision but also from the model laws upon which the bill is purportedly based.

The bill does not require the enforcement officer to have regard to the same criteria as the authorising officer, which are designed to ensure that controlled operations are only authorised in the most serious of cases and, of course, to minimise the risk of entrapment and civilian participation. The government justifies the vesting of extraordinary powers in ordinary law enforcement officers on the basis of the need for—and Senator Ludwig talked about this—greater flexibility during operations. The Democrats do not consider that this notion of greater flexibility is sufficient justification to empower ordinary law enforcement officers to authorise civilians to engage in criminal conduct with impunity, particularly when it comes in the absence of clearly defined standards. It will do nothing to enhance public confidence in the administration of justice.

The Democrats are also concerned that the bill removes any independent scrutiny of applications to extend a controlled operation and that it has the potential to allow controlled operations to continue indefinitely. Under the Crimes Act, controlled operations can be authorised for a maximum period of six months, and an extension beyond three months must be reviewed by a member of the AAT. Given that we believe there is no substantive evidence that the current six-month period is inadequate, the Democrats
are opposing the extension of this time, particularly if it comes without any definitive cap. Controlled operations should not be used as de facto intelligence-gathering exercises and should be subject to clear time limitations. Any application to extend a controlled operation should be made to the AAT and be accompanied by detailed information regarding the success or otherwise of the operation to date, the need for an extension of time and any adverse impact that the operation has had on competing public interests.

The bill purports to extend protection from criminal responsibility and indemnity from civil liability to civilian participants in a controlled operation. In other words, the bill will allow police to authorise criminals to continue to undertake criminal activity. The Criminal Bar Association considers that proposals to allow police to authorise criminals to continue to undertake criminal activity are a ‘recipe for disaster’ which will result in police favouring particular groups of criminals for use in operations over other groups of criminals and police being subject to manipulation by criminal elements and corruption and would yield evidence of arguably minimal value.

The Democrats consider that the risk foreshadowed by the CBA is greater when the power to authorise controlled operations is devolved to investigating officers who are directly involved in the conduct of those operations. If informants are to be granted protection from liability, the power to authorise controlled operations must remain with high-ranking officials who are removed from the operations and must be based on clear and definite criteria that adequately balance the benefit of the proposed controlled operation with any potential adverse impact upon the public interest or the perception of the administration of justice.

The bill seeks to replace part IAC of the Crimes Act with new part IACA dealing with assumed identities and witness protection. Once again, it is relating to the argument for the need for harmonisation of these laws. The aim of the part is to protect the true identity of covert operatives who give evidence in court, including foreign law enforcement officers and civilians, via the issue of a witness protection certificate, or WPC, as you have already heard outlined by Senator Ludwig, that is issued by the chief officer of a relevant law enforcement agency. The decision to issue a WPC is not appealable or capable of being called into question by a court. While the WPC will contain sworn information about the operative, including the details of any previous charges or adverse findings of credibility, the true identity of the witness will only be disclosed in extremely limited circumstances, and that is when a court is satisfied that there is evidence that, if accepted, would substantially call into question the operative’s credibility.

In the view of the Law Council, it is highly unlikely that such information will allow defence counsel to properly test the credibility of a witness whose identity is protected by a WPC. Without access to the true identity of the witness in the first place, it will be impossible for the defence to determine whether any issues of credibility may arise.

I note that the Senate Standing Committee on Legal and Constitutional Affairs noted that there was no justification for the court to be denied the opportunity to consider the matter of witness identity on its merits and the committee emphasised that the rights of each party must be respected for justice to be done and to be seen to be done, which is best achieved through leaving intact the court’s discretion to balance the various interests at stake in individual cases—yet the committee made no recommendation to amend the bill in this regard. The Democrats like the model
that has been put forward by the Australian Law Reform Commission, which would place the authority to issue a WPC in the hands of a court after it conducts an independent and thorough assessment of the competing public interests.

In relation to delayed notification search warrants, schedule 2 of the bill, which deals with delayed notification and what have been called ‘sneak and peek’ warrants, will grant the power to secretly enter, search and seize property. It does represent a pretty blatant invasion of privacy and a clear interference with an individual’s right to security on their premises. The introduction of such extraordinary powers should only be tolerated in the most extreme circumstances and even then be subject to the strictest conditions. While the power to authorise similar warrants exists at a state level, that power, as I understand it, is restricted to only the investigation or prevention of terrorist acts. This bill purports to expand those powers to the federal agencies in respect of a range of less serious Commonwealth offences. It also allows the renewal of the warrant for a potentially indefinite period.

The explanatory memorandum provides no clear rationale for the introduction of such extreme powers, nor does it explain or justify why extraordinary existing powers to search and monitor individuals have proven insufficient. The Democrats have made the point repeatedly in the past that, if government comes to the chamber with a good argument on this or other matters, a good case to show why current laws are inadequate, then we will listen. But, as I have said repeatedly, current laws are in many respects quite extraordinary and extreme in some circumstances, and I think this is one case where the moves in the legislation are incredibly concerning.

The expansion of powers of the Australian Crime Commission is another element of this bill about which we are concerned. We believe schedule 3 of the bill purports to expand the coercive powers of the ACC beyond reasonable limits. In particular, the bill seeks to abrogate the privilege against self-incrimination by requiring persons to provide a written statement potentially containing self-incriminating information and effectively requiring a person to make a case against themselves. A person under investigation should not be burdened with the ACC’s legwork and should be able to choose to provide evidence via oral testimony and document production if preferred.

The ACC will also be able to use information obtained in such circumstances as evidence in a prosecution for previously providing false information. The Democrats do not consider that the threat of prosecution based on compulsory testimony will engender candour in suspects, and we consider that it will do nothing to further the cause of the ACC in obtaining accurate and relevant information. In some respects, this seems a little like deja vu or groundhog day. I know that over the years we have had comparable debates with the precursor of the ACC, the National Crime Authority, and others, but we believe this is an area in which this legislation goes too far.

Alarmingly, this bill also seeks to restrict access to a legal practitioner for persons giving evidence under compulsion, by granting an ACC officer the discretion to allow an interview to continue when a preferred legal practitioner must be excluded from an interview. The rationale offered, as I understand from the Attorney-General’s Department, is to prevent the safeguard of a legal practitioner being used as a delaying tactic. To me that seems a little flimsy, at best, as a rationale. As the Senate committee noted in the report, the right to legal representation is a
fundamental one and is especially important where, as is the case here, refusal by a witness to answer a question results in a penalty. The discretion to allow an adjournment should be removed.

As I have outlined, dealing with specific aspects of this bill, the Democrats are genuinely concerned about the attempt by government to make these changes—again, to another piece of legislation—in a raft, a myriad, of laws dealing with crime prevention and antiterrorism law. The Australian Democrats will be moving amendments to ameliorate what we consider to be the worst aspects of this legislation. It does need significant amendment, and without that significant amendment we will not be supporting this legislation.

I also put on notice to the chamber the fact that the Democrats will be seeking a select committee, a balanced Senate committee that will examine the comprehensive pieces of legislation that this Senate and the parliament have passed over the last four or five years. I think that is called for, and it is particularly timely at the moment, in an attempt to restore public confidence in the antiterrorism regime that we have in this country.

Senator NETTLE (New South Wales) (1.11 pm)—Law and order auctions are a feature of state politics: Labor and Liberals compete on who can announce more funding for police and prisons and who can hand out tougher sentences or be stronger on tackling crime. It is never very edifying to watch party spokespeople compete to make the pages of the tabloid media in this way, and it certainly does not make good policy.

This inflationary dynamic of law and order policy in Australia has been accelerated by the declaration of the war on terrorism, and we are now seeing it migrate into the federal arena. Just as we saw with the _Tampa_, the government has tried to use national security and the pursuit of Dr Haneef as political tools to ramp up fear. The appalling debacle of this latest chapter in the government’s serial abuse of its extensive security powers should give pause to any further consideration of additional powers for security forces, but instead the government is pursuing further powers, an extension of powers, for the Australian Federal Police in the _Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006_ [2007].

Unfortunately—although it remains to be seen—this may be another instance in which the opposition joins the government and disappoints people in its lack of courage to oppose the erosion of our civil rights. We have seen in the past that new proposals from the government in relation to national security have been met with a resounding ‘me too!’ from the opposition. There is plenty of opportunity for this bipartisan assault on human rights when security agencies have a voracious appetite when it comes to requesting additional powers. The Law Council summarised the problem in this way in their submission to the Senate inquiry into this legislation, when they said:

> ... in recent years a culture has developed which has increasingly inhibited the type of detailed and robust debate which, in a healthy democracy, ought to precede any extension of Executive power or interference with previously entrenched rights and liberties.

5. The pattern which has emerged is as follows:

(a) Typically, over objection and with reticence, extraordinary powers are granted to law enforcement agencies in order to meet what is asserted to be an extraordinary risk to the community. It is acknowledged that the exercise of those powers will involve an infringement of rights or invasion of privacy but is said to be justified by a countervailing threat to the community.
(b) Later, the law enforcement agency which has been the recipient of those powers reports that the powers have assisted greatly in combating crime. No one is in a position to argue whether the same result might have been achieved by a different method. No one, other than the law enforcement agency itself, is privy to detailed information about the day-to-day use of the power and its implications.

(c) Rights which are infringed in the process of exercising the power are largely invisible. This is both because those rights are regarded as ceasing to exist from the moment they are traded off in favour of more efficient law enforcement and because it is assumed that only a certain criminal class is materially affected.

The Australian Greens, however, believe it is the parliament’s responsibility to not only protect citizens from crime but also protect citizens from the overreaching powers of an unaccountable state and its agencies. We share the concerns of the Law Council of Australia, who are opposed to this never-ending parade of new powers for security agencies. Like the Law Council of Australia, we are opposed to this bill that is the latest step in the extension of such new powers. It is a question of balance and accountability, and there is no balance and accountability in this legislation. Amongst other things, this legislation: creates ‘sneak and peak’ warrants that enable police to search people’s homes without them knowing about it; extends the use of controlled operations in which undercover police and informants are able to break the law to potentially cover all Commonwealth offences; fails to provide independent and external approval processes for controlled operations; removes the role of AAT members in approving the continuation of controlled operations beyond three months; removes the maximum time limit on controlled operations; extends the protection from criminal and civil liabilities to civil informants who participate in controlled operations; reduces reporting requirements for controlled operations; extends powers for police confiscation of electronic equipment such as mobile phones, thereby avoiding the requirement to obtain a telecommunications interception warrant; and extends the coercive powers of the Australian Crime Commission.

The Greens are concerned about all these aspects of this bill. They increase powers without justification and they remove accountability and oversight of these powers. In particular, the introduction of the delayed notification warrants, or the ‘sneak and peak’ powers, is a major departure from basic civil rights. I want to focus my remarks on those aspects of the bill. For centuries, the English common law, based on Roman principles, held that a man’s home is his castle and that an infringement on a person’s property whether by the state or by individuals must have significant limits. This has its most well known expression in the United States Fourth Amendment, which states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The so-called ‘castle doctrine’ has also been an important part of Australia’s common law. This bill will violate that doctrine giving the Federal Police extraordinary new powers to secretly enter, search and even take things from people’s homes. This is an enormous encroachment on Australians’ civil rights and should not be supported by this parliament.

Currently, if an officer wants to search a person’s home or property, they must identify themselves to the occupier, give them a copy of the search warrant, allow them to observe the search and provide them with a receipt for anything confiscated under the warrant. These rights enable a person subject
to the warrant to challenge the validity of the issuing or execution of the warrant and they enable a person to call a lawyer who can be present during a search. These rights are very important rights designed to ensure equality before the law and to provide protections from abuse of state power. They are a fundamental check and balance on our criminal justice system. But this bill throws those rights out the window and replaces them with a regime that would be familiar to anyone who had lived in East Germany or other totalitarian societies.

Schedule 2 of the bill introduces a new division into part IAA of the Crimes Act that sets out various powers of police, including those in relation to search warrants. The new division will create delayed notification search warrants, or covert search warrants, and an approval regime. These ‘sneak and peak’ powers will enable police to obtain a warrant to search premises covertly and seize or copy items without informing the occupier for up to six months or longer in certain circumstances. Such powers are a major intrusion on the privacy of citizens and their right to security in their home and property. Such powers should only be available in extraordinary circumstances and in a carefully circumscribed manner. The secrecy inherent in the powers means that the capacity of an individual who is subject to such a warrant has virtually no capacity to ensure that such powers are used lawfully and in justifiable circumstances. The government has made no attempt either in its second reading speech or in its explanatory memorandum to justify why such new powers are needed. As the Law Council say in their submission:

It is not enough to claim, without more, that it will greatly assist police. The removal of the need for warrants entirely would also achieve this aim. Likewise it is not enough to couch the proposed new provisions in the language of balance and to offer assurances by reference to accountability and oversight mechanisms.

The Law Council goes on—and the Greens agree:

As a first step, the agencies which seek the creation of this extraordinary power, must establish, in precise terms, the need for this covert warrant regime, and the public interest goal it serves. Only then can a proper discussion follow about whether the asserted need greatly outweighs the obvious and substantial risk to individual rights and whether that risk can be sufficiently safeguarded against with appropriate accountability mechanisms.

Security and police agencies already have a raft of powers to address serious crime, including terrorism. These include: controlled operations where undercover police and informants can engage in unlawful conduct; warrants to secretly enter property and install surveillance devices; tapping of telephones and other communication devices; and the coercive powers of the Australian Crime Commission to compel a person to provide self-incriminating evidence and the extensive powers of ASIO, including the capacity to secretly enter homes and property, and collect intelligence. Given these powers, it is incumbent on the government and police to explain why they think that these powers are inadequate for the job. To date they have not done so. Just because these powers, which in many cases also violate a person’s privacy, have been enacted is not a justification for further powers. Rather, they make the requirement for justification on the part of the government and police all the more compelling.

Where are the holes in these existing powers that make these ‘sneak and peek’ laws so necessary? Where is the evidence that criminals or terrorists are getting away because the powers in this bill do not currently exist? It is also not enough for the government to point to state laws in relation
to covert search warrants that relate to terrorism offences that were introduced without justification by Labor state governments. The proposals in this bill go far beyond what is contained in state legislation.

Covert search warrants will be able to be issued in relation to a broad range of offences, including Commonwealth offences that carry penalties of 10 years imprisonment or more, state offences with a federal aspect that also carry 10 years and some terrorism offences and a scattering of other offences that carry less than 10 years, including threatening to cause harm to a public official or using the post to make threats. As the Law Council points out, this is a very broad list of offences, ranging from receiving stolen mail to selling a controlled plant to dishonestly receiving stolen Commonwealth property.

The government and the police have not explained what the rationale is for this hotchpotch of offences or why these powers are needed in each case to adequately investigate the commission of such offences. It seems that the approach has been to come up with the idea for this power and then collect up the greatest pool of offences that could underpin it, giving the police free rein.

A similar approach seems to be adopted in the bill in relation to the length of time for a covert search warrant. The existing warrants in division 2 of the Crimes Act are allowed a maximum duration of seven days. This bill will allow covert warrants to endure for 30 days. Once again, no explanation has been provided for why the length of time should increase fourfold.

Central to the Greens' concerns regarding these 'sneak and peek' powers is the length of time before police are required to inform a person that their property has been searched. In fact, in certain circumstances the bill would allow police to delay informing a person indefinitely. In other words, police could secretly search a person’s home or property without ever informing them that they had done so. In the first instance, police who are issued with a covert search warrant are able to delay notification for up to six months. However, on application to a nominated member of the Administrative Appeals Tribunal or a judge, this can be extended twice for another six months. After 18 months, with the approval of the minister, a judge or a nominated member of the Administrative Appeals Tribunal can extend the delay even further.

If you accept that such covert warrants are necessary, how can such a length of time be justified? These warrants are not meant to be used for collecting intelligence but rather for the investigation of offences. The length of time of such warrants plus the allowable further delays mean that inevitably they will be used for intelligence-gathering and fishing expeditions rather than for the prosecution or prevention of offences. No guidance is provided to AAT members or judges about how to decide on extending a warrant, except that after 18 months exceptional circumstances must exist. The inference that one could draw, therefore, is that up to 18 months delay is almost automatic and certainly does not require any exceptional circumstances to exist. A further major flaw that has been identified by the Law Council is the lack of any requirement that a person be notified of the covert search warrant even if they have been charged with an offence.

In summary, the time frames involved seem designed to enable police to build a case against an individual without that individual having the capacity to challenge evidence or prepare for their defence. This is a fundamental attack on a person's right to due process and a fair trial.

Before finishing my remarks, I want to mention a further two aspects of the bill in
relation to covert search warrants—the ‘sneak and peek’ powers—which deserve the Senate’s attention. Legal professional privilege is essential to the rule of law. It underpins equality before the law and a person’s right to a fair trial. Currently, if a person’s home is searched by police, they are in a position to make a claim for legal professional privilege for documents or things that police attempt to seize. These documents are then not able to be examined by police until the issue of privilege has been resolved by a court. This regime of covert search warrants will ride roughshod over the principle and the practice of legal professional privilege. Police now will be able to confiscate documents, regardless of the privilege that might attach to some items, because a person or their lawyer will not be aware that the search has occurred or that the seizure of documents has occurred.

Another concerning feature of this bill relates to what are designated as ‘adjoining premises’, which are able to be entered for the purpose of entering the targeted property. An owner or occupier of an adjoining property is also subject to the same delay in notification as the subject of the warrant—that is, they may not be told for six, 12 or 18 months or more that the police secretly entered their property. Once again, this is a significant derogation from a citizen’s right to privacy and property that has not been justified by the government or by the police.

The Greens do not support these provisions or the others that I mentioned at the beginning of my remarks. The government had the opportunity to take on board the concerns of the Law Council and others about this bill, and it could have modified its provisions. In its present form the bill is unbalanced. It gives too much unaccountable power to law enforcement agencies, and it tramples on fundamental civil rights. Given the circumstances that we have seen in recent weeks in relation to the case against Dr Haneef, now is not the time to be giving these extraordinary new powers, which trample on some fundamental tenets of our civil liberties in this country, to the Australian Federal Police. Therefore the Greens will not be supporting this bill.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (1.28 pm)—I want to thank all senators for their contributions to this debate on the Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006 [2007]. The bill makes important amendments to the law relating to the investigation of criminal activity and the protection of witnesses. The majority of proposed amendments that I will be moving later on, when this bill comes on, come in response to recommendations by the Senate Standing Committee on Legal and Constitutional Affairs, and I thank that committee for their comprehensive report.

I would like to respond to a few of the items mentioned in today’s debate. By advancing this bill, the Australian government is fulfilling the government’s election commitment to have a national model of legislation on assumed identities, controlled operations and the protection of witness identity. The learned senator on the opposition side with custody of this matter, Senator Ludwig, made the point that we are going to leave open the possibility of the government adding additional offences to schedules by regulation. I am surprised that the learned senator has not read the government’s amendments, because 15GE(3)—

Senator Ludwig—I have now you circulated it.

Senator JOHNSTON—Good, but I think you might have had them before you made the reference—

Senator Ludwig—No.
Senator JOHNSTON—And if you did not, it was not our responsibility. But the point is you can see that the amendments do—

Senator Ludwig—I saw.

Senator JOHNSTON—Yes, that is good. I would like to hear you say that so that you can correct the record of all the things that you said about what the government is seeking to do in regard to that which are clearly incorrect. I suppose that just highlights one of the important things that people should understand with respect to these sorts of powers, which is, of course, that these are not powers that the opposition relate to or understand. Indeed, we have had 10 years for the opposition to come forward with any proposal, particularly after September 11, to deal with national security and, of course, all we have is a vacuum of inane carping with no leadership and no policy whatsoever.

This bill addresses problems relating to the conduct of organised criminal networks which operate with ease and dexterity across jurisdictional borders, including international borders and state borders. Contemporary policing requires law enforcement agencies to undertake investigations that extend beyond the boundaries of any one jurisdiction. To address this increasing threat, it is critical that the Australian government adopt this model legislation. The creation of a national set of investigative powers facilitates seamless law enforcement across the jurisdictions. I pause to state that for many years now the states have had late notification search warrant powers, all of which have gone unheralded and uncommented upon. But, of course, when the federal government seeks to enact such powers, the opposition suggests there is something wrong in that. Indeed, the playing of politics and point scoring with matters as important as this is something which I think the opposition can take absolutely no credit in.

The addition of delayed notification search warrants also brings an important investigative power to police that will enable them to adequately respond to, prevent and investigate terrorist activity and other serious offences. The opposition says that the definition of serious offences in sections 8 and 9 is too broad. Of course, we know that the definition commences with offences that carry 10 years or more imprisonment—given that tag, title and qualification, they are obviously very serious offences. Also the defining section of serious offences says sections 8 and 9 of the Crimes Act—foreign incursion and recruitment—which, of course, relates to persons who engage in hostile activities with the intention of overthrowing a foreign state or engaging in armed hostilities in the foreign state. I would have thought those provisions were very serious, but the opposition says they are too broad. I would have thought that it was a very serious offence if we had a group of people onshore in Australia seeking to overthrow a government of another country. It is interesting that the opposition cannot see that.

The definition section of serious offences goes on to talk about sections 20 and 21 of the Charter of the United Nations, and those sections deal with wrongfully dealing in freezable assets. The United Nations can freeze assets of companies breaching trade sanctions and undertaking unauthorised activity in circumstances where there are human rights abuses, and the UN can prohibit dealing with them. But the opposition says, ‘Oh no, that’s all right; that’s too broad.’ I would have thought that, given what we have seen with respect to a whole group of matters of recent times in breaching prohibitions on trade sanctions, it would not have been too broad.
Further, the definition sets out serious offences as set out in sections 147.2, 147.2(3), 474.11(2) and 474.15(2) of the Criminal Code as serious offences. Those offences are offences related to threatening to cause harm to a public official. How on earth could that be too broad? It is patently obvious that the opposition is soft on crime here or has not read or understood the bill. A further serious offence set out is using a postal service to make a threat, again a very serious matter. Also, a serious offence is using a carriage service to make a threat. Police have indicated that a delayed notification search warrant will be particularly beneficial during an investigation into such offences when the threat has originated from a syndicate—for example, an extremist political group—where police do not want to alert the syndicate that they have been identified. These are matters of logic that flow with any understanding of the way police conduct operations. Sadly, the opposition in this chamber has no real understanding and, of course, this is not the core understanding of the Australian Labor Party—not that they have much understanding of anything at all. But the point here is that to say that these definitions are too broad is to completely misconceive what is sought to be done by these matters. I would like to hear Senator Ludwig say on the record again that these matters are too broad, because we are talking about people-trafficking, sexual slavery and a whole host of other similar offences which are caught by the definition section.

At the end of the day, these definitions and these police powers are vitally needed. If you had any grasp or understanding of the way the police operate with respect to outlaw motorcycle gangs and organised crime in circumstances where these criminals have diverse assets and numerous places from which they can conduct their operations, particularly clandestine drug laboratories, you would understand that to raid or search one of those premises would, if you were to provide notice, tip off the broad network. But, of course, it would be too much to ask that the Labor Party understand how police conduct operations. Indeed, to suggest that ACLEI be responsible for Customs again shows a lack of understanding of what it means to have police powers in this country.

ACLEI is responsible for law enforcement integrity, which relates to the Australian Federal Police. Of course, the Australian Federal Police have extensive police powers of arrest and of being able to use lethal force in certain circumstances, and other powers of that nature. Again the opposition sit there, not having provided a single drop of policy on these very important matters, and want to take ACLEI further than it was originally legislated and designed to go. Obviously, in the circumstances of police powers, ACLEI going beyond that function is clearly bad policy.

These powers are important. It is very important that people who criticise them actually understand them and actually relate to why they are being used, and in circumstances where the bill has been read and the safeguards acknowledged. The safeguards here are extensive with respect to reporting from the Ombudsman, with respect to the commissioner granting original position and with respect to a judicial officer or member of the Australian Administrative Appeals Tribunal granting the warrant in the first instance. These powers have enormous oversight and transparency but are vitally needed—and should be understood by the opposition—in circumstances where there are serious threats from a very dynamic and diverse group of organised criminals and from terrorism. The police need to be able to conduct operations without providing any assistance in the nature of a tip-off or explanation to people who would use such infor-
mation to avoid prosecution. This bill does all of these things effectively and I commend it to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

The TEMPORARY CHAIRMAN (Senator Kirk)—The question is that the bill stand as printed.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (1.41 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 7 August 2007.

The TEMPORARY CHAIRMAN—we are waiting for the first page of the running sheet. Its arrival is imminent.

Senator STOTT DESPOJA (South Australia) (1.41 pm)—To assist the chamber, I indicated areas where the Democrats had concerns. Obviously, we have amendments flowing from those concerns. They are in the process of being circulated. Senator Nettle’s amendments have just been circulated as well. Perhaps we can proceed with some of the government amendments on which we agree. I am not sure whether that assists the chamber.

Senator LUDWIG (Queensland) (1.42 pm)—Perhaps I can assist the chamber. What you have heard from the minister today should make him hang his head in shame for his completely embarrassing performance. All he has been able to do is attempt to slap the opposition for pointing out his own inadequacies in dealing with this legislation. That is what the minister has done today. You are a complete embarrassment not only to the coalition but also, I suggest, to the service people who have to rely on you, Minister, and have confidence in your judgement and your decision making. What we have now heard from you is an embarrassing attack which is fatuous and also incorrect in many respects. It does you no good and, quite frankly, it does not instil confidence in the service people who have to rely on your judgement.

It concerns me that you in fact rise to that. It is not a matter that I went to in my speech in the second reading debate, but you have now forced me to respond to the errors and omissions that you have allowed in dealing with this legislation in the first instance. We now have quite an embarrassing position where you have been forced to back down on the legislation that you brought into the chamber originally. The Senate committee has highlighted the inadequacies, problems and omissions that you have presided over. Bring back Senator Ellison from Cable Beach, I say, because this place has some confidence that he would be able to ensure that we do have a proper process.

It does not, in fact, stop there. What concerns me even more is that the Labor Party have been saying consistently that ACLEI does require oversight not only of the Australian Federal Police and the Australian Crime Commission, the ACC; we have also included Customs. Why have we said Customs? Because, Senator, they carry guns. You may not know that; they actually do that and they can use lethal force in the exercise of their powers. It is not as limited as what you may think, quite frankly—and in that regard they do require oversight.

They also provide joint operations. They go on controlled operations with the Australian Federal Police. It is narrow-minded to suggest that ACLEI should only concentrate on the Australian Federal Police. Senator Johnston, I am not convinced that you in fact know the Australian Federal Police, Customs
or Australian Crime Commission service people in your portfolio all that well. In fact, you have backed down, and you have not even acknowledged that. Your amendments to be moved today do precisely that. The Labor Party are big enough to say that we supported the Senate committee recommendations. You need to rise to that challenge and say that you recognise that the Senate committee has identified holes in your legislation and that you need to correct it. But you have not been big enough to say that.

The Labor Party are big enough to say that, because the government has picked up the committee recommendations, we do not now need to move amendments. We thank the government for recognising the errors and omissions in its primary legislation, which it should not have brought before the Senate committee in the first place without having those remedied. The Senate committee is not your oversight body. It is not your backstop for picking up errors, omissions and where you have overreached. The Senate committee is about scrutinising your final effort—and your final effort was not very good, quite frankly.

In addition to that—I was not going to mention it, but now that you have provoked me into it I will—you need to clarify the delayed notification warrants. You will get an opportunity to clarify those. You will get an opportunity to clarify what your remarks—

Senator Johnston—Clarify what?

Senator LUDWIG—I will go to what those remarks are. Your reason for the issuing of warrants remaining with judges is still not clear. Your press release of 1 August 2007 states:


“Suggestions that warrants will be issued by police officers themselves under these amendments is simply not correct,” Senator Johnston said.

I wonder where that came from. Perhaps the minister could take the opportunity of telling us where it came from, because when you look at the material it does tend to point to you, Senator Johnston, as not knowing your own legislation and not knowing that delayed notifications have oversight. That is what it points to, quite frankly, when you read the transcript. And it seems to suggest that that is why you had to put out a media release to clarify the position.

You were asked about it on the ABC by Mark Colvin:

MARK COLVIN: You said to The Sydney Morning Herald that … they say this: “the lack of judicial oversight was justified by the Minister for Justice and Customs David Johnston on the grounds that a court or judicial officer might leak news of the warrant. I don’t want to impugn anyone but the security of these operations has to be pristine.”

DAVID JOHNSTON: That is a complete fabrication of what I said.

MARK COLVIN: They lied about the quote?—there was a pause—

DAVID JOHNSTON: Well I’m not saying that they lied. I just don’t believe that the act has been read. It is crystal clear. When people put questions to me I presume and want to understand that they have taken the time to read the legislation.

Senator Johnston, I do not believe what you have put forward, because you have said: ‘I am not saying they have lied; I do not believe that act has been read.’ It seems to me that of course the act may not have been read. It may not have been read by Senator Johnston—that is the problem. That seems to be the heart of the matter—that it may not have been read by you, Senator Johnston. In your statement, ‘I do not want to impugn
anyone but the security of these operations has to be pristine,’ who in fact are you collecting into that broad sweep? Who are you saying falls under that hammer? Who would you be impugning by saying that?

Let us go back to the legislation itself. It is crystal clear that the Senate committee made recommendations. The Senate committee made those recommendations, but you did not take the opportunity, Senator Johnston, in your summing-up, to go to those recommendations—which it is usual to do—and to say, ‘We support this recommendation; we do not support that recommendation for this particular reason and that is reflected in the amendment.’ You will get an opportunity to say that, and I hope you can at least clarify that you have picked up important recommendations of the Senate committee, and you can thank the Senate committee for finding those for you.

Another part of this which seems to have escaped you is that the Labor Party say that ACLEI should have oversight. If you had done your homework, you would have gone back and looked at the Senate committee transcript of Thursday, 27 April 2006, where Commissioner Keelty said:

It is a difficult situation I find myself in because of the question. One of the reasons why I am here appearing personally before this committee is because I initiated the Fisher review. I believe firmly that integrity is the core value of the AFP. I have to say to you that it is a question that I have asked myself. Part of the core business of the AFP—our remit—is to investigate and apply the fraud control policy of the Commonwealth to other Commonwealth agencies. There is a gap here—and I do not want to name agencies—if you look at the powers, such as access to search warrants, access to the use of firearms and access to detention.

That was in the ACLEI inquiry, where there was a gap. Labor was trying to fill that gap. Your response to that has only included the Australian Federal Police and the Australian Crime Commission—you want to fill that gap. A gap that is required to be filled remains here, Senator Johnston. Your response is, ‘No, we will not fill that gap.’

Senator Johnston, you have the opportunity here today to fill that gap if you so wish. You could make the statement today that you intend to use the regulation-making power to expand it out. We do not agree with that; we think it should have been part of the substantive provisions within the bill. You have the ability, without bringing it here, to expand it to include those agencies that I have mentioned, and you have the opportunity to be able to clarify your press release once again, which I was not going to go to earlier today. But, Senator Johnston, it seems that you cannot stop yourself from provoking with misstatements about the opposition. We have been supportive of antiterrorism laws throughout. We have made practical and meaningful suggestions. Perhaps you have not been here during those debates—maybe you have been at Cable Beach, too!

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (1.53 pm)—These amendments are in response to the Senate committee report but they also stand alone. With the greatest respect to the learned senator representing the opposition’s shadow portfolio in this area, may I say that he has absolutely no real, practical understanding of how these amendments will work. Indeed, one has to ask whether he has any practical experience in the law at all. Late notification warrants, by their very function, obviate judicial oversight. Of course, the learned senator would not need any reminding by me of these things if he had any grasp of this. It is quite interesting that I have to lecture the opposition on this. The classic remedy for a warrant is to obtain an injunction, and that is to put material be-
fore a judge which must be responded to on a balance of probabilities.

I am taking the learned senator into areas into which he has quite obviously never been. In the notion of lack of judicial oversight, clearly a late notification warrant precludes remedies such as injunctions, because the person named in the warrant does not get notice of the warrant. If, of course, there had been some understanding at all in this regard, the very learned senator would have understood what I was talking about. Indeed, if he had read the bill and the amendments, he would know what in fact is going on here today. It is very, very interesting that he comes into this place seeking to inhibit the powers of the Australian Federal Police and seeking to suggest that the definition of ‘serious offence’ for late notice warrants is, in fact, too broad. I have set out what those matters are. They include matters relating to the overthrow of a foreign government—I would have thought that was very serious. I am interested in him addressing those questions.

The amendments come in response to the recommendations put forward by the Senate standing committee. I hope the learned senator is listening carefully to what I say here, because I am sure it will be edifying. I thank the committee for its comprehensive report, and I note that I am recommending that the Senate accept almost all of the committee’s recommendations, either in full or in part. The proposed amendments relate primarily to the authorisation and extension of controlled operations, witness identity protection and delayed notification search warrants, as well as important changes to the Australian Crime Commission. Also included are minor but much needed changes to the Australia Federal Police Act 1979 and the Crimes (Aviation) Act 1991. I table the government’s responses to the committee’s recommendations, as set out in the tabling statement. For the benefit of Senator Ludwig, the responses are clearly set out in table form so that he might see them and understand them.

The first significant amendment would delete proposed section 15GE(3) in the bill in order to prevent offences carrying a penalty of less than three years imprisonment from being included in the definition of ‘serious offence’ by regulation. This response to recommendation 1 of the committee report addresses the committee’s concern that the inclusion of a regulation-making power could potentially mean that any Commonwealth offence could be the subject of a controlled operation.

With respect to controlled operations, let us talk about the external oversight of extensions for controlled operations. I propose changes to the bill to allow an extension of controlled operations beyond the 12-month period to be approved by a member of the Administrative Appeals Tribunal. The inclusion of the Administrative Appeals Tribunal would bring an external oversight role to the decision to extend controlled operations. This proposed amendment responds, in part, to recommendation 2 of the committee’s report.

I also propose adding corresponding provisions that provide for AAT members to be nominated to participate in the review of extensions and to be authorised to grant authority for extensions. The conferral of this role on the AAT would partially restore the approach under the existing Crimes Act, which requires Administrative Appeals Tribunal approval for extensions beyond three months. I refer the chamber to section 15OB of the act.

Further amendments I am proposing would require law enforcement agencies to report to the Commonwealth Ombudsman on the number of extensions granted or refused by a nominated member of the Administr-
tive Appeals Tribunal. The requirement to report to the Ombudsman would be included as part of the reporting requirements in proposed section 15HH(2) and would allow the Ombudsman to seek additional information under proposed subsection 15HH(3), if required.

With respect to witness identity protection, I am responding to recommendation 5 of the committee’s report by moving an amendment to proposed section 15KP to prohibit the retention, copying or recording by a presiding officer—for example, a judge or a magistrate—of any information or documentation provided to them under that provision; that is, information or documents that relate to an operative’s true identity. Although this would lead to a departure from the national model legislation, this proposed amendment would ensure that the true identity of the operative is not revealed or compromised by the actions of the presiding officer.

With respect to delayed notification search warrants, I am moving an amendment to proposed section 3SY to require the Ombudsman to conduct an inspection of agency files and issue at least every six months a report to the minister in relation to the administration of delayed notification warrants.

Progress reported.

QUESTIONS WITHOUT NOTICE

Hospitals

Senator McLUCAS (2.00 pm)—My question is to Senator Minchin, the Minister for Finance and Administration. Does the minister recall his statement after the Prime Minister announced the takeover of Mersey hospital:

... obviously my Department will be involved ultimately in the costing exercise.

Does this mean that the finance department did not cost the Mersey hospital takeover before it was announced? Can the minister now indicate when he was first informed of the Prime Minister’s decision to take over the Mersey hospital? Has the minister’s department now prepared a full costing of the Mersey hospital takeover? Was it the minister’s department that estimated the cost of the hospital takeover to be $45 million a year, and does the minister stand by that figure?

Senator MINCHIN—I thank Senator McLucas for that question. I am interested, indeed intrigued, that a Queensland senator has asked a question about a Tasmanian hospital, and I wonder why it is that the Labor Party cannot find a Tasmanian senator to ask about a Tasmanian hospital. It is quite a remarkable turn of events, and it does reflect the fact that the Labor Party is all over the place on this issue. It says, ‘Oh well, it’s a bit tricky.’ When Mr Rudd is asked, ‘What’s your position?’ he says, ‘Oh well, I don’t have a position; I’m just going to have a look at this, see this and see that.’ It is absolutely typical of Mr Rudd. We know he has only two policies: one is to wreck our industrial relations system and the other is his 60 per cent cut in carbon emissions. We cannot find any other policies. When we make a significant intervention to ensure the retention of health services in Tasmania, Mr Rudd is nowhere to be seen, and nor are any of his Tasmanian senators, which is fascinating.

As to the position of the finance department, I am happy to answer the question. This is a government decision which, as I said on Channel 10, I fully support.

Opposition senators interjecting—

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

Senator MINCHIN—I fully support this government intervention in order to ensure that the people of Devonport and north-west Tasmania retain adequate hospital services.
The Prime Minister’s statement of 1 August 2007 reflects the government’s position as to the funding arrangements. The Prime Minister made it clear that until final negotiations have been completed with the community—and this is going to be a community hospital—it is not possible to determine the exact cost of the proposal. However, comparable operating costs for similarly sized hospitals indicate that this should cost in the order of $40 million to $45 million a year.

As I noted on Meet the Press, it is the case that there will need to be, in addition to that, arrangements put in place—as per the Prime Minister’s statement of 1 August; there is nothing hidden about this—so that the Commonwealth will be underwriting the trust’s recurrent and capital funding of the hospital, including the arrangements to lease buildings, infrastructure and medical equipment from the Tasmanian government. Obviously, my department and other relevant Commonwealth departments will be involved in those negotiations to determine the final cost to the Commonwealth of ensuring that we do provide the people of Devonport with full services, which the Tasmanian government is withdrawing.

As I said then, and as I said on Sunday, I would prefer that we did not have to make these interventions, but the fact is that the states around Australia, including the state Labor government of Tasmania, are failing their people by withdrawing services from their communities and leaving these communities in this position so that the only recourse is to come to the Commonwealth for assistance. We are glad that our financial position, after 11 years of outstanding management of the Commonwealth budget, is such that we are able to provide assistance in this case.

Senator McLUCAS—Mr President, I asked the question in my capacity as representing the shadow minister for health, and I now ask a supplementary question. Is the minister aware that government members like Senator Parry are describing the hospital intervention as a disaster and claiming that Mersey should have been closed? Isn’t this episode another clear indication that the Prime Minister is in a ‘do anything, say anything and promise anything’ mode in his desperation to cling to power?

Senator MINCHIN—Let me take from that particular question that the Labor Party is opposed to this intervention. If that is the case, the shadow minister should go down to Devonport and tell the people of Devonport that she opposes federal assistance to this hospital. You go down there and say that.

Senator George Campbell interjecting—

The PRESIDENT—Senator George Campbell, come to order!

Senator MINCHIN—We are supporting them; we are going to make sure they keep their hospital.

Economy

Senator FIFIELD (2.05 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the benefit from eliminating the federal government’s net debt? Will the minister also inform the Senate of the approaches of other levels of government in relation to debt? What are the implications of these alternative approaches?

Senator MINCHIN—I thank Senator Fifield for that question. When the ALP were last in office federally, they did rack up massive debts. Just in their last three budgets, they racked up some $40 billion of debt. The total, of course, was $96 billion. More importantly, the Commonwealth was paying $8 billion every year just in interest payments—more than was spent on defence or education. These debt-laden Labor budgets were
supported by Labor spokesmen like Wayne Swan and Lindsay Tanner, who were in the parliamentary party at that time.

By contrast, the Howard government has now finally repaid all of that $96 billion in debt that we got from Labor. We have established the Future Fund; it already has some $50 billion in assets and aims to match the Commonwealth’s unfunded super liability. So, as the population ages, future generations will have the flexibility to deal with the pressures which we know will come, particularly in health and aged care. Future taxpayers, because of our prudence, will not have to worry about interest payments on that debt or pension payments to Commonwealth retirees. In good economic times, good governments do put money away to pay off these liabilities, and that is what we are doing.

Senator Fifield asked me about other levels of government in Australia. I regret to say that state Labor governments are taking a very different approach to managing money. Despite a very strong national economy and huge windfalls to the states, due to the GST, the state and territory Labor governments collectively are going to increase debt by $70 billion over the next four years. It will take them just four years to increase debt by $70 billion. All the mainland states are projecting increases in their public sector debt. New South Wales will increase its debt from $19 billion to $40 billion over the next four years. Victoria’s debt will go from $6 billion to $15 billion—nearly tripling. Queensland will lose its much coveted debt-free status by next year. Even resource-rich Western Australia will increase its net debt over the next four years. As a result of that borrowing spree, the states are going to have a combined debt of $80 billion in just four years and a combined interest bill to pay on that debt of about $5 billion per annum that will now not be available to pay for other services.

The contrast could not be clearer. Federal Labor, in office, racked up $96 billion in debt. We have taken 11 years to eliminate that debt entirely. Now we find that state Labor is racking up another $80 billion in debt. What we are concerned about is Mr Rudd and Mr Swan out there defending the state government borrowing spree. They say it is all right to borrow for capital projects. By that logic, federal Labor clearly think that it would be all right at the federal level to borrow money to pay for capital. They presumably think it would be all right to borrow to fund the $22 billion AusLink program or the $10 billion Murray-Darling program or our Investing in Our Schools program or capital spending on defence hardware. All these programs which the Howard government is funding it is funding from recurrent revenue. We are not borrowing a single cent to fund them. The risk for Australia is that, if federal Labor win the next election, you will have Labor at every level of government borrowing money on top of their past record of borrowing. They are committed to borrowing another $80 billion.

Mr Rudd says, ‘I’m a fiscal conservative.’ We heard that from Mr Bracks when he became the opposition leader in Victoria and went on to government. He has now left a government which is going to triple its debt over the next four years. Wall-to-wall Labor would mean debt-addicted Labor governments at the state and federal level right across this country, which would mean increased pressure on interest rates and a higher tax burden on future generations of Australians.

Federal Election

Senator FORSHAW (2.09 pm)—My question is directed to Senator Minchin, the Minister for Finance and Administration. I refer the minister to the fact that this year the $10 billion water plan, the $587 million
Northern Territory intervention and the $45 million Mersey hospital takeover have all been announced before being costed by Treasury and Finance. I also refer the minister to the Treasurer’s concerns about the Prime Minister’s record election year spend in 2004. Mr Costello said: I have to foot the bill and that worries me ... I do worry about the sustainability of all these things.

Given that the Prime Minister is again making uncosted announcements in the lead-up to the 2007 election, can the minister indicate whether he shares the Treasurer’s concerns? What is the minister doing to prevent the Prime Minister from another irresponsible election year spending spree in a desperate bid to cling to power?

Senator MINCHIN—It is interesting that the Labor Party is supportive of all these initiatives—with the exception of Mersey, where we have no idea what their position is. They support the $10 billion investment in the Murray-Darling Basin Commission over the next 10 years. They support, I gather, our Northern Territory intervention. Now they are apparently quibbling about the cost of the Northern Territory intervention. It is the case that, once we sent survey teams on to the ground and realised the extent to which assistance was going to be needed to ensure that we do deliver and that we protect children in the Northern Territory from child abuse, we realised that it was going to be a $587 million program in the course of this financial year. The great thing is that, as a result of the very hard work which the government have put in over 11 years to restore the Commonwealth finances from the shambles that we inherited, the Commonwealth budget is in a position where it can meet these sorts of expenditures—which, as I noted, the Labor Party does support.

As to the reference to the Treasurer’s remarks, as I said on Meet the Press, it is the job of the Treasurer and the finance minister to worry about the future sustainability of all Commonwealth government programs. That is why we are there. It is our job to continue to remind all our colleagues that we have to ensure the sustainability of Commonwealth finances going forward. That is why it is our government that introduced the Intergenerational report, which has the 40- to 50-year forecast of what will happen to the Commonwealth finances as a result of demographic ageing. We are the ones who have gone out of our way to point out to the Australian people, and indeed to the opposition, the risks to the Commonwealth budget that are inherent in demographic ageing and the sorts of measures which are required now to ensure that sustainability.

Those measures go to things like welfare to work reform. They go to things like increasing the productivity of this country through industrial relations reform. The Labor Party are saying, ‘We are worrying about Commonwealth finances.’ The worst thing you can possibly do to the sustainability of Commonwealth finances is to destroy the productivity-improving industrial relations changes which we have brought in. If the Labor Party get into office and take this country back to the pre-Keating era in industrial relations—which the ACTU will ensure that they do—then the productivity of this country will suffer enormously and the capacity of this country to generate revenues to meet the burdens that we face in health and aged care will be put seriously at risk.

We are very proud of our fiscal record. This government has demonstrated the greatest fiscal restraint of any government for at least the last 30 years. The average increase in real spending under our government is lower than any of the previous three governments. We do exercise fiscal restraint. We have been attacked by the Labor Party for most of the 11 years that we have been exer-
cising that restraint. After every budget, the Labor Party shadow spokesmen in every single area all come out and complain that we have not spent enough. No matter what we spend, no matter what our new programs are, Labor comes out and says, ‘You haven’t spent enough.’ Do not give us a lecture about fiscal prudence.

Senator FORSHAW—Mr President, I ask a supplementary question. I note that the minister did not respond to the point in the question that these announcements were made before the policies were costed. So I ask the minister: why is it that his department is really unnecessary in doing any costings on these policies? What savings could be made as a result of them not being necessary? Further, can the minister confirm that economic commentators are right to say that the Prime Minister’s desperate election year spending is putting significant pressure on interest rates. If I choose to answer the last two-thirds of his question, I am entitled to do so. If I may return to the answer I am happy to do so.

The PRESIDENT—There is no point of order. Senator Minchin, return to the question.

Senator MINCHIN—Having dealt with the last 40 seconds of the question, in terms of the first 20 seconds it is appropriate for prime ministers to announce policy positions of the government with indicative costings subject to subsequent ratification and examination by the costings departments. In relation to the Murray-Darling the Prime Minister announced an envelope of $10 billion, and now, as a result of that announcement, we are detailing costings of the individual programs within the ceiling of $10 billion. The $10 billion will not be exceeded. In relation to the Indigenous intervention, of course we are costing that program. (Time expired)

Dr Mohamed Haneef

Senator BARNETT (2.16 pm)—My question is to the Hon. Senator Chris Ellison, the Minister representing the Minister for Immigration and Citizenship. With regard to the case of Dr Mohamed Haneef, could the minister please advise the Senate why the Minister for Immigration and Citizenship cancelled Dr Haneef’s visa?

Senator ELLISON—It might be helpful to preface my answer by saying, at the out-
set, that if a person has a temporary visa to visit Australia that is not an inalienable right to stay in Australia. It is a permission to be in Australia, conditional on a number of things: one is that you obey the laws of Australia and one is that you be of good character. Of course, it is in that context that the minister exercised his discretion. On 16 July 2007 the Minister for Immigration and Citizenship, Mr Andrews, cancelled Dr Mohamed Haneef’s visa on character grounds under section 501 subsection (3) of the Migration Act. That decision was based on the information and advice received from the Australian Federal Police and on the fact that the minister reasonably suspected that Dr Haneef has or has had an association with persons involved in criminal conduct, namely terrorism.

The minister also decided that the cancellation of Dr Haneef’s visa was in the national interest. On Tuesday, 31 July the minister met with the Solicitor-General and received his written opinion in relation to the exercise of the minister’s power to cancel Dr Haneef’s visa under the Migration Act. He also discussed with the Solicitor-General and the Commissioner of the Australian Federal Police the release of the part B protected information which had been provided to him by the Australian Federal Police. Quite rightly, the minister was mindful of the balance that exists between protecting information that is of relevance to ongoing investigations in Australia and the United Kingdom and informing the public of all information that was available to him in making the decision that he did.

The Solicitor-General’s advice was clear. There was material before the minister from the Australian Federal Police on which he could validly make a decision to cancel Dr Haneef’s visa. The minister has made public the advice that he received from David Bennett QC which outlines the different standards of proof and satisfaction that are required in criminal proceedings, in civil proceedings and in the discretion under section 501 of the Migration Act. The Solicitor-General gave an opinion which said that the minister was entitled to make the decision that he made and that based on the material that is known now he could still make that same decision. The minister released the Solicitor-General’s advice, which included reference to some elements of part B information. It included important information on which the minister relied when making his decision. The full part B protected material was not released as the minister was advised that this would have the effect of prejudicing further investigations both in Australia and internationally. The Solicitor-General’s advice addressed matters already known, including Dr Haneef’s cousins in the United Kingdom, accommodation arrangements and a number of other issues. Importantly, the Federal Police advised the minister prior to making his decision that the AFP investigators suspected that the internet conversation between Dr Haneef and his brother may be evidence of Dr Haneef’s awareness of the conspiracy to plan and prepare acts of terrorism in London and Glasgow, and further that his attempted urgent departure from Australia on a one-way ticket for a purpose which appears to be a false pretext could be considered highly suspicious and may reflect Haneef’s awareness of the conspiracy to plan and prepare acts of terrorism in London and Glasgow.

It is important that we put on the record the background of the decision by the minister for immigration, Mr Andrews. It was a very serious decision which was properly made and made in the national interest of this country.
Economy

Senator CARR (2.21 pm)—My question without notice is to Senator Minchin, Minister for Finance and Administration. Does he recall proclaiming in May that he was ‘custodian’ of taxpayers’ money whose job it was to ensure that money was spent ‘wisely’? What sort of custodian is a minister who does not ask to cost the $10 billion water package? What sort of custodian is a minister who was not told that the cost of the Northern Territory intervention has grown from tens of millions of dollars to $587 million a year? What sort of custodian is a minister who is not consulted about a state hospital takeover the cost of which could blow out to something like $100 million a year? Far from being a wise custodian of taxpayers’ money, has not the minister failed to protect taxpayers’ money from a desperate Prime Minister who is willing to do anything, say anything and promise anything to cling to power?

Senator MINCHIN—I may not be the world’s best finance minister, but I am proud of the role I have played in the last six years in ensuring that this is one of the very few countries in the Western world that is debt free, one of the very few countries in the Western world operating in surplus, quite unlike the state Labor governments which are now all, but for the case of Western Australia, going into deficit. If you cannot run surpluses in the circumstances Australia is now in, you will never be able to run surpluses, and that is what we find with seven of the eight state and territory Labor governments around this country.

I am proud that, despite the opposition of the Labor Party throughout our period in government to return fiscal rectitude to the Commonwealth, we have one of the best records in the Western world in our budgetary position. I would also just add to that, while Senator Carr and others take issue with this: what is the federal Labor Party talking about? In relation to just about all of the spending commitments which we have made, they say: ‘Me too. Oh yes, we’re in there; we want to spend that too. No worries, we’re right alongside you,’ but they have a whole lot of promises on top of that. That is where the Financial Review today is quite misleading in its suggestion about our spending, because it has not allowed for the fact that the Labor Party want to spend virtually all that we are proposing, plus some. Whenever Mr Rudd is faced with a policy issue, he throws a $500 million fund at it: ‘There’s a housing affordability crisis; let’s have a $500 million fund. We should have green cars; let’s have a $500 million hybrid car fund. It would be nice to have clean coal; let’s have a $500 million clean coal fund.’ That is three $500 million funds and we have not even got to the start of the campaign. So do not lecture us about fiscal rectitude.

Senator CARR—Mr President, I ask a supplementary question. What guarantee can
the self-proclaimed ‘wise custodian’ of taxpayers’ money give that he will not continue to be sidelined in the lead-up to the election? Why should taxpayers have to put up with a Prime Minister who is in a ‘do anything, say anything and promise anything’ mode and throws their money at marginal seats in his desperation to cling to power?

Senator MINCHIN—That question might have more veracity if the Labor Party would indeed come out and declare that it will have its policies costed by Treasury and Finance, as allowed for under our Charter of Budget Honesty. The coalition will be having its policies costed by Treasury and Finance, but I will bet that the Labor Party are not game to have their policies costed by Treasury and Finance. If you are so concerned about the cost of promises, let us see you come out and declare that you will have your policies costed by Treasury and Finance.

Telstra

Senator NASH (2.26 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister provide the Senate with details of government action to ensure that Telstra meets its public commitment to not switch off the CDMA network before the Next G network provides the same or better coverage and services?

Senator COONAN—I thank Senator Nash for the question. Senator Nash has a longstanding interest in regional and rural telecommunications services and, indeed, this issue. The government has, of course, welcomed Telstra’s investment in its new Next G network. When it is fully operational it will allow people living in rural and regional Australia to gain further access to next generation telecommunications services, such as video calling and internet access. Telstra has given public assurances that the CDMA network will continue to operate until the Next G network provides equivalent coverage and services.

However, I have spent the past six weeks on the road across Australia and it is clear that there is a great deal of concern regarding the current performance of the new network. I have heard loud and clear from regional and rural Australians themselves that the Next G network is well short of being up to scratch. I have therefore decided to impose a licence condition on Telstra that will require it to maintain the CDMA network in operation until Telstra makes good its promise that the Next G services will provide the same or better coverage and services as the CDMA network. It is important to understand that, under this licence condition, a delay to the closure of the CDMA network would occur only if Telstra fails to meet its own public commitment. Telstra has said that it will not be able to say whether it has delivered equivalent or better coverage until 15 October, which is much later than previously indicated. Given that 12 weeks are needed to complete an audit, this is simply not enough time to ensure that Telstra has met its public commitments prior to the planned shutdown of the network on 28 January 2008.

In addition, I have created a Next G customer support unit within my department to receive feedback on performance and service issues with Next G, direct from consumers, of course. The Next G customer support unit is available through free-call 1800883488 and will ensure that concerns are monitored and followed up directly with Telstra’s management.

The Howard government makes no apologies for putting consumers first when considering the regulation of Australia’s telecommunications industry. This stands in stark contrast to the performance of Labor when they succumb to the switch-off of the analog network without even a thought about
having a replacement network in place. The Howard government understands that good mobile coverage is not an optional extra; it is a vitally important service for people in regional and rural Australia in particular—indeed, anywhere in Australia. But people living in regional and rural Australia can be assured that the Howard government has stepped up to the plate to look after them and their families and will ensure that this vital service is maintained.

Parliamentarians’ Entitlements

Senator BOB BROWN (2.59 pm)—My question is to Senator Minchin, representing the Treasurer. What justifies members of parliament getting a 6.7 per cent pay increase while pensioners get nothing?

Senator MINCHIN—As you know, the Remuneration Tribunal determines the remuneration for members of parliament. It does that independently. Members of parliament are able to make submissions to the Remuneration Tribunal about the appropriate remuneration for members of parliament. This is obviously an extremely controversial matter in the Australian community. I think the community has great expectations of its members of parliament. I think all members of parliament, including Senator Brown and others, work extremely hard on behalf of their constituents and determining the appropriate remuneration is not an easy task. Many MPs feel that they are underpaid; whereas the community often feels that they are overpaid. I guess it is the case that, compared to average weekly earnings, MPs are reasonably well remunerated, but the remuneration, as I said, is a matter for the Remuneration Tribunal.

As to the position of age pensioners, I think one of our government’s most significant decisions on coming to office was changing the basis of indexation for age pensioners from CPI to MTAWE—male total average weekly earnings. That is actually one of the most expensive decisions that we have made, but we are pleased that we made it. It means that age pensioners receive greater increases in their pensions than would otherwise be the case because it is the extremely good outcome of our government that average weekly earnings are exceeding the CPI; therefore, pensions are increasing faster than they would have had we not changed the basis of indexation of the age pension.

We are proud of our record in assisting age pensioners by improving their indexation basis. It is always easy and—with great respect to Senator Brown—rather cheap politics to compare the position of age pensioners to members of parliament. The age pension is a function of the Western world, deeming that we should provide a retirement income to those who have not been able to provide adequately for themselves in their retirement. It is a welfare measure for those who are needy in our community and are not able to provide for themselves. However, for the salaries for members of parliament, it is difficult to determine what sort of remuneration is required to attract the best and brightest to our parliaments to ensure that our parliaments are capable of delivering good parliamentarians, good ministers and good shadow ministers without getting too far out of line with community expectations.

I understand Senator Brown wanting to pursue the politics of this, but I think reasonable Australians will accept that we should appropriately remunerate members of parliament who work hard on their behalf while ensuring that age pensioners are properly looked after, as we have done by indexing their pensions to average male weekly earnings.

Senator BOB BROWN—Mr President, I ask a supplementary question. Does the min-
ister think it is reasonable that the increase for the Prime Minister alone in this proposed pay rise will be the equivalent of the whole pension for Australia’s pensioners? Does the minister really believe that, with increasing rental costs, transport costs and food costs, $219.50 a week is a fair living income for Australia’s 1.2 million full pensioners?

Senator MINCHIN—I think that to draw a comparison between the Prime Minister of the country and age pensioners is really not very fair in the sense that the Prime Minister, whatever his age may be and whichever party he represents, works extremely hard on behalf of all Australians. I think what Australians find most extraordinary is that the Prime Minister is paid about as much as a salaried solicitor in a major Sydney law firm. When the Prime Minister’s salary is compared to the CEOs of major Australian companies, you will see that—

Opposition senators interjecting—

The PRESIDENT—Senators on my left, you have had your moment of fun. Come to order!

Senator MINCHIN—the Prime Minister’s salary can be as little as one-tenth of the salary of someone running a major bank in this country. I think most Australians would find that rather extraordinary given the work that any prime minister of whatever political persuasion does on behalf of this country. In relation to age pensioners, we are obviously ensuring that we adequately provide—(Time expired)

Workplace Relations

Senator LIGHTFOOT (2.35 pm)—I think I should declare to the Senate that I am three years older than the Prime Minister.

Opposition senators interjecting—

The PRESIDENT—Senators on my left come to order!

Senator Robert Ray interjecting—

Senator Faulkner interjecting—

The PRESIDENT—Senator Ray and Senator Faulkner, come to order!

Senator LIGHTFOOT—Thank you, Mr President. My question is directed to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Will the minister outline to the Senate how the Howard government is protecting the rights of working Australians and helping to create more jobs through a fair, flexible and balanced new industrial relations system? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Lightfoot for his question. The industrial relations—

Opposition senators interjecting—

The PRESIDENT—Senators on my left, you will come to order!

Senator ABETZ—Thank you, Mr President. I again thank Senator Lightfoot for the question and can confirm that the Howard government’s industrial relations system has got the balance right. It protects the rights of those Australians in work through the Workplace Ombudsman and, at the same time, it encourages the right conditions for employers to hire even more people, paying them even higher wages. Let us not forget that, despite what those on the other side say, under our industrial relations system you cannot—and I stress ‘cannot’—trade away such things as overtime penalty rates et cetera without receiving fair and adequate compensation. It is the law.

Let us not forget that, despite the predictable but false doomsday predictions of Labor and the unions, the new industrial relations system has brought not mass sackings but mass employment—in fact, over 360,000 new jobs, 97 per cent of them full time—and real wages continue to go up. Those on the
other side also predicted a massive increase 
in trade union membership because of our 
laws. In fact, membership has slumped even 
farther. Now less than 20 per cent of the 
workforce chooses to join a union. What 
have the unions done in response? They run 
their dishonest campaigns and get their pup-
pets in the Labor Party to promise to rip up 
our balanced laws and take us back to the 
1970s or 1950s. Over recent months we have 
seen Mr Rudd and Ms Gillard playing a ‘get 
tough on the unions’ charade and picking 
pretend fights with the unions. Let us analyse 
this. They have expelled Dean Mighell for 
swearing, yet they refuse to expel Joe 
McDonald for thuggery. They are about to 
expel Mr Quick MP for telling the truth, yet 
they are not going to act against Kevin Har-
kins for having engaged in unlawful behav-
ior, as determined by a royal commission.

It really is all a Rudd charade—a charade 
exposed by this leak from the Finance Sector 
Union. This came from Labor headquarters 
and it tells Labor candidates how to respond 
to trade union inquiries. It tells Labor candi-

dates to say, ‘The key principles in Labor’s 
industrial relations policy are similar to those 
outlined in the policy adopted by the ACTU 
congress in 2006.’ They are Rudd’s weasel 
words. What they are saying is, ‘If elected, 
Labor will do whatever the unions want.’ 
They will abolish AWAs—Senator Lightfoot 
from Western Australia would be most con-
cerned about that—and we would once again 
have unrestricted right of entry for union 
thugs like Joe McDonald and Kevin Harkins 
into Australian workplaces. As soon to be 
Labor senator Doug Cameron said earlier 
this year, all the unions want is the defeat of 
the Howard government and to have the La-
bor Party implement the ACTU’s policy. 
Very simply, Mr Rudd will do what is in the 
interests of the working families of this 
country and what is in the national interest.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the at-
tention of honourable senators to the pres-
ence in the chamber of a parliamentary dele-
gation from the Kingdom of Morocco, led by 
the Speaker of the House of Representatives, 
His Excellency Mr Abdelwahad Radi. On 
behalf of all senators, I wish you a warm 
welcome to Australia and, in particular, to 
the Senate. With the concurrence of honour-
able senators, I propose to invite the Speaker 
to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Indigenous Communities

Senator CROSSIN (2.40 pm)—My ques-
tion is to Senator Scullion, the Minister for 
Community Services. I refer the minister to 
reports about the Country Liberal Party fish-
ing trip that is alleged to have taken alcohol 
to restricted parts of the Tiwi Islands on 22 
July this year. Can the minister indicate 
whether he took, or drank, any alcohol on-
shore on the Tiwi Islands on that day or if he 
is aware of anyone in the party who did? Can 
the minister explain the presence of empty 
bottles and alcohol containers that were 
found on the Tiwi Islands on 22 July? Has 
the minister ever bought or consumed alco-
hol in any Aboriginal community or been 
part of a group that has? Haven’t the activi-
ties on the minister’s fishing trip seriously 
compromised the government’s efforts to 
stop the ‘rivers of grog’ that have a devastat-
ing impact on Indigenous communities?

Senator SCULLION—Whilst it probably 
does not normally fall within the scope of the 
questions we would expect in this place, I 
will answer the question. I simply put again 
on the public record what I have repeated a 
number of times: at no time did I take alco-
hol onto the Tiwi Islands. At no time did I consume alcohol on the Tiwi Islands. It is well known that there is a police investigation into the matter, and there were in fact police present at the barge landing where the allegations against me occurred. I am looking very much forward to the production of the police report in due course. I will leave the investigations in their very capable hands.

Senator CROSSIN—Mr President, I ask a supplementary question. I asked Minister Scullion a series of questions in the hope that he would be accountable to this parliament for his actions. Can the minister confirm whether the federal member for Solomon, Mr David Tollner, was part of the fishing trip on 22 July that reportedly took alcohol to restricted parts of the islands? Can the minister provide an assurance that Mr Tollner did not consume any alcohol onshore and that he was not responsible for the empty alcohol bottles and containers that were reportedly found on the Tiwi Islands?

Senator Abetz—I raise a point of order, Mr President. I thought it was a long bow to draw in relation to Senator Scullion, but he has answered the question about himself. I cannot see how behaviour of another member of parliament falls within the ministerial purview but, more importantly, there is a police investigation going on into these very matters and therefore these issues should not be further canvassed.

Senator Chris Evans—Mr President, on the point of order: the first point is that Senator Scullion is the representative of the Minister for Families, Community Services and Indigenous Affairs in this chamber. He is responsible for those matters and is therefore responsible for answering questions on behalf of the government, which include the behaviour of its members and the attitude of the government. So it is perfectly reasonable for the question to be asked of Senator Scullion. Further, there is no point of order in relation to police inquiries. Police inquiries may well be occurring. This goes to the question of the behaviour of the minister and the behaviour of members of the government, and how that reflects on them and government policy. There have been no charges laid, there are no court proceedings underway, as I understand it, and therefore there is no reason why the government should not be held accountable in this chamber.

The PRESIDENT—Senator Scullion, as minister you may answer those parts of the question that are relevant to your portfolio.

Senator SCULLION—Thank you, Mr President. I do not really wish to go to the detail, particularly details of places where I was not present or to reflect on anyone where I was not present. To my knowledge, there was no consumption of alcohol by anyone in the party anywhere on the island. I do not wish to bore those in this place with any detail, but the allegations that Senator Crossin refers to are allegations about an airport. Going to the facts of the matter, I did not attend that place; I actually stayed on the vessel. So it is a long bow to draw.

With regard to the notion that this is somehow insensitive in some way, all I can say is that I went to great efforts to communicate the intention of the trip with the Tiwi Islands council. I was given the advice that we should seek certain permits, which we got. They had full knowledge of the nature of the trip, where we were going and what we were doing. I sought their advice and complied lawfully in every way.

Alcohol Abuse

Senator ALLISON (2.46 pm)—My question is to Senator Ellison, the Minister representing the Minister for Health and Ageing. Earlier this year, Minister Pyne said it was
‘naive and dangerous’ to suggest that alcohol kills more people than illegal drugs. Why does the minister not admit that alcohol is second only to tobacco as the leading cause of death and hospitalisation? Why does he not admit that 3,000 Australians die every year due to alcohol abuse compared with 1,000 deaths from illegal drugs, and that alcohol abuse costs $1.2 billion a year and an unknown number of assaults, rapes and cases of domestic violence? Minister, a report this week says that one in eight Australians is at risk of alcohol related brain injury. When will your government stop being soft on alcohol, or is it only Indigenous drinking that your government is concerned about?

Senator ELLISON—The government does not take lightly the issue of alcohol and its effect on the Australian community. In fact, in the Tough on Drugs strategy we have always emphasised that part of the strategy involves a strategy for dealing with alcohol abuse. I think that that has been made clear by successive ministers who have dealt not only with the health portfolio but also with the law enforcement portfolio and education. Certainly the Australian government shares the concerns of the wider community in relation to the effects of alcohol abuse. Through the framework of the National Alcohol Strategy, the Australian government has committed along with the states and territories to comprehensively promote more responsible drinking. The strategy outlines priority areas for coordinated action to develop drinking cultures that support a reduction in alcohol related harm in Australia. I think the important point of the national strategy is that it recognises that the issue of alcohol is something to be dealt with across not only all governments of Australia but also non-government organisations and community groups. It is not something only in the remit of the Commonwealth government of Australia. We cannot be successful if we do not have those partnerships with other governments and non-government organisations.

The Australian government has committed over $25 million over four years to review and update the Australian Alcohol Guidelines and to conduct a National Safe Use of Alcohol Strategy media campaign commencing in 2007-08. Within that framework set out in the National Alcohol Strategy, the campaign will aim to reduce the perceived acceptability of intoxicated behaviour; to increase awareness of the Australian Alcohol Guidelines, standard drink labels and measures, and what constitutes low-risk drinking—and that is directly relevant to the recent report in relation to suspected brain damage from alcohol abuse; and to increase community awareness of the significant cost of the harmful use of alcohol to individual families and communities.

In addition, the Australian government has a number of initiatives which seek to promote low-risk drinking behaviour and a more responsible drinking culture in Australia. These include the National Alcohol Harm Reduction Strategy, which involves funding of over $4 million to build on existing partnerships, to increase awareness of the concept of a standard drink and to promote responsible drinking behaviours. As well as that, DrinkWise Australia received $5 million from the Australian government last year to conduct alcohol education programs using industry experience in promoting those programs. This funding also provides an opportunity for government to work together with industry to raise awareness about the harms associated with alcohol abuse. The 2007 budget included an investment of an additional $79.5 million to expand the Non Government Organisation Treatment Grants Program to ensure more treatment places and services for people with alcohol and other drug problems, and to increase the provision of those services. So you have a range of
expenditure by this government in relation to alcohol strategies dealing with the rehabilitation of people who have a substance abuse problem, dealing with education and partnership with non-government organisations and tying in with the National Alcohol Strategy, which has been signed up to by the states and territories.

This is a very serious issue on which the Ministerial Council on Drug Strategy has been working for some years. In relation to my own prior involvement in the justice ministry, we were making contributions in relation to drink spiking and other dangerous practices. This is a serious issue and we take it seriously. (Time expired)

Senator ALLISON—I ask a supplementary question, Mr President. The minister says the government spends around $100 million on alcohol problems, but how much is spent on illicit drug problems in this country? Why does your government continue to ignore the advice that could save lives? Why won’t you reform taxes to promote low-alcohol products or enforce stricter regulation on sales and marketing or properly label alcoholic products?

Senator ELLISON—The licensing of the sale of alcohol is primarily the responsibility of the state and territory governments—and I do not say that in any way to move away from the Commonwealth responsibility in this area. But Senator Allison should understand that, in relation to this issue, the basic administration and the laws that relate to the supply of alcohol are state and territory laws. We are working with the state and territory governments in relation to dealing with alcohol as a problem in the wider community, and we will continue to do so.

Hospitals

Senator CHRIS EVANS (2.52 pm)—My question is directed to Senator Ellison in his capacity as Minister representing the Minister for Health and Ageing. Is the minister aware that the Burnie City Council has expressed serious fears that the government’s Mersey hospital intervention could undermine the Burnie hospital’s viability? Don’t the council’s concerns support those expressed by Burnie based senator Senator Parry that the PM’s intervention at Mersey was a disaster and that instead the Mersey hospital should have been closed? Did the government undertake any consultation with the local community or even with its own senators before the Prime Minister intervened in this matter, or was its only consultation that with Crosby Textor?

Senator ELLISON—The issue of the Mersey hospital in Devonport is of great concern to the community in Devonport and is one which the government listened to. This initiative is in clear response to the views of the local community, which is concerned about the Tasmanian government’s withdrawal or downgrading of services at the Mersey hospital. We have a situation where funding of around $45 million a year is proposed to fund the Mersey hospital in northwest Tasmania to provide a full range of hospital services treating public and private patients in Devonport and surrounding areas. That is as a result of direct community concern from the people in that area.

What is important is that there will also be community involvement. The Mersey Community Hospital will continue to provide a full range of services, as I say. The Mersey Community Hospital Trust will oversee the running of the hospital and will be composed of locals to serve locals. Members will include local health professionals, business leaders and regional local government. The Commonwealth will protect the entitlements of staff at the Mersey hospital as the transition is made to the new governance arrangements.
The Mersey hospital scheme is of course a pilot scheme, as announced by the government, and is of national significance. This plan could well be applied elsewhere in Australia if successful. I reiterate that no decision has been made at this stage. If Senator Evans has any doubt about the feelings of the local residents in the area of Devonport, north-west Tasmania, he should go there and ask them, because the clear message that we have got as the Commonwealth government is that the downgrading—in fact, the withdrawal—of services in that area in relation to the hospital was of great concern to the local community. The Australian government has responded to those local concerns.

SenatorChris Evans—Mr President, I ask a supplementary question. The question to the minister is: did he consult more widely before the Prime Minister intervened? Did the Prime Minister speak to people like Senator Parry, who live in neighbouring communities, about the wisdom of such an intervention? Does he share the concerns of the Burnie City Council and his own government senator Senator Parry that in fact this intervention will have a terrible effect on the other services provided in the region? Minister, why didn’t the government consult the Minister for Finance and Administration or its own senators before rushing off for this ill-thought-through proposal? Why didn’t you assess the impact on other communities before taking this step?

Senator Ellison—The issue is the community concern in Devonport in relation to the Mersey hospital and the downgrading and withdrawal of essential services for the people who live in that immediate region. You listen to the community on the ground, and that is what the Commonwealth government has done in this case. It is remedying a situation which has been neglected by the Tasmanian state government.

It is interesting that Mr Rudd, the Leader of the Opposition, when he was questioned by Fran Kelly, kept his options open. He said: ... as soon as I have before me a comprehensive piece of paper which explains to me what the proposed management model is for this hospital for the future, and how it’s to be constructed, organised and delivered on the ground and integrated with the surrounding health care infrastructure of Northern Tasmania, I’ll give you an answer.

We have an issue here that requires a decision and not sitting on the fence. We are responding directly—(Time expired)

Homelessness

Senator Payne—My question is to the Minister for Community Services, Senator Scullion. Will the minister inform the Senate of the outcome of the government’s early intervention response to the very serious policy problem of homelessness?

Senator Scullion—I thank the senator for her question. The issue of homelessness is very important to all Australians. This week is Homelessness Week. It is an opportunity to mark the situation that many Australians find themselves in and to have a look at government and community responses to homelessness.

I hosted a breakfast this morning with the community sector that focused on the changing face of homelessness. All the statistics and reports are telling us, about the traditional demographic of homelessness—and I think most of us would have the stereotype of a single man, a recovering alcoholic—that that stereotype is in fact completely untrue. More and more people on the streets are now being characterised as family groups, and there is an increasing demographic of women. It is very important to continue to focus on the data and information that flows
from the sector. The demographic is changing so quickly and it is such a sophisticated challenge, and that data provides us with some objective analysis to ensure that we can change the policy parameters as the circumstances change.

I was absolutely delighted to be able to launch a report yesterday that showed that one of the programs the Australian government is running, the HOME Advice program, is responding very effectively to the needs of families who are at risk of becoming homeless. Of course, as many ministers have reflected in this place, in a general social policy outcome, it is our policy to provide effective early intervention as the fundamental for our policy. This particular program is the Household Organisation Management Expenses (HOME) Advice program and it is not a matter of just taking my or the government’s word for how wonderful and successful this program has been. An independent evaluation report by the Institute for Social Research from Swinburne University of Technology provided this report. I was delighted to see such fantastic outcomes in this report, not only because I am in government and we think it is tremendous to have good programs but because the nature of the outcome of this program is really quite astounding.

Ninety-two per cent of families who went through the program managed to stabilise their housing situation. In other words, people who were at serious risk of homelessness presented themselves to this program, and 92 per cent of them averted homelessness, which I think is an absolutely fantastic outcome. The majority of the families, 93 per cent, also had their immediate financial crisis which was causing the homelessness resolved. Possibly the most important result that the report drew was that the results were not just short term. This is a longitudinal study, so between six and 12 months after the intervention the people were still in a good financial situation and not homeless or at risk of homelessness. This is an absolutely fantastic outcome and a great program that has some really sustainable deliverables. Of course, being homeless is not just about not having a roof over your head; it is about the causal effects of being homeless. It may well be mental illness, a disability, substance abuse, violence, family breakdowns—they are all part of the tragedy of homelessness. The HOME Advice program gives families flexible support over an extended period, including family counselling, finding employment, developing budget skills, accessing training, education and advice and, of course, engaging the real estate area to ensure that this does not happen again. It is an absolutely fantastic program and this government will continue to respond to the ever-changing challenges of homelessness.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Housing Affordability

Senator SCULLION (Northern Territory—Minister for Community Services) (3.02 pm)—On 20 June 2007, Senator Humphries asked me about housing affordability and the loss of housing stock in both the Australian Capital Territory and nationally. The figures for housing stock reduction in the ACT given in my answer were correct for the period up to 2005, not since 2005. The Australian government’s draft independent audit of government contributions to housing assistance showed that there were 637 fewer social housing dwellings funded under the Commonwealth-State Housing Agreement in the Australian Capital Territory between the periods 1996-97 and 2004-05. The report also showed that, nationally,
there was a loss of 13 dwellings for the same period. I would like the record to reflect these facts.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS
Answers to Questions

Senator CARR (Victoria) (3.03 pm)—I move:

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

In particular, I would like to take note of the response by Senator Minchin to my question about the negligent way in which he has been performing his duties.

In the Financial Review today is a list of programs that the government has announced since the budget, which is totalling the better part of $8 billion. We have seen that the government is now outspending Labor by a figure of almost three to one. What we have seen, of course, much to the government’s chagrin as shown by the Crosby Textor reports that have been presented by some helpful soul from the government to the Murdoch press, is that this desperate spending binge has not made any serious impact on the government’s popularity, simply because the Australian people are awake to the clever politics that this Prime Minister thought that he had perfected over his long period of time in office.

However, what we have seen is the extraordinary running-down of the standards of professional conduct within the government itself. In May, this minister told us that he saw his role as being the custodian of taxpayers’ money, whose job it was to make sure that the money was spent wisely. But when it came to the spending of $10 billion, costings were presented to the public which basically reflected a ‘back of the envelope’ approach that had been taken. We saw a similar case in regard to the Northern Territory intervention program, where the program had grown from some tens of millions of dollars to $587 million a year. And, again, no serious action was taken by the Department of Finance and Administration to cost those initiatives.

Now we are seeing a proposal for a takeover of the Mersey hospital in Tasmania of some hundreds of millions of dollars a year. It has been stated here on a number of occasions this afternoon, even from the government’s own backbencher, Senator Parry, who has said that this would be a disaster. He has reflected the attitude, as I understand it, of many in the local community. If Senator Parry doubts what I am saying is the case, he has the opportunity, and I would urge Senator Parry, to make a personal explanation. If he says that this is not what his attitude is, if that is not what he is saying, then he can make a personal explanation and correct the record. It has been put in this chamber that that is what you are saying, Senator Parry. So this is your chance. Correct the record. If you have not been saying that this is a disaster—

Senator Ian Macdonald—I raise a point of order, Mr Deputy President. Should the speaker be talking directly to other senators, or should he be referring his comments through you?

The DEPUTY PRESIDENT—You should be referring your comments to the chair, Senator Carr.

Senator CARR—Thank you, Mr Deputy President. At least I am talking to Senator Parry, which is more than this government is doing. If Senator Parry had had his way, he would have explained to the government that their actions were a disaster. What the Burnie City Council is drawing to their attention is that the proposition being advanced is essentially based on polling. It is based on the Textor formula of trying to buy your way
back into office. It is not based on any serious analysis of the needs of the region or of the capacity to actually provide services to the people.

This is what the Burnie City Council said: You can’t possibly try to fractionate the services in a small region like this, it really will spell ultimately the end of Burnie Hospital and probably the end of Mersey.

That is the situation, and Senator Parry acknowledges what I say to be the case. He acknowledges that that is the view that is being expressed by the Liberal Party in the region, but that is not the view, of course, that this government seeks from its own backbench. We have a situation now where this government is being driven by poll desperation. It is a government that will say anything, do anything and spend anything in a desperate bid to cling to office. We have a government that essentially ignores not only its backbench; it ignores its frontbench! It ignores the Minister for Finance and Administration. It basically provides him with the occupation of doormat. In fact, I ask the question of Senator Minchin: how do you pick up your pay every month? How do you pick up your pay when you are treated with such contempt by this Prime Minister? Why is it that you are not doing the job that you said you would do in the Senate?

Senator Patterson—Mr Deputy President, I raise a point of order. Senator Carr has already been reminded that he should address his comments through the chair, and he is addressing them straight to the Leader of the Government in the Senate. I ask you to bring him to order.

The DEPUTY PRESIDENT—Senator Carr, your comments should be directed through the chair.

Senator CARR—Once again, I thank you for your observation, Mr Deputy President. At least I speak to the senator, unlike the rest of the government. He is being ignored, he is being treated with contempt and he is essentially performing the function of the doormat of this government. It is a tragedy to see a person who had such high standards in the past, who explored such very noble sentiments about the role that he was to perform, being treated in such a contemptuous manner. It is very sad that it is the opposition that has to come to his defence. (Time expired)

Senator FIFIELD (Victoria) (3.09 pm)—If you hang around politics long enough you really do see everything—the great centralising party of Gough Whitlam has become federalist. The Australian Labor Party has become the great champion of states’ rights. Labor is now arguing that the Commonwealth is treading on the sacred rights of the states and territories, as though Commonwealth-state relations are somehow fixed. The truth is that federalism is constantly evolving.

I will let those senators opposite in on a little secret: the Commonwealth actually have no great desire to directly fund state hospitals; we do not have a great desire to put money into schools to pay for carpets, classrooms and air conditioners; we do not have a great desire to intervene in health, education, law and order and housing in the Northern Territory. It is not actually the Commonwealth that is putting the states out of business; it is the states themselves that are putting the state governments out of business. If the states were not abrogating their core responsibilities, if they were not failing to execute their core functions, the Commonwealth would not have to intervene in areas such as the Mersey hospital. We would be quite delighted if state Labor governments looked after their core responsibilities.

But, if a vacuum is created in core services, that vacuum will be filled, and the
public quite rightly will ask government to fill that vacuum. We have seen it in the area of schools, where the states do not ensure literacy and numeracy standards. We have seen it in the area of school facilities, where they will not ensure adequate facilities. We have seen it with state governments not ensuring adequate urban water supplies. We have seen it with states not ensuring adequate public hospitals and decent public transport.

Quite clearly, federalism is not working as it should. We as a government did try to breathe new life into federalism. We introduced the GST because the states said that they wanted a secure and growing revenue source. So we give every single dollar to the states and territories. In 2007-08 we will be giving them $41.9 billion. Silly us—the Commonwealth government—we actually thought that this money would give the state and territory governments the freedom and the ability to fund their core services, which is what they were asking for. But the state governments are not doing that and that is why we have had to step into the Northern Territory, the Mersey hospital in Tasmania, and schools: it is because those basic and core services were not being provided.

Labor’s ‘killer’ point today in the debate about the Mersey hospital was costings. They allege that the government had not undertaken costings. As Senator Minchin has said, it is not unusual for prime ministers to announce policy intention and for that to then go through the regular processes of government, including costing by relevant agencies. There is nothing unusual at all about that.

I come back to the point that we will give, in 2007-08, $41.9 billion of GST revenue to the states and territories. Despite that sort of money being in the hands of the states and territories they still cannot provide basic services. Despite the fact that in the five years to 2010-11 the state governments will be borrowing $70 billion—going into debt to the tune of $70 billion—they still cannot afford those basic services. In contrast, we have paid off Labor’s debt, we are running a surplus, we are providing our core federal government services and we are also providing core state government services. What the state governments do, I do not know.

Coming back to the issue of costings, I take a little bit of heart from the fact that Labor are raising the issue of costings. In the 1998, 2001 and 2004 elections we, along with the departments of Treasury and Finance, waited in vain for Labor to submit their policies for costings. In 1998, Labor submitted only 36 per cent of their commitments for costings and, of those 36 per cent, 100 per cent were submitted too late to be costed by the Finance and Treasury process. In 2001 it was no better. In 2004 it was the same again, with something of the order of 20 significant policies not submitted by Labor for costings. Labor have no interest in transparency, they have no interest in accountability and they do not put their policies in for costing in the election period. We will; we do. (Time expired)

Senator LUNDY (Australian Capital Territory) (3.14 pm)—We can feel an election in the air at the moment, because, six weeks out from the calling of an election, we can start to see the Howard government say and do anything. They have form on this, and they have been building up to a crescendo for quite some time. It is very clear now that the Howard government have one strategy and one strategy only. Fortunately, we do not have to look too far to understand what it is, because most of it was laid out on the front pages of the nation’s newspapers just yesterday. When we look at the tactical, strategic and political spin constructed by Crosby Textor, no less, we see that the Howard govern-
ment’s pollster has been engaged to do the government’s work. More than anything else, what this tells us is that not only are the Howard government completely void of any true leadership and vision for this country but they need Crosby Textor, like a crutch, to tell them what to do in an election year.

The stakes are always high in an election year. There is no doubt about that. We are always trying to come up with the best policies. But, I have to say, even I was amazed at the bluntness and the completely led-by-the-nose approach of the Howard government in following that Crosby Textor line. Evidence of this is very clear for all of us to see. At the same time this material was leaked, we saw the strategy being played out on the ground. The best example this week is that of blaming the states. There it was from Crosby Textor: ‘Blame the states; good strategy. It will give us some cover.’ And there we had it: the Prime Minister, standing proud and tall, saying, ‘The states are to blame for everything, including interest rates.’ He cannot back away from the fact that there have been eight consecutive interest rate rises in Australia and we are on the verge of a possible ninth. So what does Mr Howard do? He blames the states for this. This is evidence not only that he has lost touch with what working families are going through but also that he is incapable of thinking for himself on how to manage the issues in an election year—and he relies on the crutch of Crosby Textor to tell him to do the latest trick and spin, which is to blame the states.

This amounts to nothing more than a deceitful attitude to the population of this country, because it undermines any claim by the Prime Minister of having leadership and a voice for the future. He is trying to build a campaign around this whole experience thing, but the evidence we now have before us shows that he is incapable of doing that. His attempts to blame the states for interest rate rises come nowhere near passing the believability test for Australia’s families. Everybody knows that interest rates have always been the responsibility of the federal government. I note with interest as well—just to remind people of the rapidly sliding credibility of the Prime Minister, who people now know cannot think for himself and does not have a leadership bone in his body—that he never mentions that when he was Treasurer in the 1980s interest rates hit an all-time high of 22 per cent. So, make no mistake, state governments of all political persuasions have always borrowed for infrastructure—for things like roads, schools, electricity, water and hospitals. And we all know that that lifts the productivity capacity of the economy and puts downward pressure on interest rates. So there is nothing the Prime Minister can say at all to spin this around and suggest that interest rate pressure is coming from the states. He has been discredited by economic commentators. He has been discredited politically. And, thanks to the Crosby Textor argument, he has been discredited—finally—because Australians now know that there is no substance to the Prime Minister.

Concluding on the Mersey hospital circumstance, under the Howard government the Commonwealth’s share of public hospital funding fell from 50 per cent to 45 per cent between 2000 and 2005. In the last health funding agreement with the states, the Commonwealth ripped $1 billion out of public hospital funding, and the government has no strategy to prevent illness and promote health, resulting in 500,000 preventable hospital admissions each year. The shortage of GPs puts immense pressure on public hospitals because of people presenting to emergency. All of these things the Howard government is responsible for, yet the Howard government has done nothing. (Time expired)

Senator BARNETT (Tasmania) (3.19 pm)—It is a great pleasure to speak on this
particular motion and to ask the question right up front: why was the question asked by a Labor senator from Queensland to our leader in the Senate, Senator Nick Minchin, rather than by a Tasmanian Labor senator? I think I know the answer. The answer is that Labor want to fudge their position. It is very sad and disappointing that federal Labor want to do that. The candidate for the Labor Party in the seat of Braddon is having two bob each way. In fact, it is a really big fudge of his position, and he has been caught out. He has been caught out by Senator Richard Colbeck today. In a statement, he has made it clear that the Labor candidate for Braddon is refusing to commit to a position on the Mersey hospital. It is a downgrading of that hospital by the state Labor government, and the federal Labor candidate will not to commit to that hospital. He will not take a position. We have seen that that hospital will be and is being downgraded by state Labor.

However, in today’s media we note the state Labor member for Braddon, Brenton Best. What does he say about the federal policy? What does he say about the Prime Minister’s announcement of 1 August? He says, ‘Bring it on.’ In today’s Advocate, he said: ‘The Prime Minister, John Howard, should start to roll out his Mersey hospital rescue now.’ He went on to say: ‘I do not think it is a huge challenge. If the money is there, he—meaning the Prime Minister—should do it now instead of mucking around until July next year.’ That is one of the candidates who have the guts to stand up and express their position. But, again, Sid Sidebottom, who is the federal Braddon candidate for Labor, simply does not have the guts to nail his colours to the mast—unlike our Liberal member for Braddon, Mark Baker.

Fascinatingly, a former state Labor candidate, now mayor of the Latrobe City Council, Mike Gaffney, has an opinion piece in the Advocate today. In it he says:

Congratulations to Mark Baker and his staff for their efforts which have surely put the eyes of Australian on the Mersey Community Hospital in our municipality.

The mayor supports the decision to retain services at the Mersey hospital. He opposes the views of Lara Giddings and the state Labor government. So there is a mishmash of opinions between state Labor and federal Labor in Tasmania. Yes, the Prime Minister’s commitment is categorical and clear. In fact, the Minister for Health and Ageing, Tony Abbott, whom I spoke to last night, is in Tasmania today outlining his views and his plans for the Mersey Community Hospital, supporting Mark Baker and seeking information and advice from the state government. In fact, the minister had a meeting earlier today with the Minister for Health and Human Services, Lara Giddings. I can advise the Senate that the feedback that I have is that the state Labor government, and Ms Giddings in particular, has been unhelpful. In terms of her approach to providing information, the meeting has been very limp and dilatory. Despite a genuine effort and an offer from the Australian government to put $45 million or thereabouts on the table, the response has been dilatory at best and most definitely unhelpful. In my view, it is really a matter of priorities as to how they wish to get the money.

Let us look at the big picture. They have $700 million to run public hospitals in Tasmania. That was increased by $220 million, so it is now $920 million over a five-year period. That is a 17 per cent increase in real terms over that period. In addition to that, you have a $117 million GST windfall. The money is there; it is a matter of priorities. What are they doing with that money? I want the state Labor government to lay out the plans for the extra $45 million. What are they going to do with that money? I know that Ben Quinn, the federal Liberal candidate
for the Lyons electorate, wants that money spent, as do I, at Rosebery and Ouse in those hospitals that need it so much. Those communities are screaming out for it and the federal Labor member down there has done very little to support those communities. Ben Quinn, on the other hand, has done a great deal and I commend him and congratulate him. (Time expired)

Senator MOORE (Queensland) (3.24 pm)—The answers given by the various members of the government today reflect the core issue that we are struggling with on a daily basis in this place. There are so many issues that demand and require a cooperative relationship between state and federal governments. The need to work together to effectively fund and come up with a transparent response to the issue has been transcended today into the same old model responses.

The government’s response is, firstly, do not listen to the question; just give the answer written on the little piece of paper in front of you. We have heard today what that piece of paper says. I do not pay much attention to media leaks—they happen all the time. Certainly, over the last few days there has been considerable media attention to a plan supposedly that has been put out within the Liberal government containing concerns about how they are moving towards this election. We all know it is going to happen soon and there have been quite significant leaks in the media about what the government’s model will be as we lead into the next election. Their model is very clear: attack the states at every opportunity, blame the states for all problems and talk about state finances, state leadership and state policies but do not talk about the federal government’s responsibilities in this process. We saw this today all the way through question time: there was detailed analysis of various state budgets. But the government’s responses only went across the top, with a cursory look at selected areas, various state budgets and the amount of lending and processes that have gone on.

We can talk about that all day, but that is not our job. Our job is to look at how, as part of the federal parliament, we can most effectively deal with the issues for which we are responsible. That does not mean allocating blame, not listening to what the core issues are and just dumping the messages that make the most effective media grab. Also we have returned to exactly the same old process of trotting out links of union thuggery. Again, Minister Abetz waved around three pieces of paper that impugned various people and talked about processes within the Labor Party including our very transparent and known links with the union movement. There is no argument about the fact that there are links between the Australian Labor Party and the union movement. But is it a really effective response to a question that does not mention those issues to wave paper around and cause fear, division and antagonism?

Once again, the response was to go for the individual, go for the person and attack their credibility. That is not an effective answer to any question, not a process for moving forward and not an explanation of a policy development but rather a quick, easy attack to which we are all supposed to sit on this side of the chamber and say: ‘That’s got us. We can’t respond to that. We may as well go home.’

We have this ongoing process such that, when questions are asked, it is immediately an opportunity for someone to attack. People have asked quite clear questions about detail of policy, detail of funding and in particular what is happening in what should be a cooperative arrangement between state and federal governments. They were clear questions of meeting the demands of health care and education and, in particular, we were talking
about what is happening in the Northern Territory at the moment with the major expenditure that is going on there. When people asked questions about detail, funding and expenditure across the period of time, the response was not to answer the question or respond to the requirements of those questions but rather to come up with a glib response which automatically blames the Territory government and does not look at our collective responsibility.

Much has been said about the environment in which we are operating now as we move towards an election. So many things will be coloured by people’s attention; they will try to grab the media and try to grab whatever small moment of attention they can claim. Through that process, we must be clear that, when there is a request for information, there is no attempt to hide. There should be a simple understanding that, when questions are asked, there is a need for an answer. There may not be agreement in the response but at least we should be able to get detailed costings and a detailed understanding rather than just being caught up in some ongoing debate about which side is stronger, bigger or greater than the other. *(Time expired)*

Question agreed to.

Alcohol Abuse

Senator ALLISON (Victoria—Leader of the Australian Democrats) *(3.29 pm)*—I move:

That the Senate take note of the answer given by the Minister representing the Minister for Health and Ageing (Senator Ellison) to a question without notice asked by Senator Allison today, relating to alcohol abuse.

On the very day when we are to deal with a massive set of bills, one measure of which is to completely ban alcohol in Indigenous communities, the best this government could do to defend itself regarding the very serious problem that is looming not just in Indigenous communities but more broadly in society is to provide a list of spending programs—$3 million, $4 million and $25 million over several years—in answer to my question.

In fact, Australia spends about $1.3 billion on drug policy to do with illicit drugs, but only a very small amount on alcohol abuse. As we know, alcohol is a major contributor to death, to hospitalisations and, as we found out this week, to serious brain injury in this country. So, in the same week that we are dealing with this legislation, the Prime Minister has effectively scoffed at the fact that Defence Force soldiers were seen binge drinking in a YouTube video, and ARBIAS produced a report about alcohol related brain injury, in which it said that more than two million people are risking brain damage through alcohol abuse. We also saw a story about the alcohol industry targeting young people with ready-to-drink alcopops and that these posed very serious problems.

Research shows that 7½ million working days are lost due to alcohol abuse, and the economic impact of that amounts to $1.2 billion every year. Families are also torn apart, domestic violence is rife as a result, and we are experiencing that in our hospital system. Police services are being overstretched as a result, and our courts are being clogged up. In fact, 10 people die every day in Australia as a result of binge drinking.

Of course, it does not suit this government’s ideology to deal with this problem. It would much sooner look at illicit drugs and say, ‘This is the real problem that is being faced in this country.’ That is certainly where all of the money is going. It just is not reasonable, because, as I said, around one in eight Australians right now risks alcohol related brain damage because of current risky drinking levels. The researchers that pro-
duced this report said that the future, in terms of brain damage, is looking very grim because of the very high levels of binge drinking and consumption generally in the younger age group. Some of this brain damage will not be seen until some years hence.

It is important that governments turn their minds to this issue, look at the tax system and see how low-alcohol products might be facilitated. For years and years, people have been calling for better labelling on alcohol products. The very tiny writing at the back of the product is not enough to tell parents that under-age drinking is not safe in any quantity. I gather that a proposal is being developed on labelling of alcohol products, but it is too little, too late. In the meantime, alcopops are out there. They are very sweet drinks that resemble fruit drinks and which have an alcohol content that is equivalent to that of full-strength beer. It is not good for teenagers in particular to be drinking these products, and drinking them in a way which is making them drunk, very often in a binge drinking kind of way.

It is disappointing that that was all the minister could come up with. There was no mention of tax reform, serious labelling reform or of whether or not, and how, the government might be working with the states on questions like marketing, advertising and point-of-sale opportunities. There are far too many outlets. We know this about Indigenous communities—places like Alice Springs have huge numbers of grog outlets.

(Time expired)

Question agreed to.

PETITIONS

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

Child Abuse

The Australian Government should do all it can to combat the production and transmission of material depicting child abuse and child pornography.

Transmission of such material by post is a serious offence but is not recognised as such under Commonwealth law, and offenders do not receive the penalties they should.

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

This petition of certain citizens of Australia draws to the attention of the Senate, the lack of a specific offence covering the transmission of child pornography and child abuse material via mail within Australia.

Your petitioners therefore ask the Senate to make laws that:

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

by Senator Calvert (from 108 citizens)

Immigration

The humble Petition of the Citizens of Australia, respectfully sheweth:

That we reaffirm our support for the Constitution of the Commonwealth of Australia which states “Whereas the people of New South Wales, Victoria, South Australia, Queensland and Tasmania humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth (“Constitution Act 9th July 1900) and the affirmation of 69% of our Australian population that they are Christians, and the statement of one of our founders that “this Commonwealth of Australia from its first stage will be a Christian Commonwealth” (Sir John Downer 1898), and the Opening Prayer of the Parliaments “Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory” and recognises the importance of these beliefs in ensuring the ongoing stability and unity of our Christian nation.

Your petitioners therefore pray the Parliament of Australia will:

1. Review our Commonwealth Immigration Policy to ensure the priority for Christians from all races and colours, especially from persecuted nations, as both immigrants and refugees.
2. Adopt a ten year moratorium on Muslim immigration, so an assessment can be made on the social and political disharmony currently occurring in the Netherlands, France and the UK, so as to ensure we avoid making the same mistakes; and allow a decade for the Muslim leadership and community in Australia to reassess their situation so as to reject any attempt to establish an Islamic nation within our Australian nation.

And your petitioners, as in duty bound, will ever pray.

by Senator Calvert (from 24 citizens)

Petitions received.

NOTICES

Presentation

Senator Siewert and Senator Bartlett to move on the next day of sitting:

That the provisions of the Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 be referred to the Community Affairs Committee for inquiry and report by 10 September 2007, with particular reference to:

(a) the likely effects of the new income management regime on the health and well-being of children in affected communities;
(b) the demonstrable need to restrict the appeal rights of those on the new income management regime in affected communities;
(c) the interaction of the bill with the Racial Discrimination Act 1975 and the extent to which the provisions can be characterised as ‘special measures’; and
(d) the effects of these measures on community governance and the development of remote communities.

Senator Bartlett and Senator Siewert to move on the next day of sitting:

That the provisions of the Northern Territory National Emergency Response Bill 2007 and the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007 be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 10 September 2007, with particular reference to:

(a) the relevance of the acquisition of Aboriginal land and changes to the permit system to address the problems of child protection, health and development;
(b) the possible impacts of the prohibition of alcohol on child safety;
(c) the interaction of the bills with the Racial Discrimination Act 1975 and the extent to which the provisions can be characterised as ‘special measures’; and
(d) the effects of these measures on community governance and the development of remote communities.

Senator Allison to move on the next day of sitting:

That the Senate:

(a) notes that, on 6 December 2006, 125 nations voted in favour of United Nations General Assembly Resolution 61/83, which, inter alia, called on all nations immediately to commence multilateral negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons, and providing for their elimination;
(b) supports the International Campaign to Abolish Nuclear Weapons in its endeavour to persuade nations to commence negotiations leading to such a convention; and
(c) urges the Government to promote, at international forums such as the Conference on Disarmament and the United Nations General Assembly, multilateral negotiations leading to such a convention.

Senator Allison to move on the next day of sitting:

That the Senate:

(a) notes the growing body of evidence for the harmful effect of sexualisation in the media of children, especially young girls, including the:
(i) negative impact on development, self-image and emotional development in-
cluding shame, anxiety and even self
disgust,
(ii) increased incidence of eating disorders,
depression and low self-esteem,
(iii) negative consequences in terms of the
ability of girls to develop health sexual-
ity, as well as unrealistic and/or nega-
tive expectations of their sexuality, and
(iv) the promotion of negative stereotypes
of women as sex objects; and
(b) urges the Government to establish an ex-
pert advisory group including representa-
tives of major mental health professional,
marketing and media organisations, as
well as young women themselves, to:
(i) support research into the effects of the
sexualisation of children by the media
in Australia, including the:
(A) sources and beneficiaries of sexuali-
sation,
(B) short- and long-term effects of view-
ing or buying sexualising and objec-
tifying images, and their influence
on cognitive functioning, physical
and mental health, sexuality, atti-
tudes and beliefs, and
(C) effectiveness of different approaches
to reducing the amount of sexualisa-
tion that occurs and to ameliorating
its effects, and
(ii) report and make recommendations on
effective programs and interventions
that promote positive alternatives and
approaches and reduce the use of sexu-
alised images of children in all forms
of media and products.

Senator Murray to move on the next day
of sitting:

(1) That the Senate, noting concern in the
community at the abuse of alcohol, asks
that the Government refer the following
matter to an appropriate body or a spe-
cially-established task force for inquiry
and report:
The need to significantly reduce alcohol
abuse in Australia, especially in geo-
graphic or demographic hot spots, and
what the Commonwealth, states and terri-
tories should separately and jointly do
with respect to:
(a) the pricing of alcohol, including taxa-
tion;
(b) the marketing of alcohol; and
(c) regulating the distribution, availability
and consumption of alcohol.

2) In undertaking the inquiry regard is to be
had to:
(a) economic as well as social issues;
(b) alcohol rehabilitation and education;
(c) the need for a flexible responsive and
adaptable regulatory regime; and
(d) the need for a consistent harmonised
Australian approach.

Senator Bartlett to move on the next day
of sitting:

That the following bill be introduced: A Bill
for an Act to amend the Migration Act 1958 to
restore rights and procedural fairness to persons
affected by decisions taken under that Act, and for
related purposes. Migration Legislation Amend-
ment (Restoration of Rights and Procedural
Fairness) Bill 2007.

Senator Bartlett to move on 9 August
2007:

That the Senate:
(a) notes that:
(i) 9 August 2007 is International Day of
the World’s Indigenous People,
(ii) it marks a day that we honour and pay
respect to Australia’s First Peoples as
well as Indigenous peoples across the
world for their traditions and knowl-
dge, as well as to the valuable contribu-
tion they have made to the cultures
of the world and to environmental con-
servation, and
(iii) it is appropriate to reflect on the posi-
tive advancements that have been made
internationally to protect the rights of
Indigenous peoples and to guarantee
them equal treatment, as well as to pro-
vide a reminder of how much more needs to be done; and

(b) calls on the Government to support the adoption of the Declaration on the Rights of Indigenous Peoples when it is considered later in 2007.

Senator Bartlett to move three days hence:

That the Senate:

(a) notes the report by Voiceless, the fund for animals, From Label to Liable: Scams, Scandals and Secrecy—Lifting the veil on animal-derived food product labelling in Australia which reports that:

(i) most jurisdictions in Australia do not require animal-derived food products to identify the farm production system from which they have been sourced,

(ii) the majority of Australia’s animal-derived food products such as pork, chicken and eggs are sourced from factory farms where animals live their lives in conditions that most people would find unacceptable if they were fully aware of them,

(iii) a number of terms are currently used to differentiate animal products such as barn laid eggs, free range, open range or range eggs, grain-fed beef, free-range, bred free-range, organic and biodynamic but most of these terms are not defined in legislation, which means there is broad scope for consumer uncertainty as to their meaning, and

(iv) Australia has no standard for labelling of vegetarian or vegan products; and

(b) calls on the Government to explore the need for clear and enforceable national standards, identifying the farm production system from which food is sourced.

Senator Payne to move on the next day of sitting:

That the Senate:

(a) Australia’s public diplomacy— to 16 August 2007; and

(b) Australia’s involvement in international peacekeeping operations— to 25 October 2007.

Senator Stott Despoja to move on the next day of sitting:

That the Senate:

(a) notes that:

(i) 8 August 2007 is the 19th anniversary of the pro-democracy uprising in Burma, an uprising brutally suppressed by the Burmese military regime,

(ii) the Burmese military junta refused to recognise the results of democratic elections in 1990 that saw the National League for Democracy (NLD) emerge with a clear majority,

(iii) the National Convention in Burma, whose role is to recommend changes to Burma’s constitution aimed at legitimising military rule, includes delegates hand-picked by the military regime and excludes representatives of the NLD and ethnic minority groups, and

(iv) the convention is expected to report in the near future;

(b) condemns the ongoing persecution of pro-democracy groups in Burma and the detention of Daw Aung San Suu Kyi and other political prisoners; and

(c) urges the Government to maintain international pressure on the Burmese military regime to:

(i) end state-sponsored human rights abuses in Burma,

(ii) release political prisoners,

(iii) hold a dialogue with the NLD and ethnic minority groups to pursue national reconciliation and democratisation, and

(iv) include pro-democracy and ethnic minority groups in the National Convention process.
Senator Milne to move on the next day of sitting:

That the Senate:

(a) notes:

(i) that 2007 marks the 20th anniversary of the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), arguably the most successful multilateral environmental agreement and that since 1987, the Montreal Protocol has resulted in a 95 per cent reduction in global emissions of ozone depleting substances through the use of binding controls with strict compliance measures, financing mechanisms and trade restrictions,

(ii) the Montreal Protocol has already postponed the impacts of climate change by approximately 10 years, because the ozone depleting substances also have extremely high global warming potentials,

(iii) a number of parties to the Montreal Protocol have proposed amendments to the Montreal Protocol to accelerate the phase-out of hydrochlorofluorocarbons (HCFCs) in order to further delay these impacts by preventing the emission of approximately 2.5 gigatonnes of CO₂ equivalent, and

(iv) that an accelerated HCFC phase-out gives environmentally-friendly alternatives a fairer chance to compete on the market, particularly as alternatives exist for HCFCs in all applications, and that additional measures are needed to ensure natural refrigerants are used in preference to hydrofluorocarbons which are themselves potent industrial greenhouse gases covered by the Kyoto Protocol; and

(b) calls on the Government to support the recommendations of the Stockholm Group, the Environmental Investigation Agency and the parties proposing amendments to the Montreal Protocol to accelerate the phase-out of HCFCs at the 19th meeting of the parties in Montreal, Canada, to be held in September 2007.

Senator Abetz to move on the next day of sitting:

That consideration of the business before the Senate on Wednesday, 8 August 2007 and on Wednesday, 15 August 2007 be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senators Fisher and Cormann, respectively, to make their first speeches without any question before the chair.

Senator Forshaw to move on the next day of sitting:

That the Senate:

(a) notes that:

(i) 2007 is the Year of the Lifesaver,

(ii) that the Cronulla Surf Life Saving Club, one of the seven foundation clubs of the Australian Surf Life Saving Association, is currently celebrating its centenary year and held its 100th annual general meeting on Sunday, 5 August 2007, and

(iii) that during the past 100 years members of the club have performed more than 9 000 rescues with no lives lost;

(b) recognises that the Cronulla Surf Life Saving Club has been one of the most successful clubs in the history of surf life saving championships, including being the only club to win three consecutive World, Australian, State and Branch Championships Pointscores; and

(c) congratulates the Cronulla Surf Life Saving Club for its 100 years of ‘vigilance and service’ to the community.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.36 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:

APEC Public Holiday Bill 2007
Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008
Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008
Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007
Northern Territory National Emergency Response Bill 2007

I 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 SPRING SITTINGS

APEC Public Holiday Bill 2007

Purpose of the Bill

The bill ensures that all federal system employees who work in the local government areas in which the APEC public holiday on 7 September 2007 is to be observed, will be entitled a paid day off on that public holiday. On 4 July 2007, the Industrial and Other Legislation Amendment (APEC Public Holiday) Act 2007 (the NSW Act) was enacted by the NSW Parliament. The NSW Act deems 7 September 2007 as a public holiday under State industrial instruments for NSW employees who work in the local government areas in which the APEC public holiday is to be observed and would otherwise be required to work on that day.

To the extent possible, the bill mirrors the approach taken in the NSW Act. It applies only to those federal system employees working in areas in which the APEC public holiday is to be observed, and who are not covered by the statutory minimum public holiday entitlement in Part 12, Division 2 of the Workplace Relations Act 1996. For this reason, the legislation applies only to employees covered by pre-reform certified agreements, pre-reform Australian Workplace Agreements, s 170MX awards, preserved State agreements and transitional awards and whose instrument does not provide for public holiday entitlements on that day.

Reasons for Urgency

The bill relates specifically to public holiday entitlements on the APEC public holiday and therefore must be in place before the APEC public holiday on 7 September 2007. The bill will need to be introduced and passed by 16 August 2007.

Social Security And Other Legislation Amendment (Welfare Payment Reform) Bill 2007
Northern Territory National Emergency Response Bill 2007
Families, Community Services And Indigenous Affairs And Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007
Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008
Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008

Purpose of the Bills

The package of bills will:

• provide the legislation for new national welfare measures to help children at risk of neglect, or who are not enrolled at school or adequately attending school, by establishing a national income management regime, under which part of a person’s payment will be used to pay the priority needs of that person, their partner and their children, without reducing overall payments;
• establish an income management regime that applies in respect of people on certain welfare payments in the Northern Territory, as part of the Commonwealth’s Northern Territory National Emergency Response, and in Cape York;
• provide the remaining legislation in relation to the Australian Government’s response to the national emergency confronting the welfare of Aboriginal children in the Northern Territory, including restrictions on alcohol, bans on prohibited pornographic material, acquisition of certain leases, provision for government retention of interest in buildings and infrastructure constructed or upgraded on Aboriginal land using government funds and certain changes to the provisions governing access to Aboriginal land; and
• provide Supplementary Appropriation Bills that request legislative authority for further expenses to be incurred in 2007-2008.

Reasons for Urgency
The impact of sexual abuse on Indigenous children, families and communities is a most serious issue requiring decisive and prompt action. To protect children and put an end to the dysfunction of communities requires a national emergency response.

Early passage would secure the early implementation of these important measures to help ensure that children receive appropriate care and attend school. It would also secure the emergency response necessary in relation to the Australian Government’s response to the national emergency confronting the welfare of Aboriginal children in the Northern Territory, including by allowing funds to be made available to agencies.

Senator Stott Despoja to move on 9 August 2007:
(1) That a select committee, to be known as the Select Committee on Australia’s Anti-terrorism Laws be established to inquire into and report upon Australia’s anti-terrorism laws in light of the case of Dr Mohamed Haneef, including whether the laws which enabled the detention and charging of Dr Haneef:
(a) adequately safeguard Australian citizens from the threat of terrorism;
(b) reasonably and adequately define ‘terrorism’ and terrorism-related offences;
(c) provide reasonable and adequate guidance on matters of policy, practice and procedure to investigative and enforcement agencies, such as the Australian Federal Police;
(d) maintain an appropriate balance between the need to curtail individual freedoms in situations involving a terrorist threat and the fundamental civil liberties and human rights of Australian citizens;
(e) have affected fundamental principles of justice such as the presumption of innocence and habeus corpus, and the granting of bail;
(f) allow for periods of indefinite detention of suspects while being questioned or contain provisions allowing for periods of ‘dead time’ which require amendment or review;
(g) are in accordance with notions of procedural fairness and natural justice;
(h) contain or require provisions allowing parliamentary or judicial review;
(i) are compatible with Australia’s obligations under international law;
(j) interact appropriately with other powers of detention or deportation, for example immigration laws; and
(k) any other related matters pertaining to the operation of the laws.
(2) That the committee present its final report on or before 1 December 2007.
(3) That the committee consist of 9 senators, as follows:
(a) 4 to be nominated by the Leader of the Government in the Senate;
(b) 3 to be nominated by the Leader of the Opposition in the Senate; and
(c) 2 to be nominated by minority groups or independents.
(4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.
(5) That the committee elect as chair one of the members nominated by the non-government parties in the Senate.

(6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.

(7) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

(8) That the quorum of the committee be 5 members.

(9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of a subcommittee be a majority of the senators appointed to the subcommittee.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Milne to move on the next day of sitting:

That the Senate:

(a) notes that:

(i) India is not a signatory to the Nuclear Non-Proliferation Treaty (NPT),

(ii) the United States of America (US) and India have agreed to the terms of a deal to exempt India from US laws and international rules that seek to prevent states that are not parties to the NPT from using commercial imports of nuclear technology and fuel to aid their nuclear weapons ambitions,

(iii) under the India-US nuclear deal two reactors dedicated to making plutonium for nuclear weapons and nine power reactors, including a plutonium breeder reactor that is under construction, will be outside international safeguards,

(iv) India needs to import uranium to relieve an acute fuel shortage for its existing nuclear reactors and that importing uranium will free up more of India’s domestic uranium for its military program,

(v) Pakistan has expressed its fears about the India-US nuclear deal, and

(vi) any sale of Australian uranium would contravene the NPT; and

(b) calls on the Government to use its position in the Nuclear Suppliers Group to block the India-US nuclear deal and reject any sale of Australian uranium to India.

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

That the Senate:

(a) calls on the Prime Minister (Mr Howard) and the Leader of the Opposition (Mr Rudd) to extend the same pre-election courtesy and access to all other sectors in the diverse Australian community that they are showing to the Australian Christian Lobby at the Press Club and around Australia on Thursday, 9 August 2007; and
(b) notes that Indigenous groups, welfare groups, other religions, non-religious groups, unions, small business groups, students, environmental non-government organisations and other sectors of the Australian community are not currently offered the same opportunity to have direct access to addresses by the leaders of the Coalition and Labor Party.

Senator Nettle to move on the next day of sitting:

That the following matter be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 15 October 2007:

All aspects of the detention and release of Dr Mohamed Haneef, including:

(a) the source and veracity of information upon which decisions were made;
(b) the actions of the Minister for Immigration and Citizenship (Mr Andrews), including his overriding of the Brisbane Magistrate’s Court decision to grant bail to Dr Haneef;
(c) the role of other ministers, including the Attorney-General (Mr Ruddock) and the Prime Minister (Mr Howard);
(d) the investigation by the Australian Federal Police and other agencies;
(e) the decisions taken by the Director of Public Prosecutions;
(f) the international impact on Australia of the Government’s handling of the case; and

(g) any future decisions to be made in relation to Dr Haneef.

Senator Boswell to move on the next day of sitting:

That the Senate:

(a) condemns the dictatorial actions of the Beattie Queensland Government in imposing forced amalgamations on Queensland local government without the opportunity for appeal;
(b) expresses serious concern at the Queensland Government’s decision to impose fines on councillors who put the amalgamation policy to local citizens by referendum;
(c) notes that the International Convention on Civil and Political Rights states that every citizen shall have the right and the opportunity to take part in the conduct of public affairs and that this right is being undermined by the Queensland State Government; and

(d) calls on the Beattie Government to make any amalgamations voluntary as recommended by the Federal Leader of the Opposition (Mr Rudd).

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.42 pm)—This relates to parliamentarians’ proposed pay increases. I give notice that, on the next day of sitting, I shall move:

That Determination 2007/08: Principal Executive Office (PEO) Classification Structure and Terms and Conditions, made pursuant to subsections 5(2A), 7(3D) and 7(4) of the Remuneration Tribunal Act 1973, be disapproved.

Senator Boswell—Tell us what you are going to do with your superannuation. Are you going to surrender it? Be honest.

The DEPUTY PRESIDENT—Senator Boswell! Senator Bob Brown, address your comments to the chair.

Senator BOB BROWN—I think Senator Boswell should settle down.

The DEPUTY PRESIDENT—Ignore Senator Boswell’s interjection.

Senator BOB BROWN—Indeed.

Senator Boswell—That’s the thing about you, Bob. You’re such a hypocrite.

The DEPUTY PRESIDENT—Senator Boswell, you will need to withdraw that comment. That is unparliamentary.

Senator Boswell—Is there any defence in truth?

The DEPUTY PRESIDENT—Senator Boswell, withdraw.
Senator Boswell—I withdraw.

Senator BOB BROWN—Deputy President, I accept that withdrawal by Senator Boswell.

Senators Allison, Bartlett, Murray and Stott Despoja to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to implement the recommendations of the Human Rights and Equal Opportunity Commission report Same-Sex: Same Entitlements, and for related purposes. Same-Sex: Same Entitlements Bill 2007.

Senator Bob Brown to move on 9 August 2007:

That the Senate requests the Irish Government to inform the Senate about:

(a) the project to route the M3 motorway through the Royal Demesne of Tara and the unique archaeological, historical and cultural site of the Hill of Tara;
(b) the current progress of the project; and
(c) any alternative routes which could be used to protect this unique site.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.43 pm)—I give notice that, at the giving of notices on the next day of sitting, I shall withdraw business of the Senate notice of motion No. 1 standing in my name for 10 September 2007 for the disapproval of Determination 2007/04: Principal Executive Office (PEO) Classification Structure and Terms and Conditions, made pursuant to subsections 5(2A), 7(3D) and 7(4) of the Remuneration Tribunal Act 1973.

COMMITTEES

Environment, Communications, Information Technology and the Arts Committee

Extension of Time

Senator PARRY (Tasmania) (3.45 pm)—by leave—On behalf of the Chair of the Environment, Communications, Information Technology and the Arts Committee, Senator Eggleston, I move:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Committee on the provisions of the Communications Legislation Amendment (Information Sharing and Datacasting) Bill 2007 be extended to 9 August 2007.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Faulkner for today, proposing the reference of a matter to the Foreign Affairs, Defence and Trade Committee, postponed till 8 August 2007.

Business of the Senate notice of motion no. 2 standing in the name of Senator Milne for today, proposing the reference of a matter to the Environment, Communications, Information Technology and the Arts Committee, postponed till 13 August 2007.
General business notice of motion no. 775 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, proposing the introduction of the Energy Savings (White Certificate Trading) and Productivity Bill 2007, postponed till 14 August 2007.

**LEAVE OF ABSENCE**

Senator **MOORE** (Queensland) (3.47 pm)—by leave—I move:

That leave of absence be granted to Senator Sherry for the period 7 August to 9 August 2007, on account of illness.

Question agreed to.

**MR MULRUNJI DOOMADGEE**

Senator **BOB BROWN** (Tasmania—Leader of the Australian Greens) (3.48 pm)—I move:

That the Senate:

(a) notes the terrible story of Mr Mulrunji Doomadgee, which extends beyond his death in custody in 2004, to encompass the following:

(i) Mr Doomadgee’s son Eric has since committed suicide,

(ii) Mr Patrick Bramwell, a 24-year old Aboriginal man, who was in the Palm Island police lock-up as Mr Doomadgee died, has since hanged himself, and

(iii) Mr Doomadgee’s mother, too ill to attend his funeral, has since died; and

(b) expresses its condolences to the Doomadgee family and the Palm Island community for the suffering and despair which these tragic events have entailed.

Question agreed to.

**DESALINATION PLANT**

Senator **ALLISON** (Victoria—Leader of the Australian Democrats) (3.49 pm)—I move:

That the Senate:

(a) notes:

(i) the announcement by the Victorian State Government that a desalination plant costing $3.1 billion will be built near Wonthaggi to provide a third of Melbourne’s demand for water, approximately 150 billion litres, by 2012,

(ii) that the desalination plant and associated pumping of more than 200 km will likely emit more than a million tonnes of greenhouse gas emissions a year and increase electricity use in Victoria by 2 per cent,

(iii) that the Victorian Government intends to ‘offset’ greenhouse emissions through the purchase of renewable energy,

(iv) that the ongoing drought in Victoria is highly likely to be related to climate change,

(v) that 95 per cent of Victoria’s electricity is from ageing, low efficiency, brown coal-fired generators,

(vi) that $3.1 billion could fund rebates for approximately 2 million household water tanks that could provide 80 billion litres of water for cistern, laundry and garden use, and

(vii) that coal-fired power generation in Victoria uses approximately 400 billion litres of water a year;

(b) urges the Victorian State Government to develop desalination only if necessary after:

(i) stringent standards are implemented for water appliances,

(ii) substantial quantities of potable water have been displaced by stormwater or other harvested water,

(iii) water reticulation infrastructure leaks have been fixed,

(iv) water intensive industry and commercial operations are water efficient,

(v) all Victorians have low flow shower heads, dual flush cisterns and grey water systems, and
(vi) there is widespread application of water-sensitive urban design; and
(c) encourages the Victorian State Government to ensure that any desalination still required, uses only renewable-powered technology.

Question put.
The Senate divided. [3.53 pm]
(The Deputy President—Senator JJ Hogg)
Ayes........... 8
Noes........... 50
Majority........ 42

AYES

NOES

* denotes teller

Question negatived.


8. Legal and Constitutional Affairs Committee—Report, together with submissions received by the committee—Migration Amendment (Sponsorship Obligations) Bill 2007 [Provisions] (received 30 July 2007)


12. Legal and Constitutional Affairs Committee—Report, together with Hansard record of proceedings and documents presented to the committee—International Trade Integrity Bill 2007 [Provisions] (received 1 August 2007)


16. Economics Committee—Report, together with Hansard record of proceed-
ings and submissions received by the committee—Financial Sector Legislation Amendment (Discretionary Mutual Funds and Direct Offshore Foreign Insurers) Bill 2007 [Provisions] and Corporations (National Guarantee Fund Levies) Amendment Bill 2007 [Provisions] (received 1 August 2007)

17. Economics Committee—Report, together with Hansard record of proceedings and submissions received by the committee—Trade Practices Legislation Amendment Bill (No. 1) 2007 [Provisions] (received 1 August 2007)

18. Economics Committee—Report, together with Hansard record of proceedings and submissions received by the committee—Trade Practices Amendment (Predatory Pricing) Bill 2007 (received 1 August 2007)

(b) Government documents


2. Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 2006—Errata (received 9 July 2007)


6. Government response—Final report of the Productivity Commission’s inquiry into waste generation and resource efficiency in Australia (received 31 July 2007)

(c) Government responses to parliamentary committee reports

The documents read as follows—

Parliamentary Joint Standing Committee on Treaties


Introduction
The Parliamentary Joint Committee on Treaties has been appointed by the Commonwealth Parliament to review and report on all treaty actions proposed by the Government before action which binds Australia to the terms of the treaty is taken.

Terms of reference
The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report upon:

a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;

b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:

(i) either House of the Parliament, or

(ii) a Minister; and

c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.

Report 66
The Committee released its Report 66 Review of treaties tabled 7 December 2004 (4), 15 March and 11 May 2005 on 17 August 2005. The Committee made three recommendations in that Re-
port about the United Nations Convention against Corruption (UNCAC). These recommendations are addressed below.

**Response to recommendations**

**Recommendation 1**
That the Attorney-General advise the Committee in writing of the Australian Government’s intention to meet Australia’s obligations under the United Nations Convention Against Corruption only through the means specified in the National Interest Analysis, particularly as stated in paragraphs 50, 51 and 52.

**Response**
As detailed in the National Interest Analysis, the Australian Government is confident that Australia meets all of the mandatory requirements of the United Nations Convention against Corruption (UNCAC). The Attorney-General’s Department consulted with relevant Australian Government departments and agencies and with the States and Territories, and determined that no new legislation is required.

**Recommendation 2**
That the Attorney-General advise the Committee in writing that the Australian Government has no intention of using the external affairs power and the United Nations Convention against Corruption to pass legislation which has not been foreseen in the National Interest Analysis.

**Response**
The Australian Government does not intend to use the external affairs power to pass additional legislation to implement the UNCAC. The only domestic change that was necessary to implement UNCAC was to make regulations under the Mutual Assistance in Criminal Matters Act 1987 (Cth) and under the Extradition Act 1988 (Cth). These regulations give effect to the extradition and mutual assistance obligations in UNCAC.

**Recommendation 3**
The Committee supports the United Nations Convention Against Corruption (New York, 31 October 2003) and recommends that binding treaty action be taken.

**Response**
The Australian Government completed the final steps required for ratification as a matter of high priority and ratified the UNCAC on 7 December 2005.

**Government Response to the Report of the Joint Standing Committee on Electoral Matters: Funding and Disclosure: Inquiry into disclosure of donations to political parties and candidates**

**August 2007**

**The Report**
The Government notes that the Joint Standing Committee on Electoral Matters (JSCEM) did not find the need to add to the recommendations on funding and disclosure that it made in its report on the 2004 federal election.

The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006, which received Royal Assent on 22 June 2006, included changes to disclosure requirements. Key changes included increasing the disclosure thresholds to more than $10,000 (indexed to the Consumer Price Index), and increasing the tax deductibility threshold to $1,500 for donations and gifts from individuals or corporations to political parties, independent candidates and independent members of Parliament.


**Dissenting Report by Mr Michael Danby MP, Mr Alan Griffin MP, Senator Kim Carr and Senator John Hogg, Australian Labor Party**

**Response**
The Government does not support the eleven recommendations on funding and disclosure made in this dissenting report.
Dissenting Report by Senator Andrew Murray, Australian Democrats

Response

The Government notes the twelve recommendations made by Senator Murray in his dissenting report. The Government also notes that these recommendations were made by Senator Murray in his supplementary remarks on the report by JSCEM on the 2004 federal election. The Government response to that report noted that the issues had been raised by Senator Murray on a number of previous occasions and the Government made no further comment on those supplementary remarks. The Government has no further comment on this dissenting report by Senator Murray.

(d) Reports of the Auditor-General

1. Report no. 48 of 2006-2007—Performance Audit—Superannuation payments for contractors working for the Australian government: Follow-up audit (received 22 June 2007)
5. Report no. 52 of 2006-2007—Performance Audit—the Australian Taxation Office’s approach to regulating and registering self managed superannuation funds (received 28 June 2007)

AUSTRALIAN CITIZENSHIP AMENDMENT (CITIZENSHIP TESTING) BILL 2007

Report of Legal and Constitutional Affairs Committee

Senator NETTLE (New South Wales)

(3.59 pm)—I seek leave to take note of one of the documents that was just tabled: the report by the Senate Standing Committee on Legal and Constitutional Affairs into the legislation dealing with the citizenship test.

Leave granted.

Senator NETTLE—I move:

That the Senate take note of the report.

I was involved in the Senate inquiry into the citizenship test. We heard from a range of witnesses—in fact, quite a large number of witnesses. Over 50 submissions were made to the inquiry and a number of witnesses appeared before the committee. The committee heard from those witnesses a number of concerns about this legislation. Firstly, there were arguments put forward by a number of organisations that the bill was not needed. Their view is that the existing citizenship laws are working extraordinarily well and that the government has not made a case for why there needs to be the change that is proposed in the legislation.
As part of that discussion, there was no additional justification provided by the Department of Immigration and Citizenship when it appeared before the committee. There was reference to the fact that there had been consultation—we were all aware of that—and to the fact that citizenship tests exist in other countries, but simply because it is done in other countries is not a justification for why we should do it. In fact, the Department of Immigration and Citizenship was not able to provide any information to the Senate committee about ways in which a citizenship test had assisted with the project of improving the cohesiveness of society in any of the countries to which it pointed as examples of countries which have citizenship tests. Indeed, the committee heard evidence from people who pointed out that perhaps, rather than adding to the cohesiveness of societies, they had done the opposite. One example that a witness pointed to was from the United Kingdom. That witness spoke about the London bombings and the fact that the people involved in that act were indeed British citizens and may well have been subject to and have passed the UK citizenship test. There was a concern from a number of witnesses—in fact, all of them that I can recall apart from those from the department—about there not being a need for introducing this citizenship test.

There was, beyond that, a concern that the test itself would, rather than helping to assist with improving the cohesiveness of society, do the opposite and be divisive in setting up a mechanism by which some people would be seen to have passed and some people would be seen to have failed. There was one witness, an educator, who talked about this and said: ‘Tests have been developed to gate-keep. That is what they are there for.’ That is a concern that the Australian Greens share about this proposed citizenship test—that it will see the community divided between those who are seen to be deserving and those who are not. This was also a concern raised by FECCA—the Federation of Ethnic Communities Councils of Australia. They were concerned that the existence of a citizenship test would prevent some people from choosing to make an application to become a citizen. They talked about it creating a two-tiered society through the division that it would create within society. Other witnesses put forward similar concerns.

There was another witness who said that she was worried that it would disenfranchise, disengage and marginalise people and the consequences of that could be to do exactly the opposite of what the test aspires to achieve. There was quite a lot of discussion in the committee about the test as proposed by the government not meeting the government’s own objectives that it outlined in the second reading speech by the minister on this legislation about improving the cohesiveness of society. As I mentioned, some concerns were that a citizenship test would, rather than improving cohesiveness, actually promote divisiveness and discourage people from putting in applications to become Australian citizens.

The other issue that the committee heard about was English language teaching. The government has put forward that the test is not only a citizenship test but an English language test as well and that one of the government’s other objectives is improving the English language skills of migrants. My office has been involved in looking through the information from the Department of Immigration and Citizenship and the Australian Bureau of Statistics about the English language skills of migrants in Australia. We found that they are extraordinarily good and that they have improved over the last 10 years. We have had such an improvement in the English language skills of migrants in Australia that the Department of Immigration
and Citizenship has actually had to restructure the way that it measures people's English language proficiency. The English language skills of migrants over the last 10 years have improved so dramatically that the bottom two categories are not useful for the department anymore in assessing people's English language skills. Far from the picture which the government has sought at various times to paint for us that the English language skills of migrants is an issue that needs to be improved, we have seen over the last 10 years of this government a massive improvement in English language skills.

The committee also heard the concerns that people have about the impact that this citizenship test could have on existing English language programs. The concern put forward—again, by educators—was that, when you put in place a test, teachers teach so that students will pass the test. The concern is that, if we impose a test, the effectiveness of existing English language programs—which require expansion and if we actually wanted to improve migrants' English language skills the way to achieve it would be by investing in and expanding the English language programs that are available—will be undermined. Rather than teaching people the English language skills that they need to thrive in Australian society and the community—such as understanding Centrelink, how to get a job, how to catch a bus and all of the information that they need to exist in our society—the test will mean that students in those language classes, those who can attend the classes because they do not have family responsibilities or have to be out working, will want to ensure that attending an English language class means that they will be able to pass the citizenship test. As we have seen in other circumstances, the test will change and shift the way in which teaching occurs such that, rather than people learning much-needed skills to survive in Australian society, the teaching will become about helping students to pass the citizenship test.

Those were some of the concerns that were put forward. The government has not put forward a need or a justification for this change. Indeed, our citizenship laws as a whole are working quite well. The example of overseas countries was the only justification put forward to us and the government could not even provide us with an example of how the test had helped in other countries. In fact, we heard evidence to the contrary. Then there was the issue of whether or not the government’s proposed citizenship test would achieve its objectives. We had an extraordinary number of witnesses appear before the committee to say that, no, it would not achieve the objective of improving cohesiveness and that, rather, it was likely to fuel division within our society and undermine existing English language programs. It was a real opportunity for the government to hear from people in the community with expertise in this area, those people who teach English as a second language and know what kind of test you would need to accurately assess somebody’s English language skills. None of them said that 200 multiple-choice questions, of which 20 would be randomly chosen, would be anywhere near an adequate testing regime to assess people’s level of English language proficiency.

Through the Senate committee process, other concerns were raised regarding the level of discretion that, in this case, the Minister for Immigration and Citizenship has—that is, to write the test and to design the questions. There are no proposals under the legislation for the questions to be tabled in parliament, for them to be made available or for there to be any oversight or assessment of the appropriateness of the questions that are being proposed. That was one of the issues that many of the witnesses went to. Indeed,
this matter of needing to ensure that there is some level of transparency and accountability in the operations of the minister is a matter that the Australian Greens addressed in our report on this, which has just been tabled in the Senate. It is worth pointing out that, in the last few weeks, there has been much questioning about the exercise of ministerial discretion by this same minister. The level of ministerial discretion proposed in the citizenship test is extraordinary; it is very expansive in the way it operates. The Senate inquiry heard from a number of witnesses about the concerns that people had about this matter.

It is important to recognise that there were many voices throughout that Senate inquiry that raised numerous concerns, some of which are addressed in the committee report and are certainly addressed in the related report by the Australian Greens. They went to the fact that, if we really want to improve the cohesiveness of society and migrants’ English language skills, we need to invest in the existing programs for English language skills and for people to gain an understanding of citizenship. A test is not going to help us; in fact it is going to make things worse.

Question agreed to.

**DOCUMENTS**

**Tabling**

The ACTING DEPUTY PRESIDENT (Senator Moore) (4.09 pm)—On behalf of the President, I table Senate related documents as follows:

Original certificate of the choice by the Western Australian Parliament of Senator Cormann
Supplement to the 11th edition of Odgers’ Australian Senate Practice—Updates to 30 June 2007
Business of the Senate—1 January to 30 June 2007
Questions on Notice summary—16 November 2004 to 30 June 2007

Work of Committees

The ACTING DEPUTY PRESIDENT (Senator Moore) (4.09 pm)—On behalf of the President, I present Work of Committees financial year statistics: 1 July 2006 to 30 June 2007; and half-year statistics: 1 January to 30 June 2007.

Ordered that the document be printed.

38th Conference of Presiding Officers and Clerks, Cook Islands

Senator HOGG (Queensland) (4.10 pm)—by leave—I present the report of the 38th Conference of Presiding Officers and Clerks, which was held in Raratonga, Cook Islands, from 7 to 14 July 2007, together with the report of proceedings. I seek leave to move a motion to take note of the document.

Leave granted.

Senator HOGG—I move:

That the Senate take note of the report.

The report is quite comprehensive, so I will be very brief. I would like to put on the public record my thanks to the President for giving me the opportunity to attend in his place this meeting of Presiding Officers. The Senate was represented by Dr Jacqueline Dewar, representing the Clerk of the Senate, and Senator Alan Ferguson in his capacity as the Australian regional representative of the Commonwealth Parliamentary Association.

Senator Brandis interjecting—

Senator HOGG—As a matter of fact, Senator Brandis, it was a very enlightening—

Senator Faulkner—What were the beaches like?

Senator HOGG—I won’t go into that, Senator Faulkner. If one reads the report, one will find that a comprehensive program was organised. In particular, I draw to the attention of members of the Senate a paper that I
submitted to the conference. It was entitled ‘My conscience, my vote’ and it was meant to stimulate and provoke debate at the conference, which it certainly did.

I must commend Dr Jacqueline Dewar for her assistance throughout the conference to me and Senator Ferguson in dealing with technical issues that were raised at the conference. I also want to thank on the public record the Speaker, Mr Mapu Taia, and the Clerk, Mr Nga Valoa, of the Cook Islands parliament for their hospitality and for their organisation of the conference, which was very well handled and organised by such a small parliament. It shows what can be achieved when people apply themselves in circumstances where they have to really step up to the mark. They enabled us to have all of the facilities that we would have elsewhere, including good internet access to enable us to constantly be in touch with our emails and access to other facilities that we need for our parliamentary duties. I record my thanks once again to the President of the Senate, and I commend the report to the Senate.

Question agreed to.

Northern Territory National Emergency Response

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (4.13 pm)—I table the following documents:
Particulars of proposed expenditure in relation to the Northern Territory national emergency response in respect of the year ending on 30 June 2008
Particulars of certain proposed expenditure in relation to the Northern Territory national emergency response in respect of the year ending on 30 June 2008
Estimates of proposed expenditure in relation to the Northern Territory national emergency response for 2007-08—
privilege resolution 5. The committee considered the submission in May but was unable to finalise the matter until now because Mr Hockey was overseas. It recommends that Mr Hockey’s proposed response, as agreed by the committee and Mr Hockey, be incorporated in *Hansard*.

As always, the committee reminds the Senate that in matters of this nature it does not judge the truth or otherwise of statements made by honourable senators or the persons referred to. Rather, it ensures that these persons’ submissions, and ultimately the responses it recommends, accord with the criteria set out in privilege resolution 5. I commend the motion to the Senate.

Question agreed to.

*The response read as follows—*

Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988

On Wednesday 29 November 2006, at 3.23pm, Senator Glenn Sterle from Western Australia delivered an address to the Senate generally on the subject of AWB and the Oil-for-Food program.

In his address, Senator Sterle stated: “There is gun-toting Trevor Flugge, former director and chairman of AWB, who was paid $900,000 out of the AusAID budget for a few months work in Iraq. He is a former National Party candidate. There is Darryl Hockey, AWB’s government relations manager, who is a former adviser to the last National Party leader, the member for Gwydir. They are part of the dirty dozen. They all have deep National Party ties, and what a pack of crooks they are”.

I wish to correct the flagrantly inaccurate statements made by Senator Sterle:

(i) I am not AWB’s government relations adviser.

(ii) I am not one of the twelve people whom Commissioner Terence Cole referred for further investigation by Australian law authorities following the Cole royal commission. The so-called ‘dirty dozen’ was a description used by the press across the front pages of major newspapers on Tuesday 28 November 2006 following the release of the Cole report, with photographs of the twelve people accused. I was not one of these people. One day later, on 29 November 2006, before making his statements, Senator Sterle only had to check the front page of the previous day’s newspapers to see that I was not one of the people implicated.

(iii) In his final report, Commissioner Cole explicitly stated that I had no prior or subsequent knowledge of the adverse activities which occurred. This report was publicly released on Monday 27 November 2006, two days before Senator Sterle made his statements. As such, the Senator had ample opportunity to check the veracity of his statements in advance, and in my opinion the absence of such diligence when the truth was so readily available at his fingertips is reprehensible.

(iv) I do not have deep National Party ties. I have had no association with the National Party since I finished working for Minister Anderson in 1998. In fact I worked for a Liberal Party Minister in South Australia for three years from 1999-2001 and have held no political affiliations since that time.

(v) I am not a ‘crook’, and there is no evidence or suggestion to support the statement of Senator Sterle. This is a slanderous and defamatory statement without any basis whatsoever. His suggestions are a savage and unwarranted attack on my integrity, and I believe should be redressed. I am a former Western Australian Citizen of the Year, and have been awarded the Centenary Medal and Humanitarian Overseas Service Medal for services to the national and international communities.

I greatly respect the processes of the institutions of Australia’s parliamentary system, including the important matter of privilege. However because of its potentially damaging nature to innocent individuals, in my view parliamentarians have a clear responsibility to take reasonable steps to establish facts from available sources before making personal criticisms. I believe that a failure to adopt reasonable due diligence would be considered by the broader community to be an abuse of the important parliamentary privilege of the exercise of free speech.

DARRYL HOCKEY
South Melbourne
AUSTRALIAN CITIZENSHIP AMENDMENT (CITIZENSHIP TESTING) BILL 2007

Additional Information

Senator NASH (New South Wales) (4.16 pm)—At the request of the Chair of the Senate Standing Committee on Legal and Constitutional Affairs, Senator Barnett, I present additional information received by the committee on its inquiry into the provisions of the Australian Citizenship Amendment (Citizenship Testing) Bill 2007.

COMMITTEES

Corporations and Financial Services Committee

Report

Senator CHAPMAN (South Australia) (4.17 pm)—I present the report of the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the structure and operation of the superannuation industry, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

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

Leave granted.

Senator CHAPMAN—I move:

That the Senate take note of the report.

The inquiry by the Joint Committee on Corporations and Financial Services into the superannuation industry generated substantial interest from a range of corporations, organisations and individuals. We received 96 submissions and held public hearings in Sydney, Melbourne and Canberra. Representatives of corporations, industry bodies, consumer groups, academics, government and regulatory agencies were all consulted.

In early 2007, total superannuation assets reached the $1 trillion mark, up from $761.9 billion as recently as June 2005 and four times the value of superannuation assets in June 1995. These increases have occurred through strong returns on equities and a guaranteed flow of contributions that some researchers estimate could double in size by 2015.

Regulatory framework

Despite the success of superannuation as a retirement savings vehicle, peak industry associations and other stakeholders argued that the laws and regulations governing superannuation have become too complex, onerous, and conflicting in some instances, and have not kept pace with industry developments.

The committee shares these concerns and recommends that the government undertake a comprehensive review of the laws and regulations governing superannuation to identify how they may be rationalised and simplified. The review should be carried out by the Treasury.

Promotional advertising

An inevitable consequence of choice of fund with regard to superannuation has been the emergence of promotional advertising in the sector. While funds should be entitled to advertise, the disclosure of expenditure on such activities is important. The committee recommends that peak superannuation bodies and the Australian Prudential Regulation Authority work with the Australian Accounting Standards Board to form appropriate compulsory accounting and disclosure by all funds for promotional advertising, sponsorship expenses and executive remuneration.

Third party transactions

Another concern raised with the committee relates to the use of the term ‘not-for-profit fund’ where services are tendered out to related-party profit making entities. While payments to third-party service providers are
compatible with being a not-for-profit fund, members ought to be getting value for money and transactions should be conducted at arms length. In this context, it was disappointing that representatives of Industry Super Network refused to answer questions taken on notice from the committee. In order to ensure transparency in this area, the committee therefore recommends that the government develop an effective disclosure policy to address deficiencies in reporting related-party transactions and that trustees of superannuation funds publicly tender key service provision agreements.

**Member investment choice**

An area of some confusion during the inquiry concerned the responsibilities of trustees in the member investment choice environment.

This issue needs further clarification. The committee recommends that APRA release its legal advice on the role of the trustee in a member investment choice situation and consult further with industry to clarify the duties of trustees that offer member investment choice. It recommends that APRA review its written guidance and further clarify its interpretation of the role of the trustee to ensure that the reality of investment choice and the obligations of trustees under the S1(S) Act are better integrated.

**Safeguarding superannuation savings**

A strong case was made for a mandatory unit pricing methodology for public offer funds. The committee agrees that unit pricing is the most appropriate way to allocate investment earnings and appears to be the best way to ensure equity for members who move between funds. The committee recommends that the government mandate a uniform unit pricing methodology for all public offer superannuation funds, including any necessary transitional arrangements.

Under Super Choice, portability and consolidation have become increasingly important. The committee is concerned at anecdotal evidence that some funds deliberately are slowing the process of transferring funds and placing administrative hurdles in the path of fund members. It encourages APRA to be conscientious in enforcing the new 30-day limit on funds transfers. The committee also heard evidence of the potential for exit fees to undermine competition. It encourages the government to monitor the application and quantum of exit fees, particularly in cases where fees bear no apparent relationship to the real administrative cost of exiting a fund.

**Cost and accessibility of financial advice**

The introduction of superannuation choice has drawn attention to the role of funds and professional advisers in helping consumers to navigate their way through the options they now face. There are concerns over the adequacy of the current regulatory arrangements to enable the affordable provision of basic advice on superannuation.

In particular, the broad definition of ‘financial product advice’ in the Corporations Act was blamed for increasing the cost and restricting access to financial advice on issues where consumer protection should not, on the face of it, be a serious concern.

In trying to achieve greater proportionality between consumer protection and accessibility of advice the government has proposed a measure to exempt advisers from providing a statement of advice where personal advice is provided that does not involve recommending a product or remuneration for the advice. The government also has proposed the introduction of a threshold for disclosure on a superannuation investment of less than $15,000, where the advice recommends consolidating investments or making additional contributions. These initiatives are both supported by the committee.
The committee also has recommended that further regulatory guidance be provided to enable funds to provide targeted information to different categories of membership and provide benefit projections to their members.

The role and regulation of accountants in this sphere was raised as well. The committee does not believe accountants should be exempt from holding an Australian financial services licence when providing financial product advice. However, the committee recommends that accountants be able to advise clients on altering their superannuation contribution levels and consolidating superannuation investments into an existing fund, without requiring an AFS licence.

The committee believes that the readability and comparability of disclosure material could be improved by ensuring important information is prominently displayed, in summary form, at the front of product disclosure statements. If this cannot be achieved by the industry of its own volition it should be mandated by the government. The committee recommends that the government conduct market research on the readability of superannuation product disclosure statements and consult with the industry to finalise a preferred standardised format.

Remuneration models for advice

The effect of different remuneration models on the standard of superannuation advice was a major issue during the inquiry.

The committee does not recommend the prohibition of commissions on superannuation products as many consumers cannot afford to pay for up-front fee-for-service advice on their superannuation. Banning commissions on superannuation simply would compound the problems of accessibility to advice that already exist.

The committee is more concerned about shelf fees. They can be anticompetitive and may encourage products to be listed and subsequently recommended that may not be in the best interests of a client. The committee recommends that ASIC work with the industry to provide investors more effective and detailed disclosure of shelf fees.

The effective disclosure of conflicts of interest is critical to ensure that consumers are able to judge their likely effect on the quality of the advice they receive. The committee is of the opinion that disclosure will not be effective unless the nomenclature attached to financial advisers accurately conveys to consumers the adviser’s relationship with, and interest in, the superannuation products they recommend. The committee therefore recommends that the government should investigate the most effective way to develop appropriate nomenclature where the product recommendation advice available to consumers is limited by sales imperatives. The committee also recommends that financial advisers be required to disclose the ownership structure of the licensee under which he or she is operating.

Education and financial literacy

A priority must be to arm consumers with the skills to interpret the quality and independence of the advice they receive. The committee believes this challenge can be addressed effectively by improving the accessibility of advice for those already in the system, and ensuring that future fund members are provided with appropriate guidance during their school years. The committee notes with approval the government’s Better Super television and radio advertisements designed to inform and educate people about the reforms to superannuation that came into effect on 1 July 2007. The committee also supports the government’s Financial Literacy Foundation initiatives and recommends that they be reviewed when their effectiveness is
able to be measured against clear performance benchmarks.

**Self-managed superannuation funds**

The committee heard evidence that the current limit of four individuals who can own and manage a self-managed superannuation fund should be increased in response to the prevalence of many family businesses and funds that operate over two or more generations. The effect of this restriction is likely only to worsen in the future, and should be addressed sooner rather than later. The committee therefore recommends that the Australian Taxation Office consider raising the maximum number of trustees for any one self-managed super fund from four—which currently applies—to 10, in line with current and future demand.

On the regulation of self-managed funds, the committee accepts that greater reliance should be placed on safeguards offered by accountants as the key interface between members and the regulatory and compliance system. The committee recommends that self-managed funds run by qualified accountants be audited annually for three years from their commencement and, subject to no irregularities, thereafter only every five years.

Consistent with its findings and recommendations from previous inquiries, the committee supports the argument by peak accounting bodies that the licensing exemption for accountants advising on self-managed funds should be extended to include general structural advice on all superannuation funds. The committee recommends that the exemption be broadened to enable accountants to provide advice on the structure of, but not investments in, superannuation funds, rather than being limited to advising on self-managed funds.

My thanks go to David Sullivan, the committee secretary, and the other committee staff for their support and expert contribution to our committee’s deliberations on this important subject.

I commend the report to the Senate.

**Senator MURRAY (Western Australia)** (4.28 pm)—The report of the inquiry into the superannuation industry by the Parliamentary Joint Committee on Corporations and Financial Services that has been delivered today has been a long time in gestation, but it is a singularly important report. Broadly speaking, it will effect, hopefully, savings amounting to well over $1 trillion Australian dollars, so this is not a minor matter. There are 31 recommendations in the report, and it is a sign of the committee’s common conclusions that Labor have only disagreed in part or in whole with five of those. Of course, their point of view has substance, although with respect to their disagreement over the issue of unit pricing I am afraid that I think on balance that the majority report is correct. However, I welcome both the very short Labor minority report and the report itself as seeking to significantly advance an improvement in this sector.

Particularly important, I think, from the perspective of advancing legislation is recommendation 2, which asks the government, through Treasury, to conduct a review of the laws and regulations governing superannuation to identify how they may be rationalised and simplified. There are very real problems in terms of overlap, inconsistencies, complexities et cetera, and the committee has recognised that a major rationalisation would be to the benefit of industry.

The other recommendation I draw attention to is recommendation 5, where the committee recommends that the government formulate and implement an effective disclosure policy for both product disclosure statements and annual reports to address any deficiencies in reporting related party trans-
actions—that is a critical recommendation. Recommendation 8 recommends that Treasury examine and report to government on the issue of overlapping, inconsistent and conflicting requirements of superannuation funds from a number of regulators. That, too, is vital to ensure an efficient and effective industry. I am not one of those who are persuaded by the view that APRA and ASIC need to be united; I think they are separate institutions which function effectively but could function much more efficiently, but I do not have a closed mind to the improvement of regulations in this field.

The committee notes of course the important role the regulators play in superannuation, and five of the 31 recommendations are devoted to APRA and five are devoted to ASIC, so not all the recommendations are directed at the government. In my own case I have a particular interest in the issues of nomenclature, an issue raised by the chair in tabling his report. I think that, until such time as consumers of superannuation products can easily identify the sort of advice that they need simply through letting their fingers do the walking through yellow pages or observing a sign, we are not going to get the kinds of advice channels to fit the consumers that are necessary. Much more needs to be done in that field. Many people do not understand what you mean when you say ‘nomenclature’. If you go to buy a motor car you know what a dealer is, you know to expect that a Ford dealer is entirely different from a Toyota dealer, whereas a second-hand car dealer would, of course, offer you many varieties of car, so it is that kind of nomenclature which is easy for consumers to understand.

There is one area in which I felt the report could have been enhanced, and that is the superannuation guarantee contributions. I am of the view that, because those contributions are required by statute and are compulsory, the superannuation guarantee contributions should be quarantined from being used to pay for commissions to financial advisers. I was not able to persuade other members of the committee to that view, but I think you have to deal with superannuation contributions which are compulsory in a different way to those which are voluntary and I am very wary of financial advisers being able to be ‘free-riders’, as it were, on compulsory contributions.

Overall, in my view, the chair, other members of the committee and the secretariat have done a very useful and helpful job with respect to this report. By its nature, of course, it will not be able to be rapidly implemented or responded to, but I do hope it contributes very materially to the greater efficiency, productivity and effectiveness of our superannuation schemes.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMUNICATIONS LEGISLATION AMENDMENT (CONTENT SERVICES) BILL 2007

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

TAX LAWS AMENDMENT (2007 BUDGET MEASURES) BILL 2007

TAX LAWS AMENDMENT (PERSONAL INCOME TAX REDUCTION) BILL 2007

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

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

TAX LAWS AMENDMENT (2007 MEASURES No. 3) BILL 2007
TAX LAWS AMENDMENT (SMALL BUSINESS) BILL 2007
DEFENCE FORCE (HOME LOANS ASSISTANCE) AMENDMENT BILL 2007
FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS LEGISLATION AMENDMENT (CHILD SUPPORT REFORM CONSOLIDATION AND OTHER MEASURES) BILL 2007
HEALTH INSURANCE AMENDMENT (DIAGNOSTIC IMAGING ACCREDITATION) BILL 2007
GOVERNANCE REVIEW IMPLEMENTATION (SCIENCE RESEARCH AGENCIES) BILL 2007
CORPORATIONS (NZ CLOSER ECONOMIC RELATIONS) AND OTHER LEGISLATION AMENDMENT BILL 2007
LIQUID FUEL EMERGENCY AMENDMENT BILL 2007
MIGRATION AMENDMENT (STATUTORY AGENCY) BILL 2007
HEALTH INSURANCE AMENDMENT (INAPPROPRIATE AND PROHIBITED PRACTICES AND OTHER MEASURES) BILL 2007
VETERANS’ AFFAIRS LEGISLATION AMENDMENT (2007 MEASURES No. 1) BILL 2007
AGRICULTURAL AND VETERINARY CHEMICALS (ADMINISTRATION) AMENDMENT BILL 2007
AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (2007 MEASURES No. 1) BILL 2007
AUSTRALIAN WINE AND BRANDY CORPORATION AMENDMENT BILL (No. 1) 2007
APPROPRIATION BILL (No. 5) 2006-2007
APPROPRIATION BILL (No. 6) 2006-2007
APPROPRIATION BILL (No. 1) 2007-2008
APPROPRIATION BILL (No. 2) 2007-2008
APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2007-2008
FOOD STANDARDS AUSTRALIA NEW ZEALAND AMENDMENT BILL 2007
GENE TECHNOLOGY AMENDMENT BILL 2007
MIGRATION AMENDMENT (REVIEW PROVISIONS) BILL 2007
CORPORATIONS LEGISLATION AMENDMENT (SIMPLER REGULATORY SYSTEM) BILL 2007
CORPORATIONS (FEES) AMENDMENT BILL 2007
CORPORATIONS (REVIEW FEES) AMENDMENT BILL 2007
FISHERIES LEGISLATION AMENDMENT BILL 2007
FISHERIES LEVY AMENDMENT BILL 2007
GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 2007
WORKPLACE RELATIONS AMENDMENT (A STRONGER SAFETY NET) BILL 2007
WHEAT MARKETING AMENDMENT BILL 2007
AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2007
MIGRATION (SPONSORSHIP FEES) BILL 2007
NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL BENEFITS SCHEME) BILL 2007
Assent

Messages from His Excellency the Governor-General and Her Excellency the Deputy of the Governor-General were reported, informing the Senate that they had assented to the bills.

AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA’S SKILLS NEEDS) AMENDMENT BILL (No. 2) 2007

Report of Employment, Workplace Relations and Education Committee

Senator NASH (New South Wales) (4.36 pm)—On behalf of the chair of the Employment, Workplace Relations and Education Committee (Senator Troeth), I present the report of the committee on the provisions of the Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Amendment Bill (No. 2) 2007, together with a submission received by the committee.

Ordered that the report be printed.

CRIMES LEGISLATION AMENDMENT (NATIONAL INVESTIGATIVE POWERS AND WITNESS PROTECTION) BILL 2006 [2007]

In Committee

Consideration resumed.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (4.36 pm)
I will continue the remarks I was making before question time with respect to delayed notification search warrants. The legal framework will require the Ombudsman to conduct an inspection every six months. This will ensure that the inspection of records is more frequent and that the Ombudsman has a more comprehensive external oversight role. This amendment is in response to recommendation 8 of the committee report.

With respect to search warrant execution and the Australian Crime Commission Act amendments, I am proposing amendments to the definition of ‘executing officer’ in items 4 and 19 of schedule 3 of the bill so that a search warrant may only be executed by, or reassigned to, a person within the ACC who is also a qualified member of the AFP or a member of a police force of a state or territory. Making this amendment would eliminate the possibility of a non-police officer executing a search warrant and would also ensure that only a police officer has the capacity to exercise the use of force. This responds to recommendation 9 of the committee report and is consistent with the Crimes Act model.

With respect to further amendments to the Crime Commission Act relating to legal representation and examination, I will move an amendment to remove proposed section 25B of the bill. This amendment responds to recommendation 10 of the committee report. Removing proposed section 25B would ensure that no witness would be examined without a legal representative unless it is his or her express and informed desire to proceed without representation. This complies with the High Court pronouncements in the case of Dietrich.

The next amendment to the bill that I am proposing would correct an anomaly in the Australian Federal Police Act. The amendment is unrelated to the national investigative powers or witness identity matters. I propose that the maximum penalty of two years imprisonment for the secrecy offence in section 60A(2) of the act be reinserted. This penalty provision was unintentionally omitted when the commencement of the Law Enforcement Integrity Commission (Consequential Amendments) Act 2006 resulted in section 60A(2) of the Australian Federal Police Act being repealed and replaced. The re-enactment of this penalty would be retrospective to when the penalty was repealed. Although such retrospectivity is unusual and is likely to attract criticism from the Senate Standing Committee for the Scrutiny of Bills and others, I consider that on balance it is better not to leave a gap in the capacity to prosecute breaches giving rise to such an offence. The secrecy offence has been in force since it was first enacted and there is no legitimate excuse for conduct that breaches this provision. Individuals should not be able to escape prosecution because of the previous inadvertent repeal of the penalty.

With respect to the aviation amendments, a minor but necessary amendment that I am also proposing is the correction of an anomaly in the Crimes (Aviation) Act. Currently, section 15 of that act makes it an offence for a person on board a ‘division 2 aircraft’—an aircraft flying interstate or overseas—to do, or omit to do anything, that would be an offence against the law of the Commonwealth or the Crimes Act 1900 (ACT). Section 15 is intended to ensure that standard criminal offences—for example, theft and assault—always apply on such flights. However, with the current amendments to the Crimes Act (ACT) and the Criminal Code 2002 (ACT) many offences are no longer in the Crimes Act (ACT)—for example, theft—and instead appear in the Criminal Code (ACT). I propose amending section 15 of the Crimes (Aviation) Act so that it applies to Criminal...
Code conduct on relevant flights. In addition, to provide flexibility in the event of future changes to ACT criminal law, I propose that section 15 of the Crimes (Aviation) Act provide that regulations may be made to specify ACT law that do or do not apply on relevant flights.

I seek leave to move government amendments (1) to (19) together.

Leave granted.

Senator JOHNSTON—I move:

(1) Clause 2, page 2 (at the end of the table), add:

3. Schedule 7, item 1
   Immediately after 30 December 2006 of item 4 of Schedule 1 to the Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006.

4. Schedule 7, items 2 and 3
   At the same time as the provisions covered by table item 2.

(2) Schedule 1, item 1, page 6 (after line 21), after the definition of major controlled operation in section 15GC, insert: 

nominated Tribunal member means a person in respect of whom a nomination under subsection 15GOB(1) is in force.

(3) Schedule 1, item 1, page 8 (lines 5 to 7), omit subsection 15GE(3).

(4) Schedule 1, item 1, page 16 (line 13), after “(4)”, insert “and section 15GOA”.

(5) Schedule 1, item 1, page 16 (after line 23), after section 15GO, insert:

15GOA Variations resulting in authority extending beyond 12 months

(1) To the extent that a proposed variation of an authority for a controlled operation:

(a) is of a kind referred to in paragraph 15GO(2)(a) (extensions of period of effect of authority); and

(b) would have the effect that the period of effect of the authority would be longer than 12 months (including any extensions under a previous variation);

the following rules apply:

(c) an appropriate authorising officer may not make the variation; and

(d) an application (the extension application) for the variation may be made under section 15GP to a nominated Tribunal member, instead of to an appropriate authorising officer; and

(e) this Part has effect, in relation to the extension application, as if:

(i) references in sections 15GO, 15GP, 15GQ and 15GR, and in subsection 15GH(2) as applied by subsection 15GQ(2), to an appropriate authorising officer were references to a nominated Tribunal member; and

(ii) references in those provisions to the authorising officer were references to the nominated Tribunal member.

(2) To avoid doubt, an extension application made to a nominated Tribunal member must not propose a variation that would authorise participants in the controlled operation to which the application relates to engage in additional or alternative controlled conduct.

15GOB Minister may nominate AAT members

(1) The Minister may, by writing, nominate a person who holds one of the following appointments to the Administrative Appeals Tribunal to deal with extension applications:

(a) Deputy President;

(b) full-time senior member;
(c) part-time senior member;
(d) member.

(2) Despite subsection (1), the Minister must not nominate a person who holds an appointment as a part-time senior member or a member of the Tribunal unless the person:

(a) is enrolled as a legal practitioner of the High Court, of another federal court or of the Supreme Court of a State or of the Australian Capital Territory; and
(b) has been so enrolled for not less than 5 years.

(3) A nomination ceases to have effect if:

(a) the nominated Tribunal member ceases to hold an appointment described in subsection (1); or
(b) the Minister, by writing, withdraws the nomination.

(4) A nominated Tribunal member has, in relation to the performance or exercise of a function or power conferred on a nominated Tribunal member by this Act, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court.

(5) In this section:

extension application has the same meaning as in section 15GOA.

(6) Schedule 1, item 1, page 24 (line 9), omit “Director National Operations”, substitute “Executive Director Operational Strategies, the Executive Director Intelligence Strategies”.

(7) Schedule 1, item 1, page 28 (after line 6), after paragraph 15HH(2)(b), insert:

(ba) in relation to extension applications (within the meaning of section 15GOA) made to a nominated Tribunal member, being applications that would have been made to an authorising officer of the agency but for the operation of section 15GOA:

(i) the number of authorities that have been varied by formal variations of authority, and the number of applications for such variations that have been refused, during the period to which the report relates; and

(ii) the number of authorities that have been varied by urgent variations of authority, and the number of applications for such variations that have been refused, during the period to which the report relates;

(8) Schedule 1, item 1, page 75 (after line 9), at the end of section 15KP, add:

(3) The presiding officer must not:

(a) record information disclosed to the presiding officer under subsection (2); or
(b) retain or copy a document or other thing provided to the presiding officer under that subsection.

(9) Schedule 1, item 1, page 84 (line 28), omit “Director National Operations.”, substitute “Executive Director Operational Strategies, the Executive Director Intelligence Strategies”.

(10) Schedule 1, item 1, page 84 (line 30), omit “at the rank”, substitute “occupying a position”.

(11) Schedule 2, item 8, page 98 (after line 36), at the end of subsection 3SL(1), add:

Note: Paragraph (1)(b) does not authorise the acquisition or use of an assumed identity (see Part IAC). The protection provided by Part IAC only applies if the requirements of that Part have been complied with.

(12) Schedule 2, item 8, page 109 (line 30), omit “12”, substitute “6”.

(13) Schedule 3, item 4, page 117 (line 23), before “person”, insert “eligible”.

(14) Schedule 3, item 4, page 117 (line 26), before “person”, insert “eligible”.

(15) Schedule 3, item 19, page 120 (line 22), before “person”, insert “eligible”.

CHAIRMAN
(16) Schedule 3, item 19, page 120 (line 23), before “person”, insert “eligible”.

(19) Page 157 (after line 6), at the end of the Bill, add:

**Schedule 7—Minor amendments**

**Australian Federal Police Act 1979**

1 At the end of subsection 60A(2) Add:

Penalty: Imprisonment for 2 years.

**Crimes (Aviation) Act 1991**

2 After subparagraph 15(1)(b)(ii) Insert:

(iia) the Criminal Code 2002 of the Australian Capital Territory in its application to the Jervis Bay Territory; or

3 At the end of paragraph 15(1)(b) Add:

or (iv) any other law of the Australian Capital Territory prescribed by the regulations, in its application to the Jervis Bay Territory;

(Quorum formed)

Senator LUDWIG (Queensland) (4.43 pm)—As I understand it, the government amendments have been moved en bloc. I will speak to them in that way. So that we can at least have a debate on some of the issues with regard to the amendments to this bill, given that the government has now moved en bloc its amendments, I can indicate that our amendments (1), (6) and (8) to (12) will no longer be required to be moved. We will still move amendments (2) to (4), and (5). We will not move amendment (7).

In terms of the amendments moved by the government, the Labor Party do thank the government for moving to address the Senate committee recommendations and ensuring that the Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006 [2007] has been through reasonable scrutiny in this place. What I think has been lost in the debate on this particular bill is that while there has been some commentary in respect of one part of it—and I will come back to that particular part—the majority of the bill is a tidy-up exercise in addition to an exercise in ensuring that the legislation is up to date and that there is consistency across jurisdictions. That is the greatest import of this bill. It is, as we said in the second reading debate, an omnibus bill that achieves that process.

Turning to the individual amendments moved by the government, amendments (1) to (3) contain various items. I understand there is a sheet which deals with matters which the government proposes by way of amendment. It would be helpful to have that; it was tabled earlier today. There may not have been an opportunity to photocopy it and provide it to the opposition at this point in time, but I make no complaint about that.

When we look at the position that the government has outlined, we see that recommendation 1—which is accepted to the extent that, although the government indicates that it departs from the national model legislation developed by the joint working group of the Standing Committee of Attorneys-General and the Australasian Police Ministers Council—is accepted, as it would be rare that a controlled operation would be desirable in circumstances where no suspected offence with a maximum penalty of at least three years was involved. The Labor Party thanks the government for that amendment.

The government has indicated that recommendation 2 has been accepted in part. Recommendation 3 is not accepted, but the alternative recommendation is accepted in part. As fully outlined, recommendation 4 is similarly accepted. I am not sure whether the minister outlined in his statement before parliament today the additional part, which may
or may not be presently to hand, as to which amendments go to which recommendations. If he did not, it would be helpful. If the minister is in a position to do that, it might help to facilitate the process. I will assume that the minister does have that information or that his advisers can provide it. That would allow us, when we look at the various amendments, to compare them to the recommendations of the committee and examine the position that the government has indicated on the response to the recommendations of the Senate standing committee.

We note that recommendation 6 is not accepted. The committee recommended that the federal government limit the offences in relation to which delayed notification search warrants may be issued for offences involving terrorism, organised crime, death or serious injury with a maximum penalty of life imprisonment. It is with disappointment that the Labor Party see that the government has not circumscribed that amendment in terms of recommendation 6 of the Senate committee. We differ with the justification. We are more broadly in agreement that the power should exist. We just differ over when it should be available—unlike the Democrats and Greens in respect of this debate. Recommendation 10 and the remaining recommendations have all been either accepted or accepted in part.

I think that demonstrates the strength of the committee. I usually take the opportunity of thanking both the secretariat and the chair of the relevant committee—in this case, it is the Senate Standing Committee on Legal and Constitutional Affairs—for ensuring that there was a joint response from the opposition and the coalition senators, because the strength of the committee process is demonstrated by the ability to obtain recommendations and amendments that accord with those recommendations from the government. Therefore, the committee deserves recognition for that work.

If the government could also indicate which amendments were moved which are not part of the recommendations and which are also not procedural in nature, it would be helpful. I do not expect those which are of a procedural nature to be advised on but, for those which are of a substantive nature, it would be helpful to understand which government amendments have been moved in that way. Of course, this happens when you move them en bloc. We have not had the ability, other than today, to examine them. For the record, what usually occurred with the previous minister was that at some point we would have had that type of exercise so that forewarned would be forearmed and so that we could confine the debate in this chamber to the issues which we disputed or disagreed on. Rather than have a wide-ranging debate in the committee stage, we could confine it to the matters which we disagreed on.

It does seem that at least we disagree in respect of confining the delayed notification warrant. On that matter, if I could, I would ask that to be taken out of the bloc because we do not want to agree with the government on that amendment but rather we want to divide on it. We would oppose it and prefer Labor’s amendment in respect of that matter. I think that is reflected in the running sheet. It seems that government amendment (11) is in conflict with opposition amendment (8).

As I said earlier, we will not be moving opposition amendments (1), (6) and (8) to (12), and government amendment (8) would be withdrawn. You have made no change to the delayed notification warrant amendment. If that is right, by the look of it it falls to a position where we can agree with all of those amendments and then continue with our preferred position in respect of opposition
amendments (2) to (4), (5) and (7)—if that is helpful.

Senator NETTLE (New South Wales) (4.54 pm)—I want to ask the minister a question about government amendment (8). I apologise if it was answered while I was walking down to the chamber. I would like an explanation about that amendment. Looking at it, it seems as though there is a concern about the presiding officer—the tribunal member or the judge—being able to keep a record of the interview and the decision. Is there a concern that the tribunal member should not be able to write down and keep record of it? Is it so that it cannot be asked for later? Could the minister explain the rationale behind government amendment (8)?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (4.55 pm)—This is in response to recommendation 5 of the committee’s report to amend proposed section 15KP to prohibit the retention, copying or recording by a presiding officer, whether he is a judge or magistrate, of any information or documentation provided to them under that provision—that is, information or documents that relate to an operative’s true identity. So it is about undercover operations.

Although this would lead to a departure from the national model, this proposed amendment would ensure that the true identity of an operative was not revealed or compromised by the actions of the presiding officer, albeit inadvertently. In circumstances where operatives are conducting a controlled operation with organised crime, outlaw motorcycle gangs or drug traffickers, you could understand that, as a sole source of evidence, they would be potentially in great jeopardy and danger were their identities to be revealed. This is a risk management exercise and a security measure for policing.

Question agreed to.

Senator LUDWIG (Queensland) (4.57 pm)—I think I have indicated that we will not be moving opposition amendments (1), (6) and (8) to (12). We would then go to the Democrat amendments (1) to (3), as I understand it.

Senator STOTT DESPOJA (South Australia) (4.57 pm)—I want to clarify with Senator Ludwig which amendments he was seeking to withdraw. The Democrats will be supporting the opposition amendments, just as we were happy to support the government amendments, but I was wondering whether perhaps Senator Ludwig would not mind reiterating which ones he was seeking to move and not move.

Senator LUDWIG (Queensland) (4.58 pm)—We will not be moving opposition amendments (1), (6) and (8) to (12). If you look at the running sheet, those have nearly fallen within that first government amendment, and opposition amendments (1), (6), (8) to (12) would have been the next amendments to have been moved. We will still move opposition amendments (2) to (4) and (5) but we will withdraw (7).

Senator STOTT DESPOJA (South Australia) (4.58 pm)—by leave—I move Australian Democrat amendments (1) to (6) on sheet 5327:

(1) Schedule 1, item 1, page 14 (line 3), omit “principal law enforcement officer”, substitute “authorising officer”.

(2) Schedule 1, item 1, page 14 (line 15), omit “controlled conduct”, substitute “unlawful conduct”.

(3) Schedule 1, item 1, page 14 (line 18), omit “controlled conduct”, substitute “unlawful conduct”.

(4) Schedule 1, item 1, page 14 (lines 20 to 24), omit subsection 15GL(3), substitute:

(3) As soon as reasonably practicable after giving an oral authorisation, the authorising officer for the controlled operation must give to the person authorised
These amendments deal with unlawful conduct and authorisation. We are seeking to amend schedule 1 of the legislation to ensure that the authorising officer and not the principal law enforcement officer be required to identify each person who may engage in unlawful activity for the purposes of the controlled operation. We also seek to identify (a), with respect to law enforcement participants, the nature of the unlawful conduct in which those participants may engage and (b), with respect to civilian participants, the particular unlawful conduct, if any, in which each participant may engage. There are also some related amendments there that relate to written authorisations and cancellations.

Question negatived.

Senator STOTT DESPOJA (South Australia) (5.00 pm)—I am wondering whether the Labor Party or the government want to put on record their concerns, or otherwise, with those amendments. In my speech in the second reading debate I outlined some of my concerns, but I thought that particularly the first set of amendments in relation to unlawful conduct was probably not as scary as the government anticipated that it might have been. Obviously the debate is moving forward, but, if anyone would like to place their reasons on record, that would be good.

Senator LUDWIG (Queensland) (5.01 pm)—I was going to wait for the government to provide a response, to see what their view was. There is still an opportunity for you to press it.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.01 pm)—The government is opposed to these amendments. Democrat amendments (1), (4), (5) and (6) would remove the two-stage authorisation process contemplated by the bill. The two-stage process was implemented as a result of consultation with law enforcement agencies and it concerns the privacy and protection of individuals involved in a controlled operation. Accordingly, the government has considered the amendments but opposes them.

Senator LUDWIG (Queensland) (5.02 pm)—I usually respond to Senator Stott Despoja in these debates. The opposition will not support the amendments. The argument that the minister raises is sound. The opposition have confined ourselves to certain matters, and you obviously would be aware of the position we have adopted, Senator Stott Despoja. The Labor Party have looked at the committee recommendations; we have asked questions about them and received submissions on them. The committee came to a unanimous position about those recommendations to try to improve various parts of the omnibus bill and the various schemes within it. It would not come as any surprise to Senator Stott Despoja that, in this instance, we would confine ourselves to those recommendations. The earlier part of the proceedings was then to sort out which ones were accepted or rejected by the committee, which ones the government has now moved and accepted and which ones the Labor Party no
longer need to move here. We will still be moving the remainder of our amendments. We understand in principle the position that Senator Stott Despoja has put but note that, without significant scrutiny of them, the Labor Party cannot find our way clear to support these amendments.

I seek leave to move together opposition amendments (2) to (4) on sheet 5190.

Leave granted.

Senator LUDWIG—I move:

(2) Schedule 1, item 1, page 15 (line 29), after “has effect for”, insert “the lesser of three months or”.

(3) Schedule 1, item 1, page 17 (after line 23), at the end of the section 15GQ, add:

(3) Nothing in this section permits an authorising officer to extend the duration of an authorisation beyond three months from the date of the initial authorisation.

(4) Schedule 1, item 1, page 17 (after line 23), after section 15GQ, insert:

15GQA Extension of authorisation

(1) An authorisation expires in accordance with section 15GN unless, while the authorisation is in force, a nominated Tribunal member has:

(a) reviewed the authorisation; and
(b) decided that the authorisation should remain in force for a longer duration.

(2) The authorisation must be reviewed by a nominated Tribunal member within two weeks before the date on which the authorisation would expire without an extension granted under this section.

(3) The nominated Tribunal member must not extend the term of the authorisation under this section unless the Tribunal member is satisfied on reasonable grounds of the matters described in subsection 15GH(2).

(4) The nominated Tribunal member must not extend the term of any authorisation beyond one year from the date of the commencement of the authorisation.

15GQB Who are nominated Tribunal members?

(1) A nominated Tribunal member is a member of the Administrative Appeals Tribunal in respect of whom a written nomination by the Minister is in force that permits the member to conduct reviews and to make decisions under section 15GQA.

(2) The Minister must not nominate a person unless the person:

(a) is a Deputy President or full-time senior member; or
(b) is enrolled as a legal practitioner of a federal court or of the Supreme Court of a State or Territory and has been enrolled for at least 5 years.

(3) A nominated Tribunal member has, in conducting a review or making a decision under section 15GQA, the same protection and immunity as a Justice of the High Court has in relation to a proceeding of that court.

These deal with controlled operations and the requirement for the AAT to authorise extensions. The government’s position is that they oppose these amendments and have provided that extensions for longer than 12 months are required to be authorised by the AAT. These amendments are superior to the position that is indicated by the government. These amendments ensure that there is sufficient oversight. One of the problems that has been identified in this bill—in some parts—is the degree of oversight that is required to ensure that all of the provisions have adequate safeguards within them. I seek the support of the government on these amendments, although it may fall on deaf ears.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.05 pm)—For the reasons I have set out, the government opposes these amendments.
Senator STOTT DESPOJA (South Australia) (5.05 pm)—The Democrats support these amendments. May I add, for the record, that there is a difference between people not wanting to hear something and people who are genuinely deaf. That is why the expression ‘falling on deaf ears’ is occasionally offensive to those who are deaf or hearing impaired. Through you, Madam Chair, I make that point to Senator Ludwig: I make that point whenever I get a chance.

Senator LUDWIG (Queensland) (5.05 pm)—I do apologise. I think my age gets to me sometimes! I take Senator Stott Despoja’s point. It was not my intention to offend.

Question negatived.

Senator LUDWIG (Queensland) (5.06 pm)—I move opposition amendment (5) on sheet 5190:

(5) Schedule 1, item 1, page 28 (lines 33 to 37), omit subsection 15HH(4).

This amendment relates to controlled operations and seeks to ensure that there is—following the Senate committee’s recommendation—greater accountability within this area. I will not speak to this at length. I spoke to this matter during my speech in the second reading debate. The numbers in this place are not going to support me on this amendment. Therefore, I will not take up more time than is needed to make that point. I think that the Senate committee got it right, but in this instance the government will not be moved that far.

Senator STOTT DESPOJA (South Australia) (5.07 pm)—This seems to be an incredibly inoffensive amendment and is in line with the Senate committee’s recommendations. I am sure that in an ideal world we could have even greater reporting in other periods. This goes to the heart of issues of accountability and I do not see why the government cannot support this particular amendment. Certainly the Democrats will be supporting it.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.07 pm)—The government does not support opposition amendment (5) as it has the potential to have serious operational consequences should information be revealed that could endanger the success of the operation—which I think is quite obvious. The government does not think that Labor’s amendment, which places an absolute time constraint on controlled operations, is warranted. This could have serious operational ramifications, requiring a long-running operation into money laundering, for example, or terrorist financing, to be aborted at a sensitive stage.

Senator LUDWIG (Queensland) (5.08 pm)—Is the government saying that it does not report on any of these matters? As you know, the Australian Federal Police do report on a range of issues: warrants, telecommunications interceptions. They take on board and then report on a broad number of matters. Is the government indicating that no report is made at all in respect of matters which are ongoing in a broader sense and that the reporting every six months would be both onerous and difficult for ongoing investigations? Is that the point that is being made?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.09 pm)—That is the correct point.

Senator LUDWIG (Queensland) (5.09 pm)—Was that point made in submissions by the Attorney-General’s Department to the Senate committee inquiry? The minister might be able to help with that or at least advise at the conclusion.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.09 pm)—The answer is no, but it was discussed subsequent to matters being ventilated at the committee.
Senator LUDWIG (Queensland) (5.10 pm)—I thank the minister for that. That does go to some of those matters that I spoke about earlier. These sorts of matters sometimes continue to be sorted out, whereas issues related to recommendations, although we see them as minor in some respects, have a clear answer. There is nothing stopping or preventing A-G’s from filing a post report or a post explanation if they have missed something, or even following that up in their advice to the committee so that it can be passed to members. I encourage A-G’s to always take that opportunity. If there are matters or omissions that they may want to add to their submission, they can always make a supplementary submission. It would, I suspect, always then be dealt with in the report to the legislation committee by the minister. But, as the parliament will know, it is not always the case that the government provides a report on the Senate committee recommendations. It is helpful for that to be done, but the government reserves its right to not always do that and to use the legislative process itself to provide a response. It does, of course, provide responses to the broader reports but not necessarily always in respect of legislative reports.

Question negatived.

Senator STOTT DESPOJA (South Australia) (5.12 pm)—by leave—I move Democrat amendments (7) and (8) on sheet 5327:

(7) Schedule 1, item 1, page 49 (lines 4 to 11), omit subsections 15JA(1) and (2), substitute:

(1) An authority for an authorised civilian of a kind covered by paragraph 15HZ(2)(h) remains in force until the end of the period specified in the authority in accordance with subparagraph 15HZ(2)(h)(iii), unless the authority is cancelled sooner under section 15JB.

(2) An authority for an authorised person (other than an authorised civilian of a kind covered by paragraph 15HZ(2)(h)) expires at the end of the period of 3 months after the day on which it was given, unless cancelled earlier under section 15JB or, during the period, was extended by a nominated Tribunal member.

(3) In applying for an extension of a controlled operation authority, the principal law enforcement officer must provide a progress report in accordance with the time period for review under subsection (4) to the nominated Tribunal member that outlines:

(a) how effective the operation has been to date in gathering evidence in relation to the offence and targeted person specified in the original authority that may lead to prosecution of a person for a specified serious offence;

(b) whether any unlawful conduct authorised and/or carried out in the course of the controlled operation up until that point was outside the scope of the initial authority or went beyond what was necessary to conduct an effective controlled operation;

(c) whether any conduct up until that point by an authorised person in the controlled operation:

(i) seriously endangered the health or safety of any person; or

(ii) caused the death of, or serious injury to, any person; or

(iii) involved the commission of a sexual offence against any person; or

(iv) resulted in loss of, or serious damage to, property (other than illicit goods);

(d) the participation up until that point of any civilians in the controlled operation, particularly any authorised...
unlawful conduct engaged in by civilian participants, and whether the role played by any civilian participant could have been adequately performed by law enforcement officers.

(4) An extension granted under subsection (2), must only be granted if the certificate has been reviewed by a nominated Tribunal member during the last 2 weeks of the period of 3 months after the day on which the certificate was given under section 15J.

(5) An extension granted under subsection (2) can extend a controlled operation to a total duration for the operation of no longer than 6 months.

(6) The nominated Tribunal member must not decide that the certificate should be in force for 6 months unless he or she is reasonably satisfied:

(a) as to all the matters referred to in paragraphs 15GH (2)(a) to (h); and

(b) that the benefits of the operation to date, with respect to gathering evidence which may lead to prosecution of a person for a specified serious offence, substantially outweigh the degree and scope of the unlawful conduct required to obtain that benefit, particularly where civilian participants are involved, having regard to factors set out in subsection (3).

(7) The nominated Tribunal member must give written notice of his or her decision on the review to the principal law enforcement officer in charge of the controlled operation and the chief officer of the agency to which the certificate relates.

(8) Schedule 1, item 1, page 49 (line 15), after “agency”, add “except for granting of extensions as required under 15JA”.

Democrat amendments (7) and (8) are in relation to the granting of extensions for controlled operations. We seek to amend schedule 1 of the bill to retain the requirement that extensions of controlled operations for three-month periods be approved by a member of the AAT and also require that a principal law enforcement officer applying for an extension of the controlled operation authority must provide a progress report to the AAT which addresses the effectiveness of the operation, whether unlawful conduct has exceeded the scope of the initial authority or has endangered the public and whether civilian involvement is still necessary. Essentially we are looking to strengthen the monitoring role of the AAT. I referred to this, obviously, in my speech in the second reading debate. Amendment (8), dealing with the extension limits, seeks to limit the ability of the chief officer of an agency to vary or extend the operation in line with the expanded role of the AAT. I commend the amendments to the chamber.

Question negatived.

Senator STOTT DESPOJA (South Australia) (5.13 pm)—Through you, Chair, to the minister, I am going to say something to goad you, Senator Johnston, just to get something on record.

Senator Ludwig—I have tried.

Senator STOTT DESPOJA—You have tried, yes. I have to say, Senator Ludwig and Senator Johnston, that you did have a bit of a chest-beating exercise before this debate adjourned earlier today. I move Democrat amendment (9) on sheet 5327:

(9) Schedule 1, item 1, page 69 (line 14) to page 70 (line 5), omit subsections 15KI(1) to 15KI(3), substitute:

(1) A court or tribunal may grant a witness protection certificate provided:

(a) the court or tribunal has undertaken an independent assessment of the asserted need for witness anonymity and satisfied itself that the need is genuine and well-founded in the interests of:
(i) national security; or
(ii) the personal safety of the witness;
(b) all other less restrictive protective measures have been considered and found to be inadequate in the circumstances;
(c) that a court or tribunal may, only in exceptional circumstances, convict (or enter a judgement against a party) based either solely or to a decisive extent on the testimony of any anonymous witness.

Democrat amendment (9) is in relation to witness protection certificates. We seek to remove the ability of the chief officer to grant a witness protection certificate and to replace that with a court or tribunal. Again referring to my remarks in the second reading debate, obviously we see this as being a stronger mechanism and do not believe that there is a sufficient argument before us to support the changes proposed in the bill. I hope that the government and the Labor Party will consider the amendment before us.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.14 pm)—The government does not support Democrat amendment (9) and believes that sufficient protections are provided by proposed section 15KQ to ensure that an operative’s identity can be disclosed when appropriate.

Senator LUDWIG (Queensland) (5.15 pm)—I understand the principle that you are seeking, Senator Stott Despoja, but I think in this instance the position being articulated by the government appears to provide sufficient protection. It was not a matter that was raised in any broad way before the Senate committee. As I read it, I can see the point that you make, but I think it is probably more than what is necessary in this instance. It appears that the current system does not and has not thrown up any significant issues that need addressing. Therefore, the Labor Party will not support this. But, having looked at them, they are certainly matters that I will keep in mind.

Question negatived.

Senator NETTLE (New South Wales) (5.16 pm)—The Greens oppose schedule 1 in the following terms:
(1) Schedule 1, page 3 (line 2) to page 85 (line 6), TO BE OPPOSED.

The purpose of this amendment is to oppose the part of the legislation that deals with controlled operations. I spoke about this matter to a limited extent in my second reading debate speech. The Greens understand that in some circumstances the police must work undercover, and this often involves collaboration with a whole range of people involved in criminal activity. It is clear, however, that such activity has a great risk of contributing to corruption and abuse. For those reasons, and to ensure public confidence, it is very important that such undercover work or controlled operations are tightly regulated and that the police involved are accountable. We are concerned that the section of this bill that deals with controlled operations waters down and removes some of the important mechanisms of accountability that exist for such controlled operations. That is why we are moving the Australian Greens amendment.

I have a couple of questions for the minister about controlled operations, in particular the use of foreign intelligence officers in controlled operations and the immunities that are provided for foreign intelligence officers in these operations. Can the minister explain what the purpose is of foreign intelligence officers being able to use assumed identities as part of these controlled operations and whether or not foreign intelligence officers and their agencies would therefore be participating in controlled operations with the Australian Federal Police? Is the minister
able to provide any more details about which agencies and which countries? In particular, is it intended that these powers be put in place in order to prepare for APEC, which will occur in Sydney in September?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.18 pm)—I think that is probably a legitimate question. Where we are working in cooperation with a person from another country on a controlled operation inside Australia, it is arguable that they would be breaking the law if they were to be carrying out acts with an Australian Federal Police officer who is covered by the legislation. Given that there may be a cross-border duality of criminality and that the evidence is gathered onshore in Australia, we must incorporate that person into the regime so that that person, who is acting in his country’s best interest, is covered.

Senator NETTLE (New South Wales) (5.19 pm)—Your answer has made it a bit more unclear to me. From your answer, I am not sure now whether the foreign intelligence officer will be involved in undercover operations in Australia or overseas. I thought what we were talking about was the foreign intelligence officer’s involvement in breaking Australian law in Australia, but your answer seemed to suggest that they will be operating in their country and AFP officers can be breaking the law here. Can the minister clarify that? I thought we were talking about foreign intelligence officers breaking Australian law in Australia. Are you talking about them only being involved in their home country?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.20 pm)—I am talking about them working in Australia in partnership with Australian law enforcement agencies, and our agents—Australian Federal Police officers and Australian law enforcement officers—working in another country. There is a reciprocal capacity requiring protection for all officers in the pursuit of the particular criminality—the subject of the operation.

Senator NETTLE (New South Wales) (5.20 pm)—Are there specific countries or agencies that this is intended to relate to or is it for everyone? Is this the sort of power that you could imagine being used in APEC, for example? I know that legislation in New South Wales has gone through which gives New Zealand Police the authority to operate as Australian police for the purposes of APEC. Is that part of what this is focusing on? I am sure it is broader than just APEC, but my question is whether it relates to APEC.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.21 pm)—The answer to the first question is no. There is no country that is the subject of, or under consideration in, the enactment. The second question is one that I would decline to answer because it is purely speculative as to future operations. They can take very diverse forms and I would be remiss in seeking to limit the focus of future operations on any particular event, time or country.

Senator LUDWIG (Queensland) (5.22 pm)—This bill was drafted in 2006, introduced at that time and subsequently dealt with. I am not sure if APEC was in the minds of the drafters of this bill. Perhaps it would be worth while for the minister to answer that point, because, as I understand it, the Greens amendment seeks to take out the whole of schedule 1—that is, to take out effectively what has been around for some years now as a power that is available to the Australian Federal Police to work with states. It relates to a controlled operation, which is defined as a:

… covert or overt activity which would normally be unlawful, but for which immunity is provided
for the purposes of securing evidence of serious criminal offences.

It came—I will add a bit of history here—from model legislation which was published in 2003 in the report *Cross-border investigative powers for law enforcement*. The intent of the legislation is to harmonise as closely as possible the controlled operations regime across Australia. The removal of schedule 1 would leave a serious hole in the ability of the Commonwealth to work with the states on serious crime. If that is the intent of the Greens then not only can I not agree with the position they have put but I also criticise them, in taking this opportunity to remove schedule 1, for not being serious about fighting crime—cross-border crime particularly—through the use of powers that have been available for some time. If there are elements of schedule 1 that the Greens disagree with then this is the appropriate place to debate them, but to use this opportunity to say that you do not want controlled operations powers that have been around for some time misses the point of allowing our law enforcement officers sufficient powers to conduct their investigations and to fight crime.

The bill covers the spectrum of controlled operations and defines the method of authorisation required for each. There is a regime in place that deals with how the controlled operations should be undertaken and dealt with. I will not go into the detail of that, but I think it is important to at least highlight the gulf between Labor and the Greens on this matter. Notwithstanding that the power has been around for some time, that it has been brought forward to harmonise with the states, that it came from a report back in November 2003 and that it is ensuring that the Commonwealth can deal with cross-border crime in an effective way with the relevant controls and safeguards in place, the Greens are taking the opportunity of seeking to remove that power completely, which would leave the Commonwealth unable to deal with controlled operations on a cross-border basis. On that basis alone, I find the Greens’ position extreme and I am not able to agree with it.

**Senator Nettle** (New South Wales) (5.25 pm)—As I outlined in my speech in the second reading debate and my comments in relation to this amendment, our concern is that this bill removes the accountability mechanisms that are currently in place for controlled operations and undercover operations. We have all been talking about that. We are concerned that undercover operations are precisely the kinds of operations for which we need to have significant accountability mechanisms in place. That is the intention of the Greens amendment.

**Senator Stott Despoja** (South Australia) (5.26 pm)—First I want to acknowledge that I understand what the Greens are trying to achieve. The Democrats have sympathy for that because we agree that the legislation before us is not sufficiently full of the various appropriate accountability mechanisms or safeguards. Looking at the debates we have had and the amendments that have been moved in relation to schedule 1—from time limits on controlled operations right through to who can or cannot issue WPCs—I think that the effect of this is to return to the status quo.

We understand that the said aim of the legislation is to do those things to which Senator Ludwig referred, particularly harmonise laws and ensure Commonwealth-state cooperation and the ability to work together. But there are some instances where you need to say that the government, in drafting legislation, needs to go back to the drawing board. In the last half an hour or so, there have been a series of amendments, some that have come from the crossbenches, that have gone further than the Senate com-
mittee recommendations. There were also Senate committee recommendations that were totally worthy and appropriate and should have been adopted. I acknowledge that the minister and the government have adopted, in a limited form, some of those recommendations, but I think it is entirely legitimate for Senator Nettle to move an amendment to oppose the schedule in full and, as a result, seek to return us to the current circumstance and ask the government to come up with new legislation or a new schedule that incorporates some of the safeguards that the various submitters to the Senate inquiry and others have called for. It is quite concerning that it is considered extreme. It is certainly blunt but it is not unwarranted. So, based on the fact that my amendments on behalf of the Democrats have not been supported in this circumstance—nor, indeed, have the opposition's amendments, which quite appropriately put forward the bipartisan view of the Senate inquiry recommendations—I have no qualms about supporting this amendment in relation to schedule 1.

Senator LUDWIG (Queensland) (5.29 pm)—I am sorry, Senator Stott Despoja, that I have raised your ire in this respect. The point I am making is that this legislation was the subject of a report dating back to November 2003; the direction that the government is taking is not new in that sense. Having read that cross-border investigative report some time ago now, and noting that the bill was introduced back in 2006, in this regard schedule 1 was not unexpected. Providing an update of controlled operations and harmonisation across the states, to ensure that the Commonwealth has the ability to work with the states, we have moved on since the time when the states and the Commonwealth, at least for law enforcement purposes, did not adopt a cooperative approach. But they do now, and they have done so for some time, for a range of very good reasons. By removing this schedule, we would be going back to a position where we might inadvertently hamper, hinder, obstruct or make things difficult. I am sure the government could outline the purposes of ensuring that there is the ability to have, in this instance, effective cross-border investigative powers. That is the point I was making.

Having followed the debate since 2003, it is a quite different point to make that you have complaints about oversight, additional oversight or something which is, in my view, legitimate. It is not for me to judge, but I am referring to matters that you could quite rightly point to and say that they require strengthening. It is quite another matter to say that the Commonwealth should be denied the ability to move towards harmonisation to ensure that the impediments to cross-border investigative operations are removed.

When you juxtapose those positions, you see that the Labor Party entered the debate constructively, as it did during the committee process. I do not like saying this, but the government did respond to the committee recommendations, and it did respond positively, to the extent that it picked up most of the recommendations. I am not always in a position to be able to say that in this place—that the government has picked up most of the recommendations. In fact, in this case it has picked up all but recommendation 6. There were a range of recommendations dealing with oversight issues and the like. Of course, it only picked up some in part and it changed some others. However, my summation is that it has done better than 50 per cent, and that has been quite a rarity during the last 12 months or so that the government has been in control of the Senate. I do not like to give credit where credit is due when it involves the government, but I will do so in this case, because it has risen to the challenge and provided a response. We have now
been able to work through the legislation, and it is better than many other pieces of legislation that we have looked at. I know that is a rather long-winded explanation, but the matter did require one.

The TEMPORARY CHAIRMAN (Senator Moore)—The question is that schedule 1, as amended, stand as printed.

Question agreed to.

Senator LUDWIG (Queensland) (5.33 pm)—I move opposition amendment (7) on sheet 5190:

(7) Schedule 2, item 8, page 88 (lines 4 to 16), omit the definition of relevant offence, substitute:

relevant offence means:

(a) an offence under Division 72 of the Criminal Code Act 1995; or

(b) an offence under Part 5 of the Criminal Code Act 1995; or

(c) an offence involving or resulting in the death of a person; or

(d) an offence against the person, where the maximum penalty for the offence is imprisonment for life.

This is one area where we do fall out with the government. In its response, the government indicated that it did not accept recommendation 6. The Senate committee recommended that the federal government limit the offences in relation to which delayed notification search warrants may be issued to offences involving terrorism or organised crime, or death or serious injury, are matters which can fall within the state jurisdiction and that, if we are looking at cross-border harmonisation of investigative powers and the use of delayed notification warrants, the outcomes should be similar. If there is a complaint that some of those offences that should be dealt with by the states are not being dealt with, the minister has the ability to put those matters on the agenda of the police ministers’ council, to pursue them more broadly, if it has not already done so, and accept the outcome. The other thing it could do is provide a more detailed explanation. The complaint we make is that it seems to be too broadly drafted. That is the position that we have argued, both in the Senate committee and here. If the position were to be argued differently, it would have been helpful if the Attorney-General’s Department, in providing advice to the Senate committee, had pointed that out. If they did so, I will withdraw those remarks.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.36 pm)—I think I have already dealt extensively with why the government did not accept the committee’s recommendations on this point, and those reasons apply equally to this amendment. Outside the terrorism context, delayed notification search warrants are needed to investigate, obviously, drug trafficking, child sex tourism and sex slavery.
networks. They are required to bring those engaged in such activities to account and to enforce the law against them. Also, in circumstances that I have set out with respect to outlaw motorcycle gangs and organised crime, using delayed notification search warrants would mean that those networks could not be tipped off through the provision of a document that would indicate what the enforcement officers were seeking and which would then be challengeable in a jurisdiction such that further evidence would have to be given in support or rebuttal of an injunctive proceeding.

By way of assistance to the opposition, I have provided a short table setting out the government amendments relevant to the Senate committee’s recommendations. I can further provide references to the recommendations with a view to the opposition amendments, should you so require.

Senator Ludwig (Queensland) (5.38 pm)—We will not move it, then, on the basis of that.

The TEMPORARY CHAIRMAN (Senator Moore)—Are you withdrawing amendment (7), Senator Ludwig?

Senator Ludwig (Queensland) (5.38 pm)—Yes.

The TEMPORARY CHAIRMAN—Opposition amendment (7) has been withdrawn. We now move to Democrats amendment (10) on sheet 5327.

Senator STOTT DESPOJA (South Australia) (5.38 pm)—The Australian Democrats oppose schedule 2 in the following terms:

(10) Schedule 2, page 86 (line 2) to page 116 (line 13), TO BE OPPOSED.

This amendment is identical to Greens’ amendment (2) on sheet 5211. It deals with our objections to the delayed notification search warrants. I thought that Senator Ludwig’s points were well made in terms of restricting the offences to which you would have delayed notification search warrants—

Senator Ludwig—I realised I didn’t want to get into the argument!

Senator STOTT DESPOJA—so I am surprised and disappointed by the withdrawal of that amendment, having supported the recommendations of the Senate committee, certainly as a next best step or an ameliorating provision, if you like, in relation to this legislation.

I have put on record already our concerns with this provision. So what this amendment seeks to do is essentially to oppose broadly the provisions that relate to the delayed notification search warrants. The Democrats believe that there is a strong argument for getting rid of this provision, and we oppose the provision and hope that that will be supported.

Senator NETTLE (New South Wales) (5.40 pm)—I spoke extensively on this matter in my speech on the second reading. This amendment, as Senator Stott Despoja outlined, is about removing the power of the Australian Federal Police to carry out secret searches in people’s homes, to confiscate their equipment, to plant listening devices and to access their computer equipment, all without those people ever knowing. As I explained in my speech, and as Senator Johnston has heard me explain before, our concern is that, if evidence is gathered as part of that covert search which is subsequently used against an individual in court, they will not be able to contest that evidence because they will not know that the search was carried out.

As I explained in my speech, currently the way in which warrants are issued is that you know someone is searching your home or your property and you are able to be there to check that they carry out the search properly. You get receipts for things that they take, and you are also able to have a lawyer present.
What that means is that you are able to check to see that the search is carried out lawfully and properly. If the search is carried out covertly and you never know about it then, if evidence is gathered and brought into a court and used against you, you cannot contest the accuracy of the collection of that evidence or whether that evidence was collected legally, because you were not able to observe or be aware of the search or receive receipts for documents taken because you would not know that the search had been carried out.

As I said in my speech, the government’s rationale is that this is about evidence. The position I have put forward is that, given the delay in notification of the search warrant, it is inevitable that it will be used for intelligence. But, if I take the government’s rationale that it is for evidence, you would not be able to contest that evidence in a court if you were not aware of the way in which the search was carried out because you would not have been notified, you would not have had anyone present, you would not have had a lawyer able to observe the search and you would not have been able to access receipts for the process.

The amendment is about ensuring that there is not an abuse of the power to carry out the search. I am not saying that there will be an abuse; that is not what I am saying. I am just saying that this mechanism prevents you from being able to ensure that such a search is carried out properly. If evidence is gathered and is used against you in a court, you have the right to be able to ensure that that evidence was legally and properly collected. But this takes away your right to be able to ensure that evidence used against you in a court is appropriately collected. That is the concern that the Greens have in relation to this, and that is why we do not support giving these new ‘sneak and peek’ powers to the Australian Federal Police.

I dealt with the issue of the time delay in my speech on the second reading. It is an extraordinary length of time. If it is for evidence gathering in particular, I cannot see why you need six months extended to 12 months and then 18 months. And, with the approval of the minister, the extensions can continue. That might make sense if it were for intelligence gathering, but it is not. The government’s rationale is that it is for evidence gathering. Presumably, you are gathering evidence to use in the courts, so why such long delays?

It is interesting to compare it to the USA PATRIOT Act. In that act, at section 213, it says that such warrants are only able to be delayed for 90 days. What is being proposed here as the initial period of time before there is any requirement for notification is double what is in the USA PATRIOT Act. Then this legislation allows for further extensions to make it 12 months or 18 months and then, with the approval of the minister, to extend it beyond that. So it is quite extraordinary, even when compared with overseas examples such as the USA PATRIOT Act.

Where you give powers to the Federal Police to carry out a search of somebody’s home, there needs to be that accountability. Our concern is that this model for covert search warrants, the ‘sneak and peek’ powers for the AFP, does not allow you to have the oversight that you need, particularly if evidence is being gathered that is being used against you in your court case, because you cannot contest it. That is the concern that the Greens have, and that is why we strongly support this amendment. We are concerned, and I outlined this in my speech in the second reading debate, that the process outlined in the bill suggests that an 18-month delay in notifying anybody can be easily obtained. This goes to the matter of there not being guidelines for Administrative Appeals Tribunal members or judges on making a determi-
nation about when there are extraordinary circumstances and the delay in notification should be extended even further. That allows 18 months to become standard. Obviously there is an additional approval from the minister for a period beyond 18 months, so the length of time indicates to us that it is of concern. As I have said, that is far longer than is allowed in the United States, for example.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.45 pm)—I see that Senator Nettle does have some grasp of the way this might work. But I need to explain to her that, for evidence to be admissible as a primary question, every judicial officer in a proceeding can consider admissibility, so that evidence can be challenged, notwithstanding the fact that a late notification warrant gave rise to it. What we are saying is that providing notification to someone who is in certain specified circumstances such as I have already set out to you is counterproductive. In fact, it threatens the success of the operation to set out in warrant form the basis of the warrant and to provide advice to the person who is the subject of the warrant. That does not preclude the person from subsequently, upon the charges, challenging the evidence derived from the warrant. They would have that right with notification. They still have the right at the proceedings—challenging the evidence gathered from the execution of the warrant.

Senator NETTLE (New South Wales) (5.47 pm)—I do understand that you are able to contest the evidence. My concern is that if you are not there, present at and aware of the search, then you do not have a basis on which to challenge the admissibility of the evidence. I accept that you are able to challenge the admissibility of the evidence in court, but my concern is that if you did not know the search was carried out—you were not aware and you did not know how the search was carried out—then that would make it difficult for you to determine a basis on which to challenge the admissibility of the evidence and the way in which the search was conducted. So I accept that you are able to challenge it—being able to challenge something is good; it is appropriate and you should be able to do it. But if you are not aware of the search and how it was carried out then the basis on which you challenge it is removed—your opportunity to do that is removed.

The minister has, both here and in other fora, pointed to the example of not wanting to tip somebody off that a search is being carried out. I suppose it is about recognising that, in practice, the cops rock up to your house with the warrant and go in. It is not like they say, ‘Hey, we’re going to come and search your house in two weeks.’ You are not told: ‘Hey, clear up your place. The cops are coming around in two weeks. They’ll be searching, so you’d better clear out all the evidence.’ It just does not work like that. The cops rock up to your house with the warrant, they show it to you and in they go. I accept that the minister is trying to make a point, but I just do not think it aligns with the reality of the way in which the searches occur.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.49 pm)—Without seeking to create any defences, in terms of evidence obtained through a late notification warrant, the warrant would have to be obtained according to the law. That would obviously be a starting point if the admissibility of the evidence was to be challenged. It would be a starting point whether or not a person was standing there observing the execution of the warrant. With the greatest respect, Senator Nettle, all I am saying is that I think you are seeking to jump at shadows because you do not like the au-
thoritative nature of the powers that police have.

Senator STOTT DESPOJA (South Australia) (5.49 pm)—That is a bit provocative.

Senator Ludwig—Did that raise your ire?

Senator STOTT DESPOJA—Yes, it did.

I would like to place on record here that it is possible for people to support the work of investigative and police agencies—

Senator McGauran—And covert operations.

Senator STOTT DESPOJA—My gosh, Senator McGauran is here! It is possible to support the work of those agencies and to support the granting of powers—and sometimes additional and extraordinary powers, particularly when dealing with burgeoning and new offences as we find in this new era of terrorism. But, by the same token, we are entitled to have a debate—that perennial debate, regardless of the era to which you belong—about the balance between human rights, personal liberty and freedom and the public interest and, of course, national security. I notice that Senator Nettle invoked The Castle earlier—so it is about the ‘vibe’ of the Constitution too.

Seriously, though, as part of this debate—through you, Madam Temporary Chairman Moore, to the minister—I am not doubting a natural order here or questioning instinctively the powers of the police per se, but I am looking at this issue. We are dealing not just with the specifics of the collection of evidence, whether or not you can challenge it and test its admissibility, but also with broadening warrants in relation to the agencies and the offences to which they apply. We are dealing with a broad range of federal agencies that are scooped up as part of these new proposals. We are dealing with, arguably, the potential for indefinite warrants—when you look at the renewal provisions of these warrants. So we are dealing with broad-ranging powers in the legislation before us. Hence the amendment before us, the one in my name—and I note Senator Nettle’s amendment—that opposes this particular section in relation to delayed notification search warrants.

I acknowledge that the minister has put forward an example or an argument as to why this would be beneficial, but I want to clarify whether the government is in a position to put before the chamber anecdotal evidence or quantify the circumstances in which the current powers have been insufficient so that this change is necessary. In my second reading debate remarks, I made the point that I did not feel the explanatory memorandum justified these new, broad-ranging powers. Have the existing powers in relation to the searching or monitoring of individuals come up short? Is this an argument that the government can sustain with examples, anecdotes or information from the agencies?

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.53 pm)—There are circumstances in which police involved in operations, not having obtained a warrant, see evidence but cannot get it because they need to get a warrant. To advise the subject of a warrant of the nature of the warrant and specify what the warrant is for will clearly, in a network type situation, lead to the removal of the evidence. I have given the example of clandestine drug laboratories. When you are seeking to close one laboratory and you have suspicions about others, and the headquarters of the operation contains information about the location of those other laboratories, then the disclosure of the information in the warrant and having the owner of the headquarters present will mean that the evidence will be removed from the other clandestine laboratories; they will be closed in the blink of an eye. There is an anecdotal example.
The government is very conscious of the need for balance. Can I take you through the balance again. For an officer to get a delayed notification search warrant, he must go to the chief officer—defined as ‘the Commissioner or his delegate’—and spell out on reasonable grounds his suspicions that serious offences are being carried out in circumstances that would give rise to a late notification warrant—that is, that this type of warrant would suit that particular operation. Serious offences are defined as offences carrying a jail sentence of 10 years or more. The chief officer—that is, the Commissioner—has to consider all of that and then give his permission. Then that constable has to go before an eligible issuing officer—a judge or a member of the Administrative Appeals Tribunal—and fulfil nine legal requirements. He has to make a written application; specify the name of the applicant; specify the name of the constable who, unless he or she inserts the name of another constable in the warrant, is to be responsible for executing the warrant; provide details or attach a copy of the authorisation given to him by the chief officer; specify the address, location or other description of the premises and any other adjoining premises; specify the proposed duration of the warrant; provide a description of the kinds of things proposed to be searched or seized, copied, photographed, recorded, operated, printed, tested or sampled; provide a statement on whether things are to be placed in substitution for seized things—in other words, in a controlled operation; and support all of that with an affidavit. Then you get the warrant.

And then we have the follow-up over the six- and 12-month regime with respect to the Ombudsman reviewing those things if the operation goes on, and the minister tables the report. I am having difficulty imparting to you, as lawful citizens, the level of criminality that we are seeking to deal with here. This is the great unknown; people do not understand the dynamic nature of serious organised crime, serious organised drug trafficking and serious organised terrorism financing. These are the things that, in the face of those checks and balances, we seek to arrest. With respect, Senator Stott Despoja, to want to throw those out with no substitution, in the face of what I have just said, strikes me as being seriously unable to come to terms with the level of criminality we are dealing with here.

Question put:
That schedule 2, as amended, stand as printed.
The committee divided. [6.02 pm]
(The Temporary Chairman—Senator C Moore)

Ay es ............ 43
Noes ............ 8
Majority ........ 35

AY ES

Adams, J. Barnett, G. 
Bernardi, C. Boswell, R.L.D. 
Brown, C.L. Campbell, G. 
Carr, K.J. Colbeck, R. 
Cormann, M.H.P. Crossin, P.M. 
Ferguson, A.B. Fielding, S. 
Ferrarvanti-Wells, C. Fifield, M.P. 
Fisher, M.J. Forshaw, M.G. 
Humphries, G. Johnston, D. 
Hutchins, S.P. Kirk, L. 
Kemp, C.R. Marshall, G. 
Ludwig, J.W. McGauran, J.J.J. * 
Mason, B.J. McEwen, A. 
McGauran, J.J. * McLucas, I.E. 
Moore, C. Nash, F. 
O’Brien, K.W.K. Parry, S. 
Patterson, K.C. Payne, M.A. 
Polley, H. Ray, R.F. 
Stephens, U. Sterle, G. 
Troeth, J.M. Trood, R.B. 
Watson, J.O.W. Webber, R. 
Wong, P. 

CHAMBER
Question agreed to.

**Senator STOTT DESPOJA** (South Australia) (6.07 pm)—I move Democrat amendment (11) on sheet 5327:

(11) Schedule 3, item 4, page 117 (line 21), after “section 22,” add “must be a sworn federal, state or territory policy officer and”.

This amendment relates to the executing officer. The intent of the amendment is to confine that to sworn federal, state or territory police officers.

**Senator JOHNSTON** (Western Australia—Minister for Justice and Customs) (6.07 pm)—I addressed these issues in my response setting out the government’s amendments.

Question negatived.

**Senator JOHNSTON** (Western Australia—Minister for Justice and Customs) (6.07 pm)—The government opposes item 27 in schedule 3 in the following terms:

(17) Schedule 3, item 27, page 131 (lines 17 to 20), **TO BE OPPOSED**.

The government is opposing this item because of recommendation 10, with respect to the examination of persons without legal representation. That has been accepted substantially. Accordingly, we are seeking to remove the item from the bill.

**Senator LUDWIG** (Queensland) (6.08 pm)—I thank the government.

The **TEMPORARY CHAIRMAN** (Senator Forshaw)—The question is that item 27 in schedule 3 stand as printed.

Question negatived.

**Senator JOHNSTON** (Western Australia—Minister for Justice and Customs) (6.09 pm)—The government opposes item 31 in schedule 3 in the following terms:

(18) Schedule 3, item 31, page 131 (line 27) to page 132 (line 12), **TO BE OPPOSED**.

The government wishes to withdraw item 31 in line with the Senate committee’s recommendation. This is a similar matter to item 27.

The **TEMPORARY CHAIRMAN**—The question is that item 31 in schedule 3 stand as printed.

Question negatived.

**Senator STOTT DESPOJA** (South Australia) (6.10 pm)—I move Democrat amendment (12) on sheet 5327:

(12) Schedule 3, item 32, page 132 (lines 15 to 23), omit subsection (1), substitute:

(1) An examiner may summon a person to provide evidence to an examination, and the form of that evidence shall be determined by the person including:

(a) appearing before the examiner at an examination to give evidence;

(b) producing such documents or other things (if any) as are referred to in the summons;

(c) giving evidence by tendering written statements.

The intent of this amendment is to amend schedule 3, item 32, to allow a person summoned under subsection (1) to have a choice on whether to give evidence by tendering a written statement or by appearing before an examiner for oral examination and/or producing documents et cetera.

**Senator JOHNSTON** (Western Australia—Minister for Justice and Customs) (6.10 pm)—The government rejects this amendment. Examiners have been given specific powers in order to combat serious and organised crime. It is essential that they retain control over the investigations that they conduct. With respect to matters of credibility and credit, it is obviously important that the wit-
ness to be examined attend in person so that those matters can be adjudicated.

Senator Ludwig (Queensland) (6.11 pm)—I am curious about where you got that from, Senator Stott Despoja. The government has outlined the normal process. Usually an examiner requires someone to attend and, on occasion, to produce documents that are associated with the original summons so that they can examine them about those documents and put questions to them. That is the purpose of an examiner. I am curious about where you got the additional, singular view about giving evidence by tendering written statements. That, in fact, might slow the process down and hamper an investigation. Obviously, if there are follow-ups required on the written statement we could end up with a lengthy period of examination. It might be a lot easier to deal with the situation by producing the person and the documents.

Senator STOTT DESPOJA (South Australia) (6.11 pm)—I appreciate the question from Senator Ludwig. I will need to check that. I think that might have been in the Law Council submission, but I am not sure. I can get back to the committee on that. In the meantime, I will keep pursuing the other amendments in the interests of time.

Question negatived.

Senator STOTT DESPOJA (South Australia) (6.12 pm)—by leave—The Democrats oppose schedule 3 in the following terms:

13) Schedule 3, item 39, page 133 (line 28) to page 134 (line 1), TO BE OPPOSED.

14) Schedule 3, item 42, page 134 (lines 8 to 13), TO BE OPPOSED.

15) Schedule 3, item 45, page 134 (lines19 to 24), TO BE OPPOSED.

These amendments, like the last one to which I referred, Senator Ludwig, are pretty much sourced directly from the Law Council submission. They deal with the determination of incrimination, the use of incriminating evidence and reversal of the evidential burden. I outlined in my comments in the second reading debate the concerns that the Australian Democrats had with the effect of the bill in seeking to abrogate the privilege against self-incrimination by requiring people to provide a written statement potentially containing self-incriminating information. We have expressed, on a number of occasions, concerns about provisions such as that in law.

So amendment No. 13 would remove the ability for evidence which a participant has indicated may be self-incriminating to be subsequently used in evidence against that witness under section 35 of the Australian Crime Commission Act. Amendment No. 14, dealing with the use of incriminating evidence, would delete the note which reverses the evidential burden of proving that evidence is not false in a material particular. I am happy to commend those to the Senate. Amendment 15 is the one to which I just referred. ‘Removing the ability for evidence for which a participant has indicated may be self-incriminating to be subsequently used in evidence against that witness under section 35’—I think that was No. 14, and No. 15 was: ‘Amend schedule 3 to delete the note which reverses the evidential burden of proving that evidence is not false in a material particular.’

Again, they essentially go to the heart of our concerns, which are the changes involving self-incrimination and also the fact that we are concerned that we are doing the legwork for the ACC. I hope that little messy explanation goes to the heart of our amendments and I commend them to the chamber.

Senator Johnston (Western Australia—Minister for Justice and Customs) (6.16 pm)—In response to the self-incrimination aspect, in practice the requirement of a wit-
ness claiming protection against self-incrimination before each answer creates a disruption in the interrogation process in this framework. In addition, the process is often confusing for unrepresented witnesses, who regularly need a lengthy explanation of how the process works. Item 39 allows examiners to expand the privilege against self-incrimination to all evidence given in relation to a question or a class of questions, a document or a class of documents or a thing or a class of things. As a result of the examiner’s direction all evidence given in relation to a question or class of questions, documents or thing or class of things or documents specified in the direction will be subject to a claim of privilege in accordance with section 30(4)(c) of the ACC Act and the immunity provision in subsection 30(5) will apply.

In this framework the person is given the caution with respect to self-incrimination but must answer the questions. In other words, this amendment will simplify proceedings for witnesses and reduce the duration of examinations as the interruption caused by witnesses making a claim of privilege before answering each question or producing each document or thing will be alleviated at the examiner’s discretion. This aligns with the Evidence Act 1995 by requiring the examiner to caution a witness about self-incrimination before beginning questioning, and the amendment will reduce the potential prosecution of many witnesses who follow.

Senator LUDWIG (Queensland) (6.18 pm)—Perhaps you could also go on to say whether or not they have a use or a derivative use immunity in respect of the matters that they provide.

The TEMPORARY CHAIRMAN (Senator Forshaw)—I will put the question that items 39, 42 and 45 on schedule 3 stand as printed.
This amendment goes to the matter of the ability of the Australian Federal Police to hold people without charge. This relates to the case of Dr Mohamed Haneef, who we all know was held for 12 days without charge. This was the first time that we saw these terrorism laws exercised in Australia—the ability to hold somebody without charge—and it is worth us reviewing how those laws came into effect.

At the time that the legislation was put before the parliament, there was a Senate inquiry into the matter—in 2004—and there were also a number of questions that were asked in the Senate chamber in relation to this matter. The government was well aware at the time of what it was asking for: an extraordinary power to be able to hold people without charge. At that time, understandably, there were a number of questions from myself, from other members of parliament and also from public interest groups, who had a concern about how such powers may be exercised. I want to remind the Senate what we were told at the time about how such powers would be exercised. I will do so by quoting the *Hansard* of the Senate inquiry into this matter and, in particular, the comment by Mr Geoff McDonald, who at the time was the assistant secretary of the criminal law branch of the Attorney General’s Department. He told the Senate inquiry:

I would be extraordinarily surprised if the dead time—

and, perhaps to explain: the ‘dead time’ is the period of time for which somebody can be held whilst questioning is not occurring. He said:

I would be extraordinarily surprised if the dead time, for example, in relation to the time zones, would get anything like the sorts of time periods that were being suggested by Professor Williams. That is referring to Professor George Williams, who was suggesting 24 hours. The Attorney-General’s Department said they would be extraordinarily surprised if somebody would be held for 24 hours in the dead time. And he said:

I have spoken to the Victorians about cases in Victoria concerning reasonable time and what the court has considered to be reasonable time, and the court has considered periods like 16 hours to be reasonable.

This was in response to evidence given to the committee by Professor George Williams from the University of New South Wales who was concerned about giving the extraordinary power to the Australian Federal Police to hold people without charge. He mentioned that it could mean that people could be held for 24 hours. The Attorney-General’s Department indicated that they would be extraordinarily surprised if that were the case. There was a debate around the issue of what the court would consider to be a reasonable period of time to hold somebody before they were charged. The examples that were pointed to were determinations that the Victorian courts had made
about what would be a reasonable period of time—as I just quoted to you: 16 hours.

Mr Geoff McDonald from the Attorney-General’s Department went on to say:

In fact, I actually expect with this legislation that in reality the periods of the extensions will not be up around the full 24-hour limit. I expect that they will be within that period and that in fact the dead time will in many cases still come within that limit.

So there we have an indication from the Attorney-General’s Department, at the time that the legislation was being debated, that we are talking about the realm of 24 hours. We all accept that the legislation allows people to be held indefinitely without charge, as long as they get approval from the court along the way, but the capacity is in the legislation to do that and this was pointed to by a number of individuals, including the Greens. At the time that the legislation was being debated by the parliament, the proposal was that 24 hours was the sort of time limit we were looking at.

The very first time that these powers were used by the Australian Federal Police, in the case of Dr Haneef, he was held for 12 days—that is, over 200 hours. So the parliament was told: ‘Give us these extraordinary powers.’ The parliament was told that 16 hours, maybe 24 hours, was the kind of time frame, the realm, that was considered to be appropriate or acceptable when the government was saying, ‘Give us the power so that we can do this,’ and the very first time they were used Dr Haneef was held without charge for over 200 hours—12 days.

I think there are a number of matters in this. Of course, there is the fundamental issue about whether or not people should be held without charge and whether people’s liberties should be taken away, unless it is decided so by the court. We also have the matter of what the government told the parliament at the time that they were asking for these extraordinary powers, which, as I have indicated, was 16 hours, maybe 24 hours or less than 24 hours. I think there are lessons to be learnt from what we have seen in the case of Dr Haneef and the period of time for which he was held. One lesson is that the government cannot be trusted with these extraordinary powers.

I am moving this motion today, on behalf of the Australian Greens, to return us to the situation that we used to have: the situation that has been acceptable in this country all the way through until the decision to put in this law occurred in 2004. Just to outline that situation: it allows people to be held for four hours and then for an application to be made for an extension of that period of time. Again, that is where the debate was: the court had considered it reasonable to extend the time to 16 hours. So we are talking about maybe 20 hours or even 24 hours for which people are able to be held. That is actually what representatives of the Attorney-General’s Department were telling us would occur with the extraordinary powers that were given in 2004. The realm we were talking about was 24 hours and, the first time that we saw the powers exercised, it was for over 200 hours. This amendment returns us to that situation.

That does not prevent investigations continuing. We have seen that in the case of Dr Haneef. Commissioner Keelty and others have talked about ongoing investigations continuing. Charging somebody does not prevent investigations continuing. In fact, it allows the proper course of the court to operate so that there can be bail applications, cases can be put forward and the magistrate can determine the decision in relation to whether or not the granting of bail should occur. This amendment from the Australian Greens seeks to offer the parliament the opportunity to learn from the case of Dr
Haneef, where we saw these powers exercised for the first time, and he was held for over 200 hours when the parliament had been told that what would be considered reasonable when this power was used was in the realm of 24 hours. That is what we are saying: given that is what we were told at the time and that is what was put forward as acceptable and appropriate, let us have that in our law rather than this indefinite detention—the capacity to hold people indefinitely without being charged, as long as the court agrees all the way down the course. What we have seen is that, the very first time that the legislation was used, it was used for over 200 hours. This is the opportunity for the parliament and the Senate to learn the lesson from the case of Dr Haneef and return us to a situation where people cannot be held indefinitely without charge. That does not stop investigations occurring, but it says: ‘Let’s operate properly in the way we have always operated, until this case of Dr Haneef.’

**Senator JOHNSTON** (Western Australia—Minister for Justice and Customs) (6.28 pm)—These amendments are completely unrelated to the subject matter of the Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006 [2007] before the Senate. Indeed, may I say, I think it is inappropriate that we deal with these matters in this forum. The government obviously does not support the amendments proposed by the learned senator and, accordingly, they are opposed.

**Senator LUDWIG** (Queensland) (6.28 pm)—This is unsurprising, but Senator Nettle does understand the position that the Labor Party articulates when we see these matters that she occasionally runs up the flagpole. It is not and was not part of the original bill—Senator Nettle knows that. It certainly was not part of the matter that the Senate Standing Committee on Legal and Constitutional Affairs could deal with—Senator Nettle knows that. It is not related in that sense to this bill or the parts that fall within this bill—Senator Nettle also, I am sure, understands that. And I am sure that Senator Nettle also understands that the response that I am providing is the principal response of the Labor Party when matters that have not been through the usual process are run up.

This is a matter that Senator Nettle feels strongly about. I have usually been forthright in advising her that there are ways to bring these things before the parliament so she can consider them. There are private member’s bills and a range of other devices. As I understand it, she has also foreshadowed a committee. Be that as it may, Senator Nettle knows that there are a range of mechanisms to be used to appropriately deal with these things. I am not saying it is inappropriate or that she should not do it; I am simply saying that the Labor Party’s position is that we will not go to the substance or merit of the argument because it is a matter that has been tacked on to this bill and has not been through the committee process. It certainly has not been through our process in order to be able to deal with it in a proper and appropriate way. Senator Nettle knows that. I accept that occasionally she does bring these things on in this way. The response of the Labor Party should not surprise her. She has certainly heard me say this before. I can certainly recollect having provided the same view to her in the past.

On the other matter, the Labor Party has said that we think it does require an additional inquiry. We have said that publicly and we maintain that position. In terms of investigating the whole of the Dr Haneef matter, it should be dealt with in that way. I remind Senator Nettle—and I am sure she knows this—that the Australian Federal Police have an ongoing investigation into this matter. There is also an appeal of the 457 matter which is currently being proceeded with by...
Dr Haneef’s lawyers. This matter, as Senator Nettle knows, goes to the actual legislative regime itself and not so much to the Dr Haneef matter more broadly and so I will not argue that here. It is an inappropriate time to be doing that. I have set out the reasons we will not support this amendment to the bill.

**Senator STOTT DESPOJA** (South Australia) (6.32 pm)—This is an opportunity for the Australian Democrats to also place on record our preferred mechanism for the handling of the Dr Mohamed Haneef inquiry. Like the Labor Party, we support the notion of an independent inquiry. That may be a judicial inquiry, which would probably be the strongest and most appropriate way to proceed. Having said that, in the early days of concerns emerging as to how this inquiry would proceed, we suggested that an appropriate channel for investigation or an appropriate independent authority would be the Ombudsman, recognising of course that the Ombudsman has the opportunity to operate as a law enforcement ombudsman and can investigate the policies, procedures and processes of the AFP. Obviously I note Senator Ludwig’s comments on the AFP investigation.

In relation to the broader issue of the functioning, appropriateness or success or otherwise of the operation of the antiterrorism laws, I certainly understand and share the concerns that Senator Nettle has outlined. The Democrats will support this amendment, but I think that there are a couple of points that have been well made. In relation to the process, I do not particularly have a problem with people seeking to make broader amendments to legislation even if the legislation before us deals with a specific or other issue. As Senator Ludwig made clear, it is not procedurally incorrect; it is the right of any legislator to do it if they choose. It is a great opportunity. A lot of the amendments—including my own, I acknowledge—were circulated and tabled only today. I do not think that was the case for the government, but certainly the non-government parties circulated their amendments during the debate today. Possibly it would have been opportune to have examined this amendment earlier, simply because I think there are potential ramifications of this amendment that I may not be aware of. We have not had an opportunity to fully explore the effect of this particular amendment; although, as I said, from what I have heard from Senator Nettle, I certainly support its intent.

I am also wondering if this process adequately addresses some or indeed all of the concerns that the Democrats have about the handling of the Haneef case or those concerns that have been articulated by Senator
Nettle for the Greens. For example, were ASIO powers involved also, not just those of the AFP? There are obviously some issues that have not been made public and that we cannot address in the chamber. I certainly appreciate Senator Nettle’s canny use of the Senate today in order to bring to the attention of the parliament and the community the issue of detention, ongoing detention and detention without charge and the impact they have on some basic civil liberties and human rights. I think a lot of Australians share those concerns. I am not sure if today is the day that we are going to resolve those concerns—hence my preference for a committee—but, on behalf of the Democrats, I will support Senator Nettle’s intent and thus this amendment before us, although I suspect the numbers are not in Senator Nettle’s favour.

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

The committee divided. [6.42 pm]
(The Temporary Chairman—Senator MG Forshaw)

Ayes…………… 8
Noes…………… 44
Majority……… 32

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

NOES
Adams, J. Barnett, G.
Bernardi, C. Birmingham, S.
Bishop, T.M. Boyce, S.
Brown, C.L. Campbell, G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Cormann, M.H.P.
Crossin, P.M. Ellison, C.M.
Ferguson, A.B. Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Forshaw, M.G.
Humphries, G. Hurley, A.
Johnston, D. Kemp, C.R.
Kirk, L. Ludwig, J.W.
McEwen, A.
McGauran, J.J.J. * McLucas, J.E.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S.
Patterson, K.C. Payne, M.A.
Polley, H. Ronaldson, M.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.B.
Watson, J.O.W. Webber, R.

* denotes teller

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendment; report adopted.

Third Reading

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (6.46 pm)—I move:

That this bill be now read a third time.

Senator LUDWIG (Queensland) (6.46 pm)—I will take the time to indicate a couple of things. We have had a robust debate today on this bill. It is an omnibus bill. It provides some powers which are more controversial than others we have seen in this place. I think we could have addressed it with a little more common sense in some respects. The bill had its genesis as an omnibus bill which dealt with discrete schedules. Schedule 1, as I indicated during the debate, came from a controlled operation, which was a matter that brought together significant work that had been produced by the various federal and state government departments to ensure harmonisation of cross-border investigatory powers. They are, as the Labor Party recognise, necessary to ensure that the Australian Federal Police have sufficient powers to fight crime.

The safeguards that are included in the legislation have been examined by the Senate committee. One of the things I mentioned
during the second reading debate and the committee stage—and it deserves reiteration—is that, although the government and the opposition disagreed on some parts of this bill, the work done by the committee and the ability of the government to respond to the committee’s recommendations is not a matter that has been missed by the opposition in the debate. We recognise that the government, in this instance, did provide a comprehensive response to the Senate recommendations and we thank the government for that. I know the government might take that as faint praise, but it is not. I could say it on behalf of the other members of the Labor Party who were on the committee, and I suspect the Liberals would join in that as well. It is worth recognising the work of the committee secretariat as well where we do get a response to the committee’s recommendations. It also supports much of the work of the submitters. People who make submissions to Senate committees look to those recommendations to see what the committees have done. They are encouraged to continue to make submissions. Their submissions are worthwhile and well read by committee members. I thank the Senate.

Senator NETTLE (New South Wales) (6.49 pm)—I want to indicate the Australian Greens opposition to this legislation. We are concerned about the extraordinary powers that it gives to the Australian Federal Police—

Debate interrupted.

DOCUMENTS
Human Rights and Equal Opportunity Commission

Senator BARTLETT (Queensland) (6.50 pm)—I move:

That the Senate take note of the document.

This report, *Same-sex: same entitlements*, is a very important report and a very welcome one. It is the result of a national inquiry into discrimination against people in same-sex relationships and particularly deals with their financial and work related entitlements and benefits. The report is a very comprehensive one and I really would recommend it to people who have an interest in this area. Any issue that deals with discrimination against same-sex couples or issues relating to gays, lesbians and transgender people often get mired in some degree of controversy. But I believe this report is valuable because it cuts to the human reality, and that is what we are debating here: the human reality of a significant proportion of the Australian community who have fewer entitlements than everyone else in the community purely on the basis of the gender of the person to whom they are partnered—and I believe that is an unacceptable situation.

It should be noted, indeed, that no less a person than the Prime Minister himself—back around the end of 2005, I think it was—said that that was an unacceptable situation and he did not think that people should have fewer financial rights and financial entitlements purely because they were in a same-sex relationship. Unfortunately, whilst he made that statement, he has not actually done anything to remedy that longstanding discrimination.

This area is one that the Democrats have a very longstanding interest in. Indeed, it goes back to the era of Don Chipp, the founder of the Democrats, some of these issues having been raised in the Senate in the late 1970s and early 1980s. In terms of more specific legislative reform going right to the heart of what this report is about, the Democrats have had legislation before the Senate since 1995 that seeks to remove discrimination against people on the basis of sexuality from all areas of Commonwealth law. That mechanism has been before the Senate for 12 years now. It was first introduced by former Victorian
senator Sid Spindler—and I am pleased to note, as an aside, that I saw him just last week at a function marking the 30th anniversary of the founding of the Democrats, an event that Sid Spindler himself was very heavily involved in—and this area is a key legacy of his six years in the Senate. That legislation has been updated once or twice. It was the subject of a very comprehensive Senate committee inquiry that was the precursor in many ways to the Human Rights and Equal Opportunity Commission inquiry that is before us here today. The report of that Senate committee inquiry—by the legal and constitutional references committee, from memory, chaired by former Labor senator Jim McKiernan—is another very worthwhile document, not just because of the technical details but because of the human reality, the human stories that are within it.

I note the introduction to the community guide of this HREOC report. For those who do not want to wade through a large, voluminous document, there is a very nice thin community guide for this report which basically gives the guts of it. It gives the recommendations. It outlines the areas of discrimination: discrimination in employment, discrimination in workers compensation, discrimination in tax benefits, discrimination in social security benefits, discrimination in veterans entitlements, discrimination in healthcare subsidies, discrimination in family law, discrimination in superannuation entitlements, discrimination in aged-care fees, discrimination in access to visas—and those are just the broad oversights. You drill down, and there are a range of different areas there.

Indeed, the inquiry found 58 different federal laws that deny same-sex couples and their children financial and work related entitlements which are available to opposite-sex couples and their children. That is a totally unacceptable situation. I know many other people from all parties have spoken about the need for change in this area, but we have not had action. Despite many efforts by the Democrats over many years, moving amendment after amendment, we have not had that. This report has now been tabled, and it is now no longer any excuse for any of us not to act.

I mentioned that the Democrats will be introducing new legislation that we have given notice of today to fully implement the recommendations of this report straightaway. It is very simple to implement. It basically just means amending the definition describing de facto relationships to include same-sex couples. That can be done. We will introduce the legislation to show how it will be done, how it should be done, and I urge all senators to support it as soon as possible. If nobody else is going to speak to this report, I seek leave to continue my remarks.

Leave granted; debate adjourned.

Department of Defence: Judge Advocate General

Senator MARK BISHOP (Western Australia) (6.56 pm)—I move:

That the Senate take note of the document.

This is the final report of the current Judge Advocate General, Major General the Hon. Justice LW Roberts-Smith RFD. His Honour was first appointed to the position of acting JAG in June 2002. In that time, he has been a forthright advocate of many matters to do with problems that have been much discussed within the military justice system within this country. He has also been a vocal contributor in reforms currently being implemented following a report of the Senate Foreign Affairs, Defence and Trade References Committee some two years ago now. This, his final annual report before he vacates the position, is no exception.

His Honour repeats his criticisms of some of the reforms that have been introduced to
date by government. They include, as we know, the formalities of appointment of judicial officers, terms of appointment and the processes for removal of judges on the new Australian Military Court. His position is the same as that of a joint party committee recommendation—from memory, late last year. He recommended then—as we, as I recall, also recommended—about the then proposal for the establishment of an Australian Military Court that it be established under chapter III of the Constitution, that appointments be for life and that appointees be appointed and removed by the Governor-General alone. Just as the government in its wisdom chose to ignore some of the recommendations of the committee, it also rejected His Honour’s view.

The JAG realised that the new court could only be independent of the military if it were established under chapter III of the Australian Constitution. The government, it must be said, went some way to paying regard to these views by way of subsequent amendments introduced into both houses, but it stopped well short of the recommendation proposed at that stage by the committee. His Honour maintains his displeasure—and rightly so, I suggest. The government’s entire attitude to reform of military justice was that civilian standards and processes within the military were inappropriate. Why? Because military discipline could not be compromised. Thus the Judge Advocate General reminds us of the importance of the principles he advocated to the committee and with which the committee in its report agreed.

As one of the members of that committee, I think it is appropriate to congratulate His Honour on his commitment to maintaining an improvement to military justice—even though, as it turned out, the entirety of the model that he advanced was eventually thwarted by government decision. We on the committee certainly welcomed his expertise and appreciation of military law and its functioning. We respected those views and, as it turned out, provided full support to his particular set of recommendations.

It is a notable feature of the Judge Advocate General that his independence is such that his views can be so energetically promoted. I only suggest and hope that his successor, as appointed in due course, equally prizes his independence with vigour. I also trust that the committee does not lose sight of the strengths of the principles of the arguments that Major-General Robert Smith advanced in that committee and which were adopted by the committee, because they were pertinent, relevant and exactly on time.

Finally, as the relevant Senate committee retains its brief on military justice, we keep at the forefront for further consideration, as opportunity permits perhaps at some future stage, the ability to put forward some of those principles into legislation.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It being 7.02 pm, I propose the question:

That the Senate do now adjourn.

Year of the Surf Lifesaver

Senator FORSHAW (New South Wales) (7.02 pm)—This year, 2007, has been proclaimed by the Australian government the Year of the Surf Lifesaver. It is a fitting recognition, as it was 100 years ago, in 1907, that the organised surf lifesaving movement of Australia began. In that year also, the Cronulla Surf Life Saving Club was formed. Its first clubhouse was an old tram car. Over the years I think it has occupied five different types of premises and today is housed in a historic building on Cronulla beach.

As it celebrates its centenary, the Cronulla Surf Life Saving Club can boast of being one
of the most successful clubs in the history of surf lifesaving in this country. During the past 100 years, members of the club have carried out over 9,000 rescues. In the course of that 100 years, in all of those rescues, not a single life has been lost—a wonderful achievement.

The Cronulla Surf Life Saving Club has also been one of the most successful clubs, both in Australia and internationally, in surf lifesaving competitions. I would argue that it has been the best club, but of course others would say I am biased. But a brief look at the record demonstrates how formidable it is. Cronulla has won 139 gold medals at the Australian Surf Life Saving Championships, 254 gold medals at the New South Wales State Surf Life Saving Championships and 591 gold medals at the Surf Life Saving Sydney Branch Championships. It has been the champion club at the Australian championships on five occasions and, most significantly, it has been the only club, ever, to have won three consecutive world, Australian, state and branch championship pointscores in competition.

The Cronulla Surf Life Saving Club has produced some of the legendary names in surf lifesaving competition and administration in Australia. There are too many to mention here tonight and I apologise to all of those that I am unable to mention. I particularly want to note pioneers and stalwarts, some of whom are deceased—people such as Joe Munro, who, I think, was president of the club for some 40 years and indeed a pioneer of the Cronulla area; people such as Bill Eady, Tony Purcell, Don Lucas, Nick Dixon, Jack Crawford and the current patron, Bill Marshall.

Two of the great names and members of the Australian Surf Life Saving Hall of Fame—a very exclusive list of 60 inductees—are legendary iron man John Holt and the supreme belt swimmer Peter Tibbets. The current club president—and I might say an old boy of De La Salle College at Caringbah and Cronulla—is Kevin Neilson, one of Australia’s greatest ever surf swimmers. I recall Kevin at a young age being good enough to win, I think on the one day, both a junior and an open surf swim race, a feat that I believe has never been repeated and one that is certainly significant.

The tradition of these people and many others continues today through current champions such as Daniel McLellan, Nathan Smith, Tiarne Smith and Elly Graf. It continues, and the club continues because of the substantial effort that is put into its Nippers program. Every Sunday morning in the summer season, hundreds of young children from the age of five onwards gather on the beach, as they do on beaches throughout this country, to participate in the swimming and beach events. That is what ensures that surf lifesaving will continue into the future. Surf lifesaving in Cronulla, but also in every other club, depends upon strong community support. In that regard, the Sutherland Shire Council has been involved in a huge way over many years in supporting the Cronulla Surf Life Saving Club and the other three clubs that make up the Bate Bay clubs, namely North Cronulla, Wanda and Elouera.

It was a privilege last Friday night to attend the centenary ball of the Cronulla Surf Life Saving Club. There were over 500 people in attendance. It was a great night with some tall tales and true—or at least mostly true. I do not think I have heard as many nicknames in my life. When people take up surf lifesaving it seems they are immediately given a nickname which sticks with them for life.

Last Sunday the 100th annual general meeting of the club was held. There was a substantial attendance of community repre-
sentatives and political representatives. Local federal member for Cook Bruce Baird, state members and I were honoured and privileged to attend the meeting and speak at it.

It is fitting that we place on the record of this parliament the wonderful work that is done by members of surf clubs around this country, and when they reach milestones such as a centenary it should be particularly noted. I want to congratulate the committee, the life members and all the other members and supporters of the Cronulla Surf Life Saving Club for reaching this significant milestone—100 years of vigilance and service, which, of course, is the motto of the surf lifesaving movement.

In closing, I want to note that the retiring member for Cook, Bruce Baird, of a different political persuasion to my own but someone whom I regard as a good friend, has been a very strong supporter of surf lifesaving in his electorate. As I said, there are four beaches along that Bate Bay coastline. Bruce himself is a noted participant. Every year he swims in the Shark Island Challenge, and I think he is a champion in his age group in ocean swimming both here and in other states. Indeed, he has also competed overseas. Most importantly, following the terrible riots in Cronulla at the end of 2005, Bruce was an initiator of promoting dialogue between the surfing community, the local community, the surf clubs and the Lebanese and Muslim communities. They have developed a program, which is now bearing fruit, involving a great deal of cooperation and community spirit built around the idea of service to the community through surf lifesaving. I want to place that on the record and acknowledge Bruce’s efforts. I may not get another chance to say it before the election, so I wish Bruce Baird and his wife, Judy, and their family all the best in the future. I congratulate, once again, Cronulla Surf Life Saving Club on its centenary. No doubt we will see a further 100 years of great service and vigilance.

East Kimberley Region

Senator MURRAY (Western Australia) (7.12 pm)—During July I visited the East Kimberley area in the far north of my state of Western Australia. Quite apart from the magnificent, rugged landscapes of this area, the economic and social development to date is often impressive. More impressive though, is the potential for further economic take-off. That the region is primed for economic expansion became very evident from detailed briefings I received from key organisations in the area, including the Kimberley Development Commission, the Wyndham-East Kimberley Shire, Ord River Irrigation Scheme participants and Rio Tinto’s Argyle Diamonds.

Ord stage 2 would contribute meaningfully and beneficially to the further development of the still underdeveloped East Kimberley and to Australia’s further agricultural development. Stage 2 of the Ord River Irrigation Scheme is essentially project ready but appears to be caught as a political football between the state and federal governments. Needless to say, there is considerable frustration, even anger, in the East Kimberley over the ongoing delays.

The recent threatened collapse of the region’s sugar industry was partly due to its small scale. What is desperately required is the overall scaling-up of the Ord’s relatively small irrigated farming industry. Ord 1 has successfully proven itself over three decades, so any notion that Ord 2 is inherently risky is not credible. Much of Ord 1’s infrastructure is underutilised and is available for Ord 2. This is not a greenfields project because much of the start-up cost of Ord 2 has already been covered by the investment in Ord 1, and the detailed assessment of Ord 2 has been done.
The quantity of water that can be delivered on a long-term sustainable basis is known, and available and experienced investor irrigators are available to take up new land. The land use assessment has been done. WA has appropriate processes for resolving any environmental concerns. On the WA side the native title hurdles have been cleared. Ord Stage 2 would be the first major expansion of the scheme since the Ord was dammed more than 30 years ago, forming the massive and beautiful Lake Argyle. The area earmarked for this expansion is about 30,000 hectares, which is just over double the existing irrigation area, stretching from WA into the Northern Territory.

The 14,000 hectares on the WA side is primed for development. It has long cleared two major hurdles: environmental clearances were conditionally given in 2002, and native title was settled in 2005. Based on the great advances made in water use technology, I am of the view that new irrigated land allocation should be influenced by who proposes to make the most efficient and productive use of the finite water quantity available. I believe that priority should be given to investors who can efficiently service the greatest amount of land or crops with the least amount of water. Local labour is available, as the East Kimberley’s Argyle mines have shown. Approximately 57 per cent of their large workforce is local, and 25 per cent is Indigenous and also mostly local, which not only is an impressive achievement but is an example that others should emulate.

Given the significant work already undertaken and the project readiness, in September 2006 the WA state government released a document seeking expressions of interest from private investors to develop stage 2 on the WA side. At last, the long delayed expansion appeared to be on the WA government’s agenda. However, hopes were dashed when on 14 June this year the state development minister, Mr Eric Ripper, announced a grander vision for the Ord. In doing so, the process the state government had begun months earlier was abandoned. This ‘grander vision’ means delay. This delay is a result of the Commonwealth’s new interest in Northern Australia as a key agricultural region, and it involves a new process to select private developers. It would include the Northern Territory side of stage 2, not just the WA side, and would involve the state government and the federal government working together.

To quote Mr Ripper:

The expansion of the Ord involved governments at all levels in various complex matters which, when resolved, will provide the nation with the prosperous and sustainable project that we all want to embrace.

There has been other talk of delay. I have heard that the chair of the Commonwealth Northern Australia Land and Water Taskforce has suggested that it will be four years before his task force can conclude its assessment and proposals.

While I might be able to accept that timeframe in terms of their larger task, with respect to the Ord stage 2 no further delay is necessary. Why should the WA Ord 2 project, which is ready to go, have to wait for new unrelated, undeveloped potential agricultural areas hundreds of kilometres away—areas that will still have to clear environmental, native title and other hurdles—to be assessed? A decision at least on the WA side of the Ord can and should be made in the near future and should not have to wait for the much bigger task of the Commonwealth Northern Australia Land and Water Taskforce to be concluded.

It appears that the federal government is unwilling to contribute big money unless the development that goes ahead is economically optimal. This includes deciding what crops
should be grown. I disagree with that approach. The decision as to what crops should be grown should be left to the market—namely, to the farmer irrigators and their assessment of domestic and export potential. The only government decision about crops should be whether Western Australia does or does not support genetically modified crops such as cotton. Although the Office of the Gene Technology Regulator approved the commercial release of GM cotton for Northern Australia in October 2006, the WA state government has a moratorium on all GM crops until 2008.

Recent trials by the department of agriculture in WA showed that GM cotton produces better than average yields and that it can be grown profitably in the region. The particular GM cotton being proposed apparently uses much less water than other types of cotton notoriously used to and, I am told, significantly reduces the need for intensive pesticide spraying, even well below levels presently used for other crops in Australia. If the WA government do not support GM crops generally, or do not support GM cotton crops specifically, let them tell the farmers so. Farmer-irrigators need certainty, and, if the decision is made not to support GM cotton, they will just have to make their investor decisions based on other crops.

This further delay of Ord stage 2 has exasperated all concerned in the East Kimberley. All the social indicators of the East Kimberley region attest to just how vital it is for Ord stage 2 to go ahead sooner rather than later. Although mining is a major contributor to the region, mines come and go. For instance, the exciting $1.2 billion expansion of the nearby Argyle diamond mine has an expected operating life of 20 years at the most. In contrast, investment in an irrigation scheme like the Ord is for many decades at least. Given the current frantic focus on problems in remote Indigenous communities, it makes little sense to further delay a project that could deliver employment. Employment was clearly identified as a troublesome issue in the Little children are sacred report. It stated:

Of greatest concern is the contribution unemployment makes to the general malaise and hopelessness experienced by Indigenous people in some communities.

With a large young Aboriginal population coming through in the Kimberley region, employment drivers are certainly a major issue for the region.

The further delay of Ord stage 2 has not only put off the opportunity for investment in the East Kimberley but also continued keeping its Indigenous population reliant on welfare. Think of the employment stage 2 could deliver. It should also facilitate infrastructural development in the form of roads, bridges, updated port facilities at Wyndham and an extended runway for the Kununurra Airport, which would allow for the export of fresh produce direct to overseas markets. The East Kimberley community feels let down and deserves to have the Ord stage 2 project prioritised. In my view, the remaining task of the WA government is to make a positive and early decision, and I urge the federal government to provide them with maximum support in doing so.

National Criminal Database

Senator MARK BISHOP (Western Australia) (7.21 pm)—Tonight I would like to talk about progress in networking criminal databases. It is a topical issue, bearing in mind heightened concerns of late about the activities of some individuals and security generally in this country. We now know the importance of quick and easy access to a range of data in assisting police to carry out their duties. Indeed, they and other law enforcement agencies, such as the Australian Crime Commission, are working towards
greater cooperation in sharing such critical information. Their efforts, it must be said, have been to some extent assisted by direction of the current government. But there is room, as always, for more leadership from the Commonwealth on such a critical issue. For instance, I note that it has taken six years for joint ministerial sign-off on one particular criminal database—but more on that in a minute. Greater commitment to the principle of whole-of-government could have seen this database up and running years ago.

Criminal databases have been scrutinised in recent weeks in a current inquiry into serious and organised crime. The inquiry is an initiative of the Parliamentary Joint Committee on the Australian Crime Commission, of which I am a member. As stated, it is a timely inquiry bearing in mind recent events. Countering terrorism is the domain of another Parliamentary Joint Committee on Intelligence and Security inquiry, but evidence emerging from the current inquiry shows a disturbing trend of organised crime to elicit and sell information and goods to any number of clients, including potential terrorists. Hence, there is an urgency to act with respect to criminal databases.

I can list some of the problems common to all law enforcement agencies. There is the lack of registration of SIM cards, similar to that given away by Dr Mohamed Haneef; fraudsters are using voice over internet technology to ‘vish’ consumers of confidential information; and there are increasing links with organised motorcycle gangs and private security personnel.

Information gathering is instrumental and critical to fighting these sorts of crime. Such information is contained on dozens of databases belonging to law enforcement agencies spread across this country. NSW police, for instance, use the Computerised Operational Policing System, or COPS. Meanwhile, Victoria Police use the Law Enforcement Assistance Program, or LEAP. There are also databases for intelligence gathering, such as the Australian Criminal Intelligence Database. But few of these databases talk to each other, exacerbating the lack of sharing of this vital information. However, it must be said that this will hopefully change by next year with the introduction of some new technologies. There is a case in point where a man murdered a woman in New South Wales and was later picked up by Queensland police. He was charged over a routine traffic matter then released by those same Queensland police, who were unaware of a warrant for his arrest in New South Wales. That is because the databases used by NSW and Queensland police were not interoperable, so a dangerous felon walked free.

Most witnesses at the parliamentary inquiry agreed that there needs to be a coordinated approach to information sharing. But there is no national criminal database and the inquiry has heard some good reasons why this is the case. Creating another database would just add to existing resources, rather than enhance the development of current information. It would also need a whole new bureaucracy to service it. Some witnesses, including the Australian Federal Police, would rather see better use of existing databases and an extension of CrimTrac.

Established in 2000 with just $50 million seed money by the Commonwealth, CrimTrac is the closest thing this nation has to a national criminal database. It is a federated database that hooks up a number of law enforcement agencies. The analogy is that of a house with a porch. Each law enforcement agency will put on the porch the information it wants to share, but you cannot go into the house. Now, as previously mentioned, CrimTrac has been configured to exchange data placed on its porch and translate it between houses or databases.
This enhanced capability for CrimTrac will be available from early next year, after agency sign-off was achieved earlier this year. Nevertheless, problems do remain. The most difficult challenges with respect to this criminal database are not technical, legal or policy challenges; rather, as is often the case, they are of a cultural nature: ones associated with individual stances on the sharing of information. Agencies are either ignorant about how and what to share or reluctant to share. This is where I believe the Commonwealth government could provide a greater leadership role. There have been various suggestions put before the inquiry as to the types of information that should be stored, as well as where to store them. For instance, Victoria Police suggested centralising information such as driver’s licences, car registrations and firearms licences.

There does need to be a national approach to problems such as this, as indeed to funding and coordinating investigative tools. There needs to be an approach that goes across state divides and across various government agencies. But this whole-of-government approach has been sadly lacking with respect to CrimTrac. As an example, the national DNA database was officially launched in 2001. It is an integral part of CrimTrac. But the inquiry has heard that, while it was technically ready for business, it remained significantly underutilised. Why? It was because it took the next six years for sign-off by respective government ministries. This is a clear example of the silo mentality working on a national level; thus, the government can hardly expect anything different from respective state authorities.

Indeed, strategic overview of databases such as CrimTrac is not the responsibility of law enforcement agencies. Their job is to solve crime. That strategic overview responsibility lies with the federal government. It has known of problems regarding the sharing of information for at least the past two years. The so-called Wheeler review, in examining the threat from serious and organised crime at airports, identified the silo mentality with respect to information sharing between agencies. The review called on the government to take steps to break down such barriers, yet it was slow to act to adopt a whole-of-government approach, as the example with the DNA database shows.

Tonight I am calling for a coordinated, coherent strategy from the government to address problems identified with respect to criminal databases and for the government to take the initiative and recommend what and where information is to be stored and what is to be shared by whom and with whom—to work across agencies to develop a unified approach. In taking such a decisive leadership role, it will receive support from many in our community and, I am sure, from law enforcement agencies seeking direction and support in their day-to-day mission to solve crime and to rid Australia of serious and organised criminal gangs.

Box Flat Coalmine Disaster

Senator MOORE (Queensland) (7.30 pm)—This evening I want to commemorate a significant disaster that happened in the city of Ipswich 35 years ago on 31 July. On that day Ipswich, a mining town, went through the trauma that so many mining towns survive, and that is the loss of men, brothers, fathers, uncles who died as a result of what has become known as the Box Flat coalmine disaster. Last Tuesday was the 35th anniversary of that disaster in Box Flat where on that day at 2.47 am 17 miners were killed—14 were underground and three were at the surface of the pithead. Twelve others were seriously injured, three hospitalised, two seriously hurt, and one man died 14 months later directly as a result of injuries occurring on 31 July. Coincidentally, ‘the
disaster’, as it is known at Box Flat, was exactly 70 years to the day from another mining disaster at Mount Kembla in which 96 miners lost their lives.

When I was privileged to join with many citizens, and friends and families of the Ipswich area last week, there was a pall of silence that fell over this beautiful remembrance to the families who were affected on that day. There was an eeriness about the silence and also about the tears that we could hear and the music, because, as often happens in mining communities, everything is commemorated with strong music. We had the wonderful Ipswich choir as well as some strong music that was sung which commemorated the lives of miners. It is an important element to remember in the city of Ipswich which has such a strong mining tradition.

I want to acknowledge the amazing work of the Ipswich City Council, which has kept alive the history of their community by establishing the memorial at Box Flat that was originally developed by the Moreton Shire Council, as it then was, and since then it has been retained. It was officially opened in the late 1990s but then restated and recommemorated for the families of Box Flat. When you looked around at the commemorative service last week you could see how important it was for those families to gather together, to share their grief and their memories and to know that their loved ones were there with them on the day. As with so many underground mining disasters, these men were never recovered because they could not be brought up from underground. So, as we stood there, we stood on the grave of the 17 men and of Mr Wolski, who died later. I want to put onto the record the names of those miners from Box Flat. These were the families that were affected on that day. I will read them out as they were read out the other day in Ipswich in alphabetical order. Kenneth Frank Cobbin, William Alexander Drewett, William Rae Drysdale, Andrew Charles Haywood, Robert Lloyd Jones, William Alfred Marshall, John James McNamara, Walter Michael Murphy, Brian Henry Randolph, Brian Rasmussen, Daryl Trevor Reinhardt and Harold Charles Reinhardt—so often in mining families more than one member of a family is lost—John Dudley Roach, Lenard Arthur Rogers, Maurice John Tait, Mervyn Verrenkamp and Walter Benjamin Williams were the miners who died on the day. Then Mr Clarence Edwin Wolski died later of his wounds.

When those names were read the other day there was a reverberation in the area as families gathered and remembered. Whilst there was deep sadness, there was also a great unity because there is something about miners when they gather together. Many of the men whose names I just read out were members of the CFMEU, the miners union, in the 1970s. I was able to speak with Andrew Vickers, the general vice-president of the CFMEU, who gave me a copy of *The Coalminers of Queensland*, a narrative history of the industry in that area. The confronting element of reading about what happened at Box Flat was the similarity with what happened in other mines in Queensland, such as the deaths at Collinsville and at Mount Mulligan. While I am talking about Queensland, the experience I am sharing could be known by people in any mining community. Across the history of Queensland we see that the deaths in Collinsville, Mount Mulligan in North Queensland and other areas across the country were similar. When people go back and look at exactly what happened, they will see that the sequence of events had an amazing and astounding resemblance.

But from the experiences of mine disasters so often communities are strengthened and their memories make them stronger. I think
that is an element of which we can all be proud. Since last week I have been able to get a copy of the Monday, 31 July 1972 edition of the wonderful Queensland Telegraph, which was a strong paper in my youth that went across south-east Queensland. I remember hearing the media coverage of what happened in Ipswich on that date. It opened by saying to the citizens of Brisbane:

Will you help?

Wives have become widows and children have been made fatherless in today's disaster that is the second worst in Queensland’s mining history.

Then it went on to explain what it heard. What I am so proud about—and it continues to happen to this day in many communities—is that this paper then started an appeal.

The article went on:

... in shock, in grief, in desperate realisation, life somehow must go on for those who have been permanently, or temporarily, left to fend.

They're the facts of living ... the inescapable facts, in bereavement and in injury.

And so, without delay ... we are asking you to help ...

As a result of this community appeal, an extraordinary amount of money was raised.

The families of the miners who were affected were able to have some financial security.

This is a tradition in mining families. Every time there is a significant disaster in this industry, the call goes out and people generously give because they share the danger, they share the unity and they share the extraordinary solidarity of this industry.

As we stood together at Ipswich the other day at the community service that was jointly run by Reverend Bill Redman and Father Peter Casey, it was drawn to our attention that, as we were gathering there to remember the miners of Box Flat, there were miners trapped in China. The experiences that families were having in China on that very day replicated those of the people in Ipswich.

This is an international solidarity which has been mentioned many times by people from the CFMEU. John Maitland, who held positions in the Queensland CFMEU and now has taken on an international role in the miners union, consistently talks about the international unity of the industry.

The amazing safety advances that have been established in our industry in Australia must be shared with the industry overseas. As a direct result, we believe, of the Box Flat experience 35 years ago, changes were made to safety elements in Queensland mines. We learnt from what happened at Box Flat. Extraordinary changes were made. In fact, it is very rare to find any underground mining going on in our country now. That is not the same internationally. We should remember that families are being affected in many parts of the world as we speak. The solidarity that we share that is still alive in Ipswich 35 years after what happened at Box Flat should be extended to families overseas, particularly in countries such as China and South Africa, who continue to struggle with unsafe practices which can effect immediate loss.

I felt privileged to join the local state members, Joanne Miller, who comes from a mining family, Rachel Nolan and Wayne Wendt; the local federal member, Cameron Thompson; and a number of city councillors from the Ipswich area in the expression of community spirit and grief. What came out in that celebration—and it was a celebration of the miners' lives, as well as a commemoration of their loss—was a direct call for their stories to continue to be told, because that is part of our history. At Box Flat there is now a storyboard which spells out what happened on that horrible morning when people went down the mine to stop a fire and how many never came back because of a terrible explosion. But we will not forget. The citizens of Ipswich will not forget. It is our leg-
acy that we will not forget Box Flat. Thirty-five years on, we remember.

Senate adjourned at 7.40 pm

DOCUMENTS

Indexed List of Files

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2006—Statement of compliance—Australian Agency for International Development (AusAID).

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


A New Tax System (Goods and Services) Tax Act—

A New Tax System (Goods and Services Tax) (Average Input Tax Credit Fraction) Determination 2007 [F2007L01905]*.

A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2007 (No. 1) [F2007L01863]*.

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206—A New Tax System (Goods and Services Tax) Amendment Regulations 2007 (No. 2) [F2007L01975]*.


Aged Care Act—

Aged Care (Amount of Flexible Care Subsidy – Multi-purpose Services) Determination 2007 (No. 1)—ACA Ch. 3 No. 21/2007 [F2007L02051]*.

Aged Care (Amount of Flexible Care Subsidy – Transition Care) Determination 2007—ACA Ch. 3 No. 19/2007 [F2007L02048]*.

Aged Care (Residential Care Subsidy – Amount of Respite Supplement) Determination 2007—ACA Ch. 3 No. 9/2007 [F2007L02037]*.

Aged Care (Residential Care Subsidy – Amount of Viability Supplement) Determination 2007—ACA Ch. 3 No. 15/2007 [F2007L02043]*.

Residential Care Subsidy Amendment Principles 2007 (No. 1) [F2007L02344]*.

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Amount of Flexible Care Subsidy—ACA Ch. 3 No. 22/2007.

Extended aged care at home—ACA Ch. 3 No. 17/2007 [F2007L02047]*.

Extended aged care at home – dementia—ACA Ch. 3 No. 20/2007 [F2007L02050]*.

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8 of 2007—New topics in the monthly
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Family Law Act—

Family Law (Superannuation) Regulations—Family Law (Superannuation) (Interest Rate for Adjustment Period) Determination 2007 [F2007L01872]*.

Select Legislative Instruments 2007 Nos—


151—Family Law (Superannuation) Amendment Regulations 2007 (No. 1) [F2007L01652]*.

207—Family Law Amendment Rules 2007 (No. 1) [F2007L02203]*.

212—Family Law Amendment Regulations 2007 (No. 2) [F2007L02256]*.

213—Family Law (Child Abduction Convention) Amendment Regulations 2007 (No. 1) [F2007L02252]*.
Farm Household Support Act—
Farm Help Advice and Training Scheme Amendment 2007 (No. 1) [F2007L01785]*.
Farm Help Re-establishment Grant Scheme Amendment 2007 (No. 1) [F2007L01786]*.
Federal Court of Australia Act—Select Legislative Instrument 2007 No. 229—Federal Court Amendment Rules 2007 (No. 1) [F2007L02319]*.
Federal Magistrates Act—Select Legislative Instrument 2007 No. 179—Federal Magistrates Court Amendment Rules 2007 (No. 1) [F2007L01823]*.
Financial Management and Accountability Act—
Adjustments of Appropriations on Change of Agency Functions—Directions Nos—
15 of 2006-2007 [F2007L01883]*.
16 of 2006-2007 [F2007L01937]*.
17 of 2006-2007 [F2007L01940]*.
1 of 2007-2008 [F2007L02147]*.
2 of 2007-2008 [F2007L02146]*.
Financial Management and Accountability Determinations Nos—
2007/07 – Protective Services Special Account Variation and Abolition 2007 [F2007L02025]*.
Net Appropriation Agreements for the—
Australian Pesticides and Veterinary Medicines Authority [F2007L02387]*.
Australian Securities and Investments Commission (ASIC) [F2007L02149]*.
Department of Communications, Information Technology and the Arts [F2007L02205]*.
Department of Transport and Regional Services [F2007L02082]*.
Federal Court of Australia [F2007L02078]*.
Office of the Workplace Ombudsman [F2007L02408]*.
Select Legislative Instruments 2007 Nos—
158—Financial Management and Accountability Amendment Regulations 2007 (No. 3) [F2007L01771]*.
159—Financial Management and Accountability Amendment Regulations 2007 (No. 4) [F2007L01772]*.
Financial Sector (Collection of Data) Act—Financial Sector (Collection of Data) (Reporting Standard) Determinations Nos—
1 of 2007—Reporting standard MRS 120.0 Capital Base [F2007L02075]*.
2 of 2007—Reporting standard MRS 130.0 Off Balance Sheet Business – Direct Credit Substitutes Provided [F2007L02079]*.
5 of 2007—Reporting standard MRS 130.3 Off Balance Sheet Business – Credit Support Received [F2007L02086]*.
6 of 2007—Reporting standard MRS 140.0 Investments – Direct Interest Rate Holdings [F2007L02089]*.
7 of 2007—Reporting standard MRS 140.1 Investments – Direct Equity Holdings [F2007L02093]*.
8 of 2007—Reporting standard MRS 140.2 Investments – Direct Property Holdings [F2007L02096]*.
9 of 2007—Reporting standard MRS 140.3 Investments – Loans and Advances [F2007L02099]*.
10 of 2007—Reporting standard MRS 140.4 Investments – Assets Indirectly Held [F2007L02100]*.
11 of 2007—Reporting standard MRS 150.0 Asset Exposures [F2007L02101]*.
12 of 2007—Reporting standard MRS 160.0 Derivative Activity [F2007L02102]*.
13 of 2007—Reporting standard MRS 210.0 Outstanding Claims Liabilities [F2007L02103]*.
14 of 2007—Reporting standard MRS 300.0 Statement of Financial Position [F2007L02105]*.
16 of 2007—Reporting standard MRS 310.2 Claims Expense and Reinsurance Recoveries [F2007L02107]*.
17 of 2007—Reporting standard MRS 310.3 Investment and Operating Income and Expenses [F2007L02108]*.


Fisheries Management Act—
Northern Prawn Fishery Management Plan 1995—NPF Directions Nos—
109—Second Season Closures [F2007L02381]*.
110—Gear Trials [F2007L02382]*.
111—Prohibition on Trawling [F2007L02384]*.


Food Standards Australia New Zealand Act 1991—Food Standards Australia New Zealand Application Handbook [F2007L02114]*.

Future Fund Act—Future Fund (Crediting of Additional Amounts) Determination 2007 (No. 2) [F2007L01878]*.


Goods and Services Tax Rulings—Addenda—
GSTR 2002/3.
GSTR 2006/2.


Health Insurance Act—
Determinations—
HIB 11/2007 [F2007L01978]*.
HIB 12/2007 [F2007L01979]*.
Health Insurance (Eligible Collection Centres) Approval Amendment Principles 2007 [F2007L02032]*.
Health Insurance (Eligible Collection Centres) Approval Principles 2007 [F2007L01909]*.
Select Legislative Instruments 2007 Nos—
187—Health Insurance Amendment Regulations 2007 (No. 4) [F2007L01519]*.
188—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2007 (No. 4) [F2007L01517]*.
189—Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 5) [F2007L01520]*.
224—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2007 (No. 5) [F2007L02006]*.
Hearing Services Administration Act—Hearing Services Amendment Rules of Conduct 2007 (No. 1) [F2007L02199]*.
Higher Education Support Act—Commonwealth Scholarships Guidelines—Amendment No. 3 [F2007L01824]*.
Immigration (Education) Act—Select Legislative Instrument 2007 No. 165—Immigration (Education) Amendment Regulations 2007 (No. 1) [F2007L01827]*.
Income Tax Assessment Act 1997—Select Legislative Instruments 2007 Nos—
177—Income Tax Assessment Amendment Regulations 2007 (No. 4) [F2007L01757]*.
178—Income Tax Assessment Amendment Regulations 2007 (No. 5) [F2007L01735]*.
202—Income Tax Assessment Amendment Regulations 2007 (No. 6) [F2007L01893]*.
Industry Research and Development Act—Industry Cooperative Innovation Program Directions No. 1 of 2007 [F2007L01532]*.
Lands Acquisition Act—Select Legislative Instrument 2007 No. 223—Lands Acquisition Amendment Regulations 2007 (No. 1) [F2007L02272]*.
Legislative Instruments Act—Select Legislative Instrument 2007 No. 152—Legislative Instruments Amendment Regulations 2007 (No. 1) [F2007L01676]*.
Luxury Car Tax Determination LCTD 2007/1.
Medical Indemnity Act—Premium Support Amendment Scheme 2007 [F2007L02034]*.
Migration Act—
Direction under section 499—Direction No. 37—Guidelines for considering cancellation of student visas for breach of Condition 8202 [F2007L01860]*.
Migration Agents Regulations—MARA Notices—
MN 29-07a of 2007—Migration Agents (Continuing Professional Development – Program of Education) [F2007L02311]*.
MN 29-07b of 2007—Migration Agents (Continuing Professional Development – Private Study of Audio, Video or Written Material) [F2007L02312]*.

MN29-07c of 2007—Migration Agents (Continuing Professional Development – Attendance at a Seminar, Workshop, Conference or Lecture) [F2007L02313]*.

MN29-07f of 2007—Migration Agents (Continuing Professional Development – Miscellaneous Activities) [F2007L02314]*.

Migration Regulations—Instruments—
IMMI 07/008—Migration Occupations in Demand [F2007L02388]*.
IMMI 07/024—Places and Currencies for Paying of Fees [F2007L01825]*.
IMMI 07/025—Payment of Visa Application Charges and Fees in Foreign Currencies [F2007L01855]*.
IMMI 07/031—Substantive Visa Classes [F2007L01939]*.
IMMI 07/032—Addresses for Maritime Crew Visa Applications [F2007L01936]*.
IMMI 07/035—Class of Persons [F2007L01933]*.
IMMI 07/036—Classes of Persons [F2007L01929]*.
IMMI 07/038—Class of Persons [F2007L02117]*.
IMMI 07/042—Access to Movement Records [F2007L01882]*.
IMMI 07/044—Exemptions to the English Language Requirement for the Temporary Business (Long Stay) Visa [F2007L02077]*.
IMMI 07/051—Organisations that may sponsor Short Stay Business Visitors [F2007L02345]*.
IMMI 07/052—Classes of Persons [F2007L02410]*.

Migration (United Nations Security Council Resolutions) Regulations—

Select Legislative Instruments 2007 Nos—
166—Migration Amendment Regulations 2007 (No. 4) [F2007L01798]*.
190—Migration Amendment Regulations 2007 (No. 5) [F2007L01980]*.
191—Migration Amendment Regulations 2007 (No. 6) [F2007L01896]*.

Statements for period 1 January to 30 June 2007 under sections—
33 [3].
48B [92].
91L [4].
91Q [4].
195A [6].
197AB [21].
345.
351 [259].
417 [284].

Military Rehabilitation and Compensation Act—
Military Rehabilitation and Compensation (Non-warlike Service) Determination 2007/1 [F2007L02364]*.
Military Superannuation and Benefits Act—Military Superannuation and Benefits Amendment Trust Deed 2007 (No. 3) [F2007L02209]*.
Miscellaneous Taxation Rulings MT 2007/1 and MT 2042.

Motor Vehicle Standards Act—


Vehicle Standard (Australian Design Rule 46/00 – Headlamps) 2006 Amendment 1 [F2007L02250]*.

Vehicle Standard (Australian Design Rule 46/00 – Headlamps) 2006 Amendment 2 [F2007L02251]*.

Vehicle Standard (Australian Design Rule 62/01 – Mechanical Connections Between Vehicles) 2006 Amendment 1 [F2007L02224]*.


National Health Act—

Instruments Nos—

PB 48 of 2007—Drugs and medicinal preparations [F2007L02391]*.

PB 49 of 2007—Pharmaceutical benefits [F2007L02393]*.

PB 50 of 2007—Responsible persons [F2007L02394]*.

PB 51 of 2007—Price determinations and special patient contributions [F2007L02395]*.

PB 52 of 2007—Conditions [F2007L02396]*.

PB 53 of 2007—Special Arrangements – highly specialised drugs program [F2007L02397]*.

PB 54 of 2007—Special Arrangements – Chemotherapy Pharmaceuticals Access Program [F2007L02398]*.

PB 55 of 2007—Special Arrangements: Special Authority Program – Imatinib [F2007L02399]*.

PB 56 of 2007—Special Arrangements: Special Authority Program – Trastuzumab [F2007L02402]*.

PB 57 of 2007—Pharmaceutical benefits supplied by medical practitioners [F2007L02403]*.

PB 58 of 2007—Exempt items [F2007L02404]*.

PB 59 of 2007—Classes of pharmaceutical items to which 12.5% administrative price reduction has applied [F2007L02405]*.

PB 60 of 2007—Drugs in same therapeutic group [F2007L02411]*.

National Health (Immunisation Program – Designated Vaccines) Determination 2007 (No. 1) [F2007L01804]*.

Pharmaceutical Benefits Amendment Determinations under paragraph 98B(1)(a) Nos—

7 [F2007L01888]*.

8 [F2007L02167]*.

9 [F2007L02414]*.

Pharmaceutical Benefits Amendment Determination under subsection 84C(7) No. 1 [F2007L02346]*.
Select Legislative Instruments 2007 No.——

160—National Health (Pharmaceutical Benefits) Amendment Regulations 2007 (No. 1) [F2007L01518]*.

225—National Health (Pharmaceutical Benefits) Amendment Regulations 2007 (No. 2) [F2007L02206]*.

National Residue Survey (Excise) Levy Act—Select Legislative Instrument 2007 No. 149—Primary Industries Levies and Charges (National Residue Survey Levies) Amendment Regulations 2007 (No. 3) [F2007L01778]*.

Native Title Act—

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 1)—Aboriginal Legal Rights Movement Incorporated [F2007L02009]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 2)—Central Queensland Land Council Aboriginal Corporation [F2007L02010]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 3)—South West Aboriginal Land and Sea Council Aboriginal Corporation [F2007L02001]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 4)—North Queensland Land Council Native Title Representative Body Aboriginal Corporation [F2007L02012]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 5)—Northern Land Council [F2007L02013]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 6)—Central Land Council [F2007L02014]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 7)—Goldfields Land and Sea Council Aboriginal Corporation [F2007L02015]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 8)—Torres Strait Regional Authority [F2007L02016]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 9)—Gurang Land Council Aboriginal Corporation [F2007L02017]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 10)—Carpentaria Land Council Aboriginal Corporation [F2007L02018]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 11)—Kimberley Land Council Aboriginal Corporation [F2007L02019]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 12)—Cape York Land Council Aboriginal Corporation [F2007L02020]*.

Recognition as Representative Aboriginal/Torres Strait Islander Body 2007 (No. 13)—Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation [F2007L02021]*.

Select Legislative Instrument 2007 No. 186—Native Title (Prescribed Bodies Corporate) Amendment Regulations 2007 (No. 1) [F2007L01941]*.


Primary Industries (Customs) Charges Act—Select Legislative Instrument 2007 No. 131—Primary Industries (Customs) Charges Amendment Regulations 2007 (No. 4) [F2007L01675]*.

Primary Industries (Excise) Levies Act—Select Legislative Instruments 2007 Nos—133—Primary Industries (Excise) Levies Amendment Regulations 2007 (No. 5) [F2007L01673]*.

208—Primary Industries (Excise) Levies Amendment Regulations 2007 (No. 7) [F2007L02286]*.

Primary Industries Levies and Charges Collection Act—Select Legislative Instrument 2007 No. 209—Primary Industries Levies and Charges Collection Amendment Regulations 2007 (No. 5) [F2007L02289]*.

Privacy Act—
Market and Social Research Privacy Code – Variation [F2007L02061]*.
Select Legislative Instrument 2007 No. 153—Privacy (Private Sector) Amendment Regulations 2007 (No. 2) [F2007L01763]*.

Private Health Insurance Act—
Private Health Insurance (Benefit Requirements) Amendment Rules (No. 1) 2007 (No. 2) [F2007L02222]*.
Private Health Insurance (Benefit Requirements) Rules 2007 (No. 2) [F2007L01977]*.
Private Health Insurance (Benefit Requirements) Amendment Rules 2007 (No. 3) [F2007L02409]*.
Private Health Insurance (Prostheses Application and Listing Fees) Act—Private Health Insurance (Prostheses Application and Listing Fee) Rules 2007 (No. 2) [F2007L02347]*.

Product Rulings—
Erratum—PR 2007/68.
Notices of Withdrawal—
PR 1999/95.
PR 2002/135.
PR 2007/60.

Protection of the Sea (Shipping Levy) Act—Select Legislative Instrument 2007 No. 174—Protection of the Sea (Shipping Levy) Amendment Regulations 2007 (No. 1) [F2007L01797]*.

Public Service Act—
Public Service Commissioner’s Amendment Directions 2007 (No. 1).
Select Legislative Instrument 2007 No. 215—Public Service Amendment Regulations 2007 (No. 1) [F2007L02267]*.

Radiocommunications Act—
Radiocommunications (Foreign Space Objects) Amendment Determination 2007 (No. 1) [F2007L01931]*.
Radiocommunications (Receiver Licence Tax) Act—Radiocommunications (Receiver Licence Tax) Amendment Determination 2007 (No. 2) [F2007L02339]*.
Radiocommunications (Transmitter Licence Tax) Act—Radiocommunications (Transmitter Licence Tax) Amendment Determination 2007 (No. 2) [F2007L02338]*.
Remuneration Tribunal Act—
Determinations—
2007/10: Remuneration and Allowances for Holders of Part-Time Public Office [F2007L01790]*.

Renewable Energy (Electricity) Act—
Select Legislative Instrument 2007 No. 218—Renewable Energy (Electricity) Amendment Regulations 2007 (No. 1) [F2007L02204]*.

Retirement Savings Accounts Act—
Retirement Savings Accounts Tax File Number Approval No. 1 of 2007 [F2007L02022]*.
Select Legislative Instrument 2007 No. 203—Retirement Savings Accounts Amendment Regulations 2007 (No. 2) [F2007L01894]*.

Retirement Savings Account Providers Supervisory Levy Imposition Act—
Retirement Savings Account Levy Imposition Determination 2007 [F2007L02071]*.

Safety, Rehabilitation and Compensation Act—
Safety, Rehabilitation and Compensation (Declaration and Specification) Notice 2007 (1) [F2007L02005]*.
Safety, Rehabilitation and Compensation (Definition of Employee) Notice 2007 (2) [F2007L01982]*.
Safety, Rehabilitation and Compensation (Revocation of Declaration and Specification) Notice 2007 (1) [F2007L01981]*.
Safety, Rehabilitation and Compensation (Specified Diseases) Notice 2007 (1) [F2007L01983]*.
Safety, Rehabilitation and Compensation (Specified Law) Notice 2007 (1) [F2007L02004]*.
Sales Tax Bulletins—Notices of Withdrawal—STB 7-STB 11, STB 13, STB 14, STB 16-STB 18, STB 20, STB 21 and STB 23-STB 42.

Sales Tax Determinations—Notices of Withdrawal—
STD 95/1-STD 95/9 and STD 95/11-STD 95/13.
STD 96/1-STD 96/3 and STD 96/5-STD 96/11.
STD 97/1-STD 97/5.
STD 98/1 and STD 98/3-STD 98/7.
STD 1999/1-ST 1999/6.
STD 2000/1 and STD 2000/2.
Sales Tax Rulings—Notices of Withdrawal—STNS 1-STNS 3, STNS 5, STNS 3002, STNS 3003 and STNS 3005.


Social Security Act—
Social Security (Australian Government Disaster Recovery Payment) Determination 2007 (No. 5) [F2007L02116]*.
Social Security Exempt Lump Sum (Compensation paid by Aviva Australia) (DEST) Determination 2007 [F2007L02115]*.
Social Security Exempt Lump Sum (Compensation paid by Aviva Australia) (DEWR) Determination 2007 [F2007L02033]*.
Social Security Exempt Lump Sum (Compensation paid by Aviva Australia) (FaCSIA) Determination 2007 [F2007L02111]*.
Social Security Exempt Lump Sum (Remote Area Family Day Care Start Up Payment) (DEST) Determination 2007 [F2007L02320]*.
Social Security Exempt Lump Sum (Remote Area Family Day Care Start Up Payment) (DEWR) Determination 2007 [F2007L02249]*.
Social Security Exempt Lump Sum (Remote Area Family Day Care Start Up Payment) (FaCSIA) Determination 2007 [F2007L02321]*.
Social Security Foreign Currency Exchange Rate Determination 2006 (No. 3) [F2007L02343]*.
Social Security (Income Stream) (FaCSIA) Determination 2007 [F2007L02246]*.
Social Security (Administration) Act—
Social Security (Payment Pending—ARO Application for Review) (FaCSIA) Guidelines 2007 [F2007L02309]*.
Social Security (Payment Pending—SSAT Application for Review) (FaCSIA) Guidelines 2007 [F2007L02310]*.
Superannuation Act 2005—Second Amending Deed to the Superannuation Public Sector Superannuation Accumulation Plan [F2007L01942]*.
Superannuation Act 1990—Twenty-eighth Amending Deed to the Public Sector Superannuation Scheme [F2007L01943]*.
Superannuation (Government Co-contribution for Low Income Earners) Act and Superannuation Guarantee (Administration) Act—Lodgement of statements by superannuation providers for the year ended 30 June 2007 [F2007L01887]*.
Superannuation Industry (Supervision) Act—
Select Legislative Instrument 2007 No. 204—Superannuation Industry (Supervision) Amendment Regulations 2007 (No. 3) [F2007L01891]*.
Superannuation Industry (Supervision) Modification Declaration No. 1 of 2007 [F2007L02104]*.
Superannuation Industry (Supervision) Modification Declaration No. 2 of 2007 [F2007L02413]*.
Superannuation Industry (Supervision) Tax File Number Approval No. 1 of 2007 [F2007L02023]*.
Superannuation (Productivity Benefit) Act—
Superannuation (Productivity Benefit) (Penalty Interest) Amendment Determination 2007 (No. 1) [F2007L01964]*.

Superannuation Supervisory Levy Imposition Act—Superannuation Supervisory Levy Imposition Determination 2007 [F2007L02073]*.

Taxation Administration Act—Variation to the rate of withholding for certain superannuation beneficiaries who have not quoted a tax file number [F2007L02031]*.

Taxation Determinations—
  Addenda—
  TD 2000/41 and TD 2000/49.
  TD 2001/10.
  Notices of Withdrawal—TD 93/76 and TD 93/197.

Taxation Rulings—
  Addenda—
  TR 2001/14 [2].
  Erratum—TR 2007/3.
  Notice of Partial Withdrawal—TR 96/14.
  Notices of Withdrawal—
  IT 2643.
  TR 1999/5.
  TR 2006/15.
  Old series—
  Notices of Partial Withdrawal—IT 2624 and IT 2662.
  Notice of Withdrawal—IT 2035.

Telecommunications Act—
  Telecommunications (Carrier Licence Charges) Act—Telecommunications (Annual Carrier Licence Charge) Amendment Determination 2007 (No. 1) [F2007L01927]*.
  Textile, Clothing and Footwear Strategic Investment Program Act—Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme Amendment 2007 (No. 2) [F2007L02059]*.

Therapeutic Goods Act—
  Select Legislative Instruments 2007 Nos—
    161—Therapeutic Goods Amendment Regulations 2007 (No. 1) [F2007L01521]*.
    163—Therapeutic Goods (Medical Devices) Amendment Regulations 2007 (No. 1) [F2007L01522]*.

Therapeutic Goods (Emergency) Exemption 2007 (No. 2) [F2007L02417]*.

Therapeutic Goods (Emergency) Exemption 2007 (No. 3) [F2007L02271]*.

Therapeutic Goods (Charges) Act—Select Legislative Instrument 2007 No. 162—Therapeutic Goods (Charges) Amendment Regulations 2007 (No. 1) [F2007L01523]*.

Trade Practices Act—

Direction No. 29, dated 28 June 2007 [F2007L02060]*.

Select Legislative Instruments 2007 Nos—
  205—Trade Practices Amendment Regulations 2007 (No. 3) [F2007L01961]*.
  228—Trade Practices Amendment Regulations 2007 (No. 4) [F2007L02257]*.
Veterans’ Entitlements Act—

Determination of Non-warlike Service—Operation VIGILANCE, dated 20 June 2007 [F2007L02362]*.

Instruments Nos—


Statements of Principles concerning—

Dental Caries No. 71 of 2007 [F2007L01841]*.

Dental Caries No. 72 of 2007 [F2007L01844]*.

Loss of Teeth No. 73 of 2007 [F2007L01846]*.

Loss of Teeth No. 74 of 2007 [F2007L01847]*.

Malignant Melanoma of the Skin No. 79 of 2007 [F2007L01856]*.

Malignant Melanoma of the Skin No. 80 of 2007 [F2007L01857]*.

Malignant Neoplasm of the Lung No. 87 of 2007 [F2007L01874]*.

Malignant Neoplasm of the Lung No. 88 of 2007 [F2007L01876]*.

Mesothelioma No. 83 of 2007 [F2007L01864]*.

Mesothelioma No. 84 of 2007 [F2007L01865]*.

Myopia, Hypermetropia and Astigmatism No. 69 of 2007 [F2007L01831]*.

Myopia, Hypermetropia and Astigmatism No. 70 of 2007 [F2007L01837]*.

Non-Melanotic Malignant Neoplasm of the Skin No. 81 of 2007 [F2007L01861]*.

Non-Melanotic Malignant Neoplasm of the Skin No. 82 of 2007 [F2007L01862]*.

Pinguecula No. 77 of 2007 [F2007L01852]*.

Pinguecula No. 78 of 2007 [F2007L01853]*.

Pterygium No. 75 of 2007 [F2007L01849]*.

Pterygium No. 76 of 2007 [F2007L01850]*.

Systemic Lupus Erythematosus No. 85 of 2007 [F2007L01867]*.

Systemic Lupus Erythematosus No. 86 of 2007 [F2007L01868]*.

Veterans’ Entitlements (Income stream) Determination 2007 [F2007L02007]*.

Workplace Relations Act—

Directions to Inspectors, dated 4 July 2007 [F2007L02341]*.

Select Legislative Instruments 2007 Nos—

183—Workplace Relations Amendment Regulations 2007 (No. 2) [F2007L01880]*.

216—Workplace Relations Amendment Regulations 2007 (No. 3) [F2007L02288]*.

Governor-General’s Proclamations—

Commencement of Provisions of Acts

Aboriginal Land Rights (Northern Territory) Amendment Act 2006—Items 4A to 4C of Schedule 1—1 July 2007 [F2007L01930]*.

Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Act 2007—Schedule 1—1 July 2007 [F2007L01932]*.

Airspace Act 2007—Sections 3 to 15—1 July 2007 [F2007L01854]*.

Classification (Publications, Films and Computer Games) Amendment Act 2007—Schedule 1; and items 1, 3 to 6, 10 to 12, 13, 15, 19, 20 and 26 of Part 1 of Schedule 2—1 July 2007 [F2007L01781]*.
Food Standards Australia New Zealand Amendment Act 2007—Parts 1 and 2 of Schedule 1—1 July 2007 [F2007L01822]*.

Migration Amendment (Border Integrity) Act 2007—Schedules 1, 2 and 3—1 July 2007 [F2007L01792]*.


Workplace Relations Amendment (A Stronger Safety Net) Act 2007—Schedules 1, 2, 3 and 5—1 July 2007 [F2007L01879]*.

• Explanatory statement tabled with legislative instrument.

Tabling

The following government documents were tabled:


National Health and Medical Research Council Act—National Health and Medical Research Council—Ethical guidelines on the use of assisted reproductive technology in clinical practice and research, June 2007.


Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 January to 31 March 2007.

Treaties—Bilateral—Text, together with national interest analysis and annexures—Agreement between Australia and Japan on Social Security (Canberra, 27 February 2007).

Agreement between Australia and the Hellenic Republic on Social Security (Canberra, 23 May 2007).

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Ethanol Imports
(Question No. 298)

Senator O’Brien asked the Minister representing the Minister for Foreign Affairs, upon notice, on 23 December 2004:

(1) Did the Minister receive a request from the Minister for Trade to authorise staff at the Australian Embassy in Brazil in August 2002 and/or September 2002 to gather and provide information about a proposed shipment of ethanol to Australia by Trafigura Fuels Australia Pty Ltd.

(2) Did staff at the Australian Embassy in Brazil in August 2002 and/or September 2002 gather and provide information about a proposed shipment of ethanol to Australia by Trafigura Fuels Australia Pty Ltd; if so: (a) who requested the staff to engage in that task; (b) who authorised staff to agree to the request; (c) what action did staff take; (d) which staff engaged in the task; (e) on what date(s) did staff engage in the task; (f) what was the cost of engaging in the task; (g) to whom did the staff deliver this information in Australia; and (h) what form did that communication take.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable member’s question:

(1) No.

(2) Yes. (a) A Section Head in Americas Branch. (b) A Section Head in Americas Branch. (c) Telephone call. (d) Officers of Australian Embassy, Brazil. (e) 26 and 27 August 2002; 29 August 2002 and 13 September 2002. (f) Minimal. (g) A Section Head in Americas Branch. (h) Email.

Northern Territory: Schools Funding
(Question No. 1222)

Senator Crossin asked the Minister representing the Minister for Education, Science and Training, upon notice, on 20 September 2005:

(1) With reference to the Investing in Our Schools Program, to date, how many schools in the Northern Territory have applied for funding under this program.

(2) Can a list be provided of the schools identified in (1) above, including a breakdown by government and non-government schools.

(3) Can a list be provided of the successful applications, including: (a) the name of the school; (b) the project details; and (c) the amount of funding.

(4) Are the schools which applied unsuccessfully in round one reconsidered in any further rounds or are their applications spent.

(5) With reference to the Parent School Participation Initiative program, to date, how many schools in the Northern Territory have applied for funding under this program.

(6) Can a list be provided of the schools identified in (5) above, including a breakdown by government and non-government schools.

(7) Can a list be provided of the successful applications, including: (a) the name of the school; (b) the project details; and (c) the date and amount of the funding.

(8) For each of the successful cases, what is the amount of funding received by the schools in the past year under the former Aboriginal Student Support and Parent Awareness scheme.
(9) Are the schools which have been unsuccessful to date reconsidered in any further rounds or are their applications spent.

Senator Brandis—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) For the Northern Territory, the number of state government schools that applied for the Investing in Our Schools Programme is:
   (i) 44 in 2005 Round One;
   (ii) 72 in 2005 Round Two; and
   (iii) 104 in 2006 Round Three.

(1) This information is not-available for non-government schools as the Australian Government is not directly involved with the application and assessment process. This is conducted by the Northern Territory Block Grant Authority (BGA).

(2) The list of successful schools is available on the Department’s website at:
   http://www.investinginourschools.dest.gov.au/government/announcement/approved_grants.htm and

(3) See answer to (2).

(4) In the first Investing in Our Schools Programme 2005 application round, a small number of unsuccessful applications were reconsidered in Round Two.

(5) As at 1 January 2007, 228 schools.

(6) and (7) A list of all successful WoSI projects in the Northern Territory, including provider name, project details and amount funded, may be obtained from the DEST website at:

(8) A detailed list of all successful WoSI projects in the Northern Territory, including provider name, project details and amount funded, may be obtained from the DEST website at:

(9) All applications for Whole of School Intervention funding receive individual responses from their local DEST Office. If an application is unsuccessful the Northern Territory State Office provides written feedback to the proponent to provide information on why the application was unsuccessful and where possible, explore alternative avenues of funding or assistance. Applicants are also contacted if further information is required by the Northern Territory State Office at any point throughout the assessment process, which is undertaken by representatives from the Indigenous Coordination Centres, Senior NT Education Department staff and DEST staff.

**Airservices Australia: Remuneration Packages**

*(Question No. 2028 amended)*

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 15 June 2006:

For each of the following financial years: (1) 2003-04; (2) 2004-05; and (3) 2005-06, how many staff in Airservices Australia have been or are currently in receipt of remuneration packages in the following bands: (a) $150 000 – $249 999; (b) $250 000 – $349 999; (c) $350 000 – $449 999; (d) $450 000 – $499 999; (e) $500 000 – $549 999; (f) $550 000 – $599 999; (g) $600 000 – $649 999; (h) $650 000 – $699 000; and (i) $700 000 and above.
The Minister for Transport and Regional Services has provided the following amended answer to the honourable senator’s question:

<table>
<thead>
<tr>
<th>Remuneration Bands</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) $150,000 - $249,999</td>
<td>641</td>
<td>841</td>
<td>826</td>
</tr>
<tr>
<td>(b) $250,000 - $349,999</td>
<td>7</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>(c) $350,000 - $449,999</td>
<td>4</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>(d) $450,000 - $499,999</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(e) $500,000 - $549,999</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(f) $550,000 - $599,999</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>(g) $600,000 - $649,999</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(h) $650,000 - $699,999</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(i) $700,000 and above</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Note: This substitutes for the answers to Senate Question on Notice No. 2028 appearing on page 136 in the *Hansard* of 9 August 2006.

Airservices Australia apologizes for providing incorrect figures in the 2004-05 calculations. The original remuneration calculations excluded Fringe Benefit Taxes and the value of the salary sacrifice superannuation payments.

Airservices Australia has advised that the information on salary packages is reported on the basis of amounts actually paid to individuals in the relevant year. This method of reporting ensures that any overtime, bonuses and other allowances paid to employees are captured. For managerial staff who do not receive overtime, the value of non-cash salary components is included.

**BAe 146 Aircraft**

(Question No. 2269)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

(1) Is the Minister aware that on 25 July 2006 a member of the House of Lords asked a written question of the British Government concerning its knowledge of any payments made by British Aerospace Regional Aircraft Limited to Ansett Transport Industries Operations Limited and East West Airline Operations Limited, under an agreement dated 3 September 1993, in connection with design flaws in the BAe 146 aircraft, allowing contamination of cabin air by oil and other fumes.

(2) Is the Government aware of any payments pursuant to such an agreement: (a) if so: (i) what is the quantum of these payments, (ii) what are the full terms of the agreement, and (iii) can a copy of the agreement be provided; and (b) if not, will the Minister investigate the matter.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes

(2) No

(a) (i) n/a

(ii) n/a

(iii) n/a

(b) The Civil Aviation Safety Authority (CASA) has provided the following information with regard to cabin air quality issues associated with the BAe 146 aircraft:
CASA has maintained oversight of the issue of air quality in the passenger cabin of commercial aircraft, particularly the BAe 146. Several actions have been taken. CASA notes that the number of cabin air contamination reports in BAe 146 aircraft has declined in recent years. Only six confirmed defects were reported in 2006.

CASA has overseen a program of modifications to address the problem as well as requiring changes to the flight manual to ensure that the flight crew wear oxygen masks at the first instance of cabin air contamination to minimise the possibility of flight crew incapacitation. An airworthiness directive mandating the manufacturer’s instructions and repetitive inspection procedures has also been issued.

CASA also notes that the American Society of Heating Refrigeration and Air-conditioning Engineers (ASHRAE) has drafted a standard for Air Quality Within Commercial Aircraft. CASA understands that this standard may be ready for publication in 2007. CASA will consider the implications of the new standard when it is released, noting that because new standards are usually incorporated into the design of new aircraft CASA envisages no action for existing (including BAe 146) aircraft.

CASA will also consider any international progress on this issue, including any implications for developing equivalent Australian standards.

CASA also notes that operators of BAe 146 aircraft in Australia now use ESSO/EXXON 2380 oil.

**Exclusive Brethren**

(Question No. 2525)

**Senator Bob Brown** asked the Minister representing the Treasurer, upon notice, on 4 October 2006:

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

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator’s question:

As with other religious organisations that seek meetings, the Treasurer has met with representatives of the Exclusive Brethren. As with other groups that meet with the Treasurer, it is not customary to release details of those meetings.

(Question No. 2527)

**Senator Bob Brown** asked the Minister for Finance and Administration, upon notice, on 4 October 2006:

With reference to meetings between the Minister and representatives of the Exclusive Brethren: Has the Minister met with representatives of the Exclusive Brethren in the past 5 years, if so in each case:

(a) When was the meeting;
(b) Where was the meeting held;
(c) Who attended the meeting; and
(d) What matters were discussed.
Senator Minchin—The answer to the honourable senator’s question is as follows:
I have met with numerous individuals, organisations, business and community representatives in my role as Senator for South Australia and in my capacity as Minister. These meetings are conducted in a professional and proper manner.

Exclusive Brethren
(Question No. 2529)

Senator Bob Brown asked the Minister representing the Minister for Health and Ageing, upon notice, on 4 October 2006:
With reference to meetings between the Minister and representatives of the Exclusive Brethren: Has the Minister met with representatives of the Exclusive Brethren in the past 5 years: if so, in each case: (a) when was the meeting; (b) where was the meeting held; (c) who attended the meeting; and (d) what matters were discussed.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:
No.

Exclusive Brethren
(Question No. 2543)

Senator Bob Brown asked the Minister representing the Minister for Ageing, upon notice, on 4 October 2006:
With reference to meetings between the Minister and representatives of the Exclusive Brethren: Has the Minister met with representatives of the Exclusive Brethren in the past 5 years: if so, in each case: (a) when was the meeting; (b) where was the meeting held; (c) who attended the meeting; and (d) what matters were discussed.

Senator Ellison—The Minister for Ageing has provided the following answer to the honourable senator’s question:
No.

Transair
(Question No. 2656)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 November 2006:
(1) (a) Which specific breaches or grounds were notified in the show cause notice issued to Transair on 14 August 2006; and (b) how was the notice served.
(2) (a) Was Transair invited to attend a show cause conference related to this show cause notice; if so, on what date and in what form; and (b) if a conference was conducted: (i) on what date, (ii) what was the location, and (iii) who attended.
(3) (a) Which specific breaches or grounds were notified in the show cause notice issued to Transair on 26 September 2006; and (b) how was this notice served.
(4) (a) Was Transair invited to attend a show cause conference related to this show cause notice; if so, on what date and in what form; and (b) if a conference was conducted: (i) on what date, (ii) what was the location, and (iii) who attended.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
CASA has already provided considerable details of its regulatory oversight of Transair, including through extensive testimony publicly provided to Senate committees.
A detailed investigation into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007 which contains considerable details of CASA’s oversight of Transair.

Civil Aviation Safety Authority: Chief Executive Officer
(Question No. 2660)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:
With reference to the answer to question on notice no. 1472 (Senate Hansard, 22 June 2006, p. 313):
(1) Does Mr Bruce Byron, the Chief Executive Officer of the Civil Aviation Safety Authority (CASA), still maintain offices in Canberra, Melbourne, Moorabbin and at his home.
(2) For the each of the financial years 2005-06 and 2006-07 to date, how many days did Mr Byron spend working from: (a) his Canberra office; (b) his Melbourne office; (c) his Moorabbin office; (d) his home office; and (e) any other location.
(3) (a) Why did CASA pay for the installation of a satellite telephone link at Mr Byron’s home costing $1896.75 including a first month charge of $89.95; (b) on what date was the satellite telephone link installed; and (c) for each of the financial years since installation, including 2006-07 to date, what sum has CASA spent on fees associated with the satellite telephone service.
(4) For each of the financial years 2005-06 and 2006-07 to date: (a) what equipment, if any, has been purchased for Mr Byron’s home office; and (b) what other costs has CASA incurred in relation to the operation of the home office.
(5) For each of the financial years 2005-06 and 2006-07 to date, what costs has CASA incurred in relation to Mr Byron’s offices in: (a) Canberra; (b) Melbourne; and (c) Moorabbin.

Mr Johnson—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
The Civil Aviation Safety Authority has advised that:
(1) Yes. The Melbourne office is a non-dedicated office space Mr Byron uses on an ‘as required’ basis. It is available to other officers when not in use by Mr Byron. Mr Byron’s home office is provided by himself.
(2) | 2005-06 | 2006-07 to end Dec. |
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Canberra</td>
<td>69</td>
<td>27</td>
</tr>
<tr>
<td>Melbourne or Moorabbin</td>
<td>97</td>
<td>57</td>
</tr>
<tr>
<td>Home</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Other locations</td>
<td>63</td>
<td>25</td>
</tr>
</tbody>
</table>
(3) (a) Mr Byron’s residence is located in an area where the landline internet service is of a very poor quality. (b) 7 December 2004.
Civil Aviation Safety Authority: Industry Complaints Commissioner
(Question No. 2670)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) What was the cost of establishing and maintaining the Office of the Civil Aviation Safety Authority (CASA) Industry Complaints Commissioner in the 2005-06 financial year.

(2) Can the Minister confirm that the CASA Industry Complaints Commissioner received 219 complaints in the 2005-06 financial year.

(3) What matters, by category, did the complaints concern in the 2005-06 financial year.

(4) How many complaints did the CASA Industry Complaints Commissioner investigate in the 2005-06 financial year.

(5) How many recommendations by the CASA Industry Complaints Commissioner in the 2005-06 financial year resulted in: (a) action by the original CASA decision maker to overturn a decision; (b) action by the CASA Chief Executive Officer to overturn a decision; and/or (c) a change to a CASA procedure.

(6) How many recommendations from the CASA Industry Complaints Commissioner were not accepted in the 2005-06 financial year.

(7) Were all complaints dealt with in accordance with the service charter.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) $93,054.

(2) Yes.

(3) Fees, Medical, Security, Licensing, Aircraft registration, Other – such as aircraft noise, low-flying aircraft and unsafe aviation practices.

(4) 219.

(5) (a) 7, (b) 2, (c) 5.

(6) Nil.

(7) Yes.
Civil Aviation Safety Authority: Chief Executive Officer
(Question No. 2674)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) For each of the financial years 2003-04, 2004-05, 2005-06 and 2006-07 to date, can details be provided of all costs associated with domestic travel for Mr Bruce Byron, the Chief Executive Officer of the Civil Aviation Safety Authority, by year, including: (a) fares; (b) accommodation; (c) meals; (d) insurance; and (e) other costs.

(2) Can the same details be provided for any domestic travel undertaken by members of Mr Byron’s family.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1)

<table>
<thead>
<tr>
<th>Year</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
<th>2006-07*</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) fares</td>
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<td>$40,571</td>
<td>$29,673</td>
<td>$10,808</td>
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<tr>
<td>(b)-(c)</td>
<td>$9,150</td>
<td>$19,706</td>
<td>$14,115</td>
<td>$3,760</td>
</tr>
<tr>
<td>(d)</td>
<td>$0</td>
<td>$0</td>
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</tr>
<tr>
<td>(e)</td>
<td>$4,836</td>
<td>$21,579</td>
<td>$23,121</td>
<td>$5,560</td>
</tr>
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</table>

* to January 2007

(2)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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</tr>
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<tbody>
<tr>
<td>(a)</td>
<td>$0</td>
<td>$0</td>
<td>$1,755</td>
<td>$1</td>
</tr>
<tr>
<td>(b)</td>
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<td>(c)</td>
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<td>(d)</td>
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<td>$0</td>
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<tr>
<td>(e)</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

Costs relate to meals and airfares for Mrs Byron’s attendance at an International Conference on the Gold Coast, 24-30 September 2005. Mrs Byron hosted the Secretary General of the International Civil Aviation Organization, Dr Taieb Chérif and his wife during this conference.

Civil Aviation Safety Authority
(Question No. 2677)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) What was the cost of the Civil Aviation Safety Authority (CASA) telephone survey of general aviation operators and organisations commissioned in September 2005.

(2) Will CASA undertake an extensive survey of all aviation sectors in the 2006-07 financial year, as planned; if so, what is the estimated cost of this survey.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) CASA advises that the cost of the survey was $21,659.40.
No. CASA advises it has engaged a consultant to develop an email based survey of Air Operator’s Certificate holders covering all but the larger airlines. It is expected that the survey will be sent out to recipients by early July 2007. The anticipated cost of the project is $50,000. It is expected that CASA will receive the results by September 2007.

Civil Aviation Safety Authority  
(Question No. 2678)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

With reference to the statement in the Civil Aviation Safety Authority (CASA) annual report for the 2005-06 financial year that CASA issues ‘continue to cause some concern in the Minister’s office’: Can the Minister outline the nature of these concerns with CASA’s performance.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA advised that the ‘cause for concern’ it referred to in the 2005-06 Annual report related to the issue of Aviation Security Identification Cards (ASICs) and understanding of regulatory approval cost recovery implementation both by industry and within CASA.

Civil Aviation Safety Authority  
(Question No. 2690)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) What is the basis of the claim by the Chief Executive officer of CASA, Mr Bruce Byron, to the Senate Standing Committee on Rural and Regional Affairs and Transport on 30 October 2006 that because the Act required publication of ‘the details’ of EVUs and not ‘the detail’ CASA may only publish a summary.

(2) (a) on what date did CASA seek legal advice on its obligations under section 30DK(4) and (b) can a copy be provided.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) This question was asked and answered during testimony to the Senate Standing Committee on Rural and Regional Affairs and Transport on 31 January 2007.

(2) No external legal advice was sought and detail of the internal legal advice is provided in the record of proceedings of the Senate Standing Committee on Rural and Regional Affairs and Transport on 30 October 2006 and 31 January 2007.

Civil Aviation Safety Authority  
(Question No. 2693)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Did the Civil Aviation Safety Authority General Counsel, Mr Rick Heap, issue a memorandum of advice on 9 May 2006 requesting publication of the details of the enforceable voluntary undertaking (EVU) by Transair, dated 4 May 2006, on the Internet.

(2) Did Mr Heap’s memorandum note that the structure of the company’s operations needed to change ‘to rectify the problems identified in the background to the undertakings’.
(3) Given its relevance to the undertakings, why was the background, contained in parts 1-9 of the
EVU, not published on the internet.

Senator Johnston—The Minister for Transport and Regional Services has provided the
following answer to the honourable senator’s question:
(1) and (2) Mr Heap is not, and has never acted in, the position of General Counsel, but is employed as
a lawyer, working in CASA’s Legal Services. It is not appropriate to disclose the nature of advice
provided to CASA in that capacity.
(3) The publication requirements, under s30DK of the Civil Aviation Act 1988, provide that details of
the undertaking are to be published on the Internet. There is no obligation to provide background
information. In future CASA will publish the entire EVU contents.

Civil Aviation Safety Authority
(Question No. 2695)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional
Services, upon notice, on 10 November 2006:
(1) On what date did the Civil Aviation Safety Authority (CASA) publish on its website a summary of
the enforceable voluntary undertaking (EVU) by Transair accepted by CASA on 4 May 2006.
(2) On what date did CASA remove a summary of the EVU from its website.

Senator Johnston—The Minister for Transport and Regional Services has provided the
following answer to the honourable senator’s question:
These questions were asked and answered during testimony to the Senate Standing Committee on Rural
and Regional Affairs and Transport on 31 January 2007.

Civil Aviation Safety Authority
(Question No. 2698)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional
Services, upon notice, on 10 November 2006:
With reference to the evidence by the Civil Aviation Safety Authority (CASA) Deputy Chief Executive
Officer, Mr Bruce Gemmell, to the Senate Standing Committee on Rural and Regional Affairs and
Transport on 30 October 2006 that CASA failed to enforce training requirements mandated in the Tran-
sair operations manual prior to the Lockhart River tragedy in May 2005:
(1) Is the Minister aware Mr Gemmell told the committee ‘whilst we may have known it was occur-
ing, we did not enforce that because, quite frankly, if we sought to enforce it they could simply
cross it out of the manual, and that would be the end of it’.
(2) Does Civil Aviation Regulation 215(9) as contained in the Civil Aviation Regulations 1988 require
each member of the operations personnel of an operator to comply with all instructions contained
in the operations manual in so far as they relate to his or her duties or activities.
(3) Did CASA knowingly fail in its duty by failing to enforce compliance with Civil Aviation Regula-
tion 215(9).
(4) Which other instructions contained in the Transair operations manual has CASA knowingly permit-
ted the operator to disregard.

Senator Johnston—The Minister for Transport and Regional Services has provided the
following answer to the honourable senator’s question:
(1) Yes.
(2) Yes.
(3) and (4) CASA has already made public considerable details of its regulatory oversight of Transair, including through extensive testimony provided to Senate committees. A detailed investigation report into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007. The report contains considerable details of CASA’s oversight of Transair.

**Civil Aviation Safety Authority**

(Question No. 2704)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

Can the Minister confirm evidence by the Civil Aviation Safety Authority (CASA) Deputy Chief Executive Officer, Mr Bruce Gemmell, to the Rural and Regional Affairs and Transport Legislation Committee on 24 May 2005 that the CASA audit of Transair in February 2005 found ‘nothing serious or significant’.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA has already made public considerable details of its regulatory oversight of Transair, including through extensive testimony provided to senate committees.

A detailed investigation report into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007. The report contains considerable details of CASA’s oversight of Transair.

**Civil Aviation Safety Authority**

(Question No. 2706)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Can the Civil Aviation Safety Authority (CASA) identify all external maintenance organisations that conducted maintenance on VH-TFU between the CASA audit of Transair in November 2001 and the tragedy at Lockhart River on 7 May 2005.

(2) Did CASA audit these organisations during this period; if so, can the dates and related findings of these audits be provided.

(3) Has CASA received complaints about compliance with regulations by these organisations during this period; if so, can details of these complaints be provided, including the action taken by CASA in response to these complaints.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA has already made public considerable details of its regulatory oversight of Transair, including through extensive testimony provided to senate committees.

A detailed investigation report into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007. The report contains considerable details of CASA’s oversight of Transair.
Australian Transport Safety Bureau  
(Question No. 2713)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

With reference to Australian Transport Safety Bureau (ATSB) safety recommendation R20060005 issued on 10 February 2006 during the course of the investigation into the Lockhart River air tragedy in May 2005:

(1) Why are maintenance and testing requirements for cockpit voice and flight data recording systems not defined in Australian regulations.

(2) (a) What is the timetable for the Civil Aviation Safety Authority’s consideration of the ATSB recommendation relating to the maintenance requirements of cockpit voice and flight data recording systems; and (b) when will consideration of this matter conclude.

(3) What additional training in the maintenance of cockpit voice and flight data recording systems has been provided for airworthiness personnel.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) The maintenance and testing requirements for flight data recorders (FDR) and cockpit voice recorders (CVR) are not explicitly defined in Australian regulations. However, ICAO Annex 6 requirements are accepted as the minimum requirement to be met.

(2) (a) and (b) CASA responded to this safety recommendation in May 2006 and details are available on the ATSB website <www.atsb.gov.au>.

(3) CASA is reviewing the existing guidance material with a view to providing more specific maintenance guidelines. CASA will be providing additional training in the maintenance of FDR/CVR systems for airworthiness personnel.

Australian Transport Safety Bureau  
(Question No. 2714)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

When will the Government act on Australian Transport Safety Bureau safety recommendation R20060006 arising from the Lockhart River disaster in May 2005 and permit approved maintenance organisations to replay in-flight cockpit voice recorder data for legitimate maintenance and testing purposes.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Department of Transport and Regional Services has provided the Office of Parliamentary Counsel with drafting instructions on this matter, and a Bill is currently being drafted which incorporates relevant amendments to Part IIIB of the Civil Aviation Act 1988.
Civil Aviation Safety Authority

(Question No. 2716)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

With reference to Civil Aviation Order (CAO) 20.16.1 that requires operators to ensure that a copy of a load sheet is retained on the ground at the aerodrome of departure for aircraft engaged in regular public transport services:

(1) Is the Minister aware that: (a) the Australian Transport Safety Bureau (ATSB) has found that a copy of the load sheet for the Transair-operated flight from Bamaga to Lockhart River by VH-TFU on 7 May 2005 was not located at Bamaga; and (b) current and former employees of Transair have advised the ATSB that it was not routine practice for load sheets to be left at Bamaga.

(2) What action has the Civil Aviation Safety Authority taken in response to this ongoing breach of CAO 20.16.1.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA has already made public considerable details of its regulatory oversight of Transair, including through extensive testimony provided to senate committees.

A detailed investigation report into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007. The report contains considerable details of CASA’s oversight of Transair.

Civil Aviation Safety Authority

(Question No. 2721)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

With reference to evidence by the Chief Executive Officer of the Civil Aviation Safety Authority (CASA), Mr Bruce Byron, to the Senate Standing Committee on Rural and Regional Affairs and Transport on 30 October 2006, that Transair was not mentioned in reports presented to him before the May 2005 aviation tragedy at Lockhart River in May 2005: Why was no report made to Mr Byron about Transair’s ‘ongoing compliance and structural problems’ identified at CASA audits in November 2001, August 2004 and February 2005.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA has already made public considerable details of its regulatory oversight of Transair, including through extensive testimony provided to senate committees.

A detailed investigation report into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007. The report contains considerable details of CASA’s oversight of Transair.
Civil Aviation Safety Authority

(Question No. 2758)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 November 2006:

(1) Can the Minister confirm that the Civil Aviation Safety Authority (CASA) issued air operator’s certificate (AOC) number BN426646-30 to Transair on 30 September 2005 authorising Transair to conduct regular public transport operations in aircraft including a Fairchild SA227-DC with the serial number DC-818B and registration mark VH-TFU.

(2) Can the Minister confirm that a Fairchild SA 227-DC with the serial number DC-818B and registration mark VH-TFU operated by Transair was destroyed at Lockhart River on 7 May 2005 in a tragedy that cost 15 lives.

(3) Why did CASA issue an AOC to Transair in September 2005 authorising the operator to carry passengers on an aircraft that had been destroyed in one of Australia’s worst aviation disasters 4 months earlier.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Yes.

(3) CASA advises that this was an administrative oversight which was not detrimental to aviation safety.

Airservices Australia: Solomon Islands

(Question No. 2770)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 November 2006:

With reference to the Australian National Audit Office, audit report no. 8 of 2006-07, Airservices Australia’s Upper Airspace Management Contracts with the Solomon Islands Government:

(1) Can the Minister confirm that Airservices Australia declined to provide the Department with a copy of legal advice it obtained in March 2002 relating to its capacity to enter into commercial ventures.

(2) Did that legal advice question the capacity of Airservices Australia to enter into commercial ventures in the absence of specific legislative authority.

(3) Can a copy of the legal advice be provided; if not, why not.

(4) Was Airservices Australia empowered by its enabling legislation to enter into airspace management contracts with the Solomon Islands Government in April 1998 and May 2003.

(5) Can details be provided of other documents Airservices Australia has declined to provide to the Minister or to the department relating to its commercial ventures.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Although the Australian National Audit Office reached a conclusion that Airservices Australia declined to provide the Department with the legal advice referred to, full information regarding this issue is not able to be confirmed from the files of either Airservices Australia or the Department.

(2) No.
(3) All documents and information relevant to the contracts, including the legal advice, were made available to the Australian National Audit Office (ANAO) in the course of its audit of the administration of the Solomon Islands upper airspace contracts. The ANAO has reported to Parliament.

(4) Yes.

(5) Airservices Australia has advised that it has not declined to provide any other documents.

Transair
(Question No. 2814)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 November 2006:
Can a copy be provided of the air operators certificate under which Transair was operating the aircraft VH-TFU on 7 May 2005.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
A copy of the air operator’s certificate is attached.
Australian Government
Civil Aviation Safety Authority
CIVIL AVIATION ACT 1988

AIR OPERATOR’S CERTIFICATE
NUMBER BN 426640-29

This Air Operator’s Certificate (AOC) is issued to:

LESSBROOK PTY LTD (ACN 010-855-875)
trading as
TRANSAIR

This AOC authorises its holder to conduct, in Australian aircraft:

(a) regular public transport operations for the purposes of the carriage of cargo only in the aircraft specified in Part 1 of Schedule 2 between the aerodromes specified in Part 1 of Schedule 1; and within Papua New Guinea in accordance with approvals granted by the government of Papua New Guinea, and

(b) regular public transport operations in the aircraft specified in Part 1 of Schedule 2 between the aerodromes specified in Part 2 of Schedule 1; and

(c) regular public transport operations in the aircraft specified in Part 1 of Schedule 2 between the aerodromes specified in Part 3 of Schedule 1; and

(d) charter operations in the aircraft specified in Part 3 of Schedule 2 into, out of and outside Australian territory between 95 degrees east longitude and 180 degrees east longitude, and between 45 degrees south latitude and the Tropic of Cancer; and

(e) charter operations in the aircraft specified in Part 3 and Part 4 of Schedule 2 within Australian territory; and

(f) aerial work operations of the kind set out in Part 1 of Schedule 3, in the aircraft specified in Part 5 of Schedule 2 within Australian territory; and

(g) aerial work operations of the kind set out in Part 2 of Schedule 3 in the aircraft specified in Part 6 of Schedule 2 within Australian territory.

This AOC is effective from 14 April 2005 until the end of 31 October 2007.

Arthur J. White
Acting Executive Manager
Aviation Safety Compliance Division
Delegate of the Civil Aviation Safety Authority

April 2005

QUESTIONS ON NOTICE
SCHEDULE 1 TO AOC BN 426646-29

REGULAR PUBLIC TRANSPORT AERODROMES

PART 1

Aerodromes:
(i) in Australian territory – CAIRNS INTL, and
(ii) outside Australian territory – PORT MORESBY and GURNEY.

PART 2

Aerodromes:
(i) in Australian territory – BAMAGA/INJINOO, BRISBANE INTL, CAIRNS INTL, CHRISTMAS ISLAND, COOMA, GRAFTON, GUNNEDAH, INVERELL, KOWANYAMA, LOCKHART RIVER, PORMPURAAW, SYDNEY INTL, TAREE
(ii) outside Australian territory – JAKARTA SOEKARNO-HATTA.

PART 3

Aerodrome:
(i) in Australian territory – COONABARABRAN, GUNNEDAH.

SCHEDULE 2 TO AOC BN 426646-29

AEROPLANES

<table>
<thead>
<tr>
<th>Manufacturer</th>
<th>Type/Model</th>
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<tr>
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<td>AC-504</td>
<td>VH-TFG</td>
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PART 2 – Regular Public Transport Aircraft

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SCHEDULE 2 TO AOC BN 426646-29 (Continued)

PART 3 -- Charter aircraft (fixed wing)

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PART 4 -- Charter aircraft (rotary wing)

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<td>Bell</td>
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<tr>
<td>Robinson</td>
<td>R44</td>
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<tr>
<td>Eurocopter EC-120B</td>
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</tr>
</tbody>
</table>

AEROPLANES

Or any other aircraft of a type and model listed in Part 3 and Part 4, subject to

(a) Written notification being received by the Authority, from the operator, as to the registration of the aircraft intended to be used.
(b) Aircraft intended to be used by the operator under this variation may only be operated in the charter category.
(c) Notification is received by the Authority, from the operator, of the intended date and duration of use of the aircraft in question.

<table>
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<tr>
<th>Manufacturer</th>
<th>Type/Model</th>
<th>Serial Number</th>
<th>Registration Mark</th>
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AOC No. BN 426646-29
SCHEDULE 3 TO AOC BN 426646-29

AERIAL WORK PURPOSES

PART 1

1. Aerial filming and photography;
2. Aerial spotting;
3. Aerial survey;
4. Ambulance functions;
5. Helicopter media operations;
6. Feral and Diseased Animal Control.

PART 2

1. Aerial advertising – banner towing;
2. Sling load operations.
Australian Transport Safety Bureau: Toowoomba Air Crash
(Question No. 2821)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 23 November 2006:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-LQH at Toowoomba on 27 November 2001:

(1) Did the Civil Aviation Safety Authority (CASA) conduct a review of the engine condition monitoring programs of other operators in Queensland following the fatal crash; if so:
   (a) when did the review commence;
   (b) how was the review conducted;
   (c) when did the review conclude;
   (d) how were operators selected for review;
   (e) how many operators were reviewed; and
   (f) how many operators were found to be failing to comply with relevant requirements.

(2) Has CASA conducted a national review of compliance with engine condition monitoring requirements:
   (a) if so:
      (i) when did the review commence,
      (ii) how was the review conducted,
      (iii) when did the review conclude,
      (iv) how were the operators selected for review,
      (v) by state/territory, how many operators were reviewed, and
      (vi) by state/territory, how many operators were found to be failing to comply with relevant requirements; and
   (b) if not, why not.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) advises that:

(1) (a) A review of operators with PT6 powered aircraft was commenced by the CASA Airline Operations Office Brisbane (AOO(B)) after the Australian Transport Safety Bureau (ATSB) alerted CASA to its concern that Eastland-Air may not be conducting the Engine Condition Trend Monitoring (ECTM) in accordance with Airworthiness Directive AD/ENG/5 Amendment 7. This was in mid-April 2002.

   (b) AOO(B) issued a direction under regulation 38 of the Civil Aviation Regulations to all known operators in the region with PT6 powered aircraft to forward their trend data to CASA technical specialists for assessment.

   (c) The operators had until early May 2002 to supply the required information. In conjunction with a Canberra-based engine specialist the assessment of the data was completed within approximately three (3) weeks. The review was concluded by June 2002.

   (d) All Regular Public Transport operators in Queensland operating PT6 powered aircraft were included in the review. These operators were: Sunshine Express, Jetcraft, Macair and Eastland-Air.
(e) Four in total. These operators were: Sunshine Express, Jetcraft, Macair and Eastland-Air.

(f) One operator in the region with PT6 powered aircraft was required to address their documented procedures in relation to the AAC 6-29 Engine Condition Trend Monitoring requirements.

(2) (a) (i–vi)

The adequacy of the Engine Condition Trend Monitoring program throughout Australia was reviewed and it was decided that it could be best addressed through a mandatory CASA action affecting all operators. Hence Airworthiness Directive AD/ENG/5 was amended (Amendment 8) on 7 August 2003 to clarify the mandatory Engine Condition Trend Monitoring requirements. No individual operator review was conducted nationally. This is noted in the ATSB report 200105618 Page 91 of 123,Para 4.2.1, as “local safety action”.

An airworthiness bulletin AWB 72-1 – “Engine Condition Trend Monitoring (ECTM)” was also issued to provide further advisory material to elaborate on the ECTM requirements.


(b) See answer to 2 (a) above.

**Australian Transport Safety Bureau: Toowoomba Air Crash**

(Question No. 2822)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 23 November 2006:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-LQH at Toowoomba on 27 November 2001: Did the Civil Aviation Safety Authority’s (CASA) audit of the operator’s maintenance organisation in August 2001 identify problems with the operator’s maintenance resources; if so: (a) what problems did it identify; and (b) what action did CASA take; if no action was taken, why not.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(a) I am advised that the Civil Aviation Safety Authority (CASA) audit, conducted in August 2001, found no problems with the operator’s maintenance resources. The major finding related to numerous deficiencies in written maintenance procedures.

(b) I am advised by CASA that, in response, it issued a Request for Corrective Action at the August 2001 audit which was followed up by CASA with the Eastland-Air operational and engineering department.

**Australian Transport Safety Bureau: Toowoomba Air Crash**

(Question No. 2823)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 23 November 2006:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-LQH at Toowoomba on 27 November 2001:

(1) Following the resignation of the operator’s full-time maintenance controller in August 2001, did the operator’s chief engineer fill that role with the approval of the Civil Aviation Safety Authority (CASA).
(2) Was the chief engineer’s initial appointment as maintenance controller approved by CASA on 3 August 2001, based on a telephone interview with a CASA inspector.

(3) Was the further appointment of the chief engineer as maintenance controller approved by CASA on 17 August 2001.

(4) Were CASA’s approvals made in the absence of formal guidelines on the criteria, qualifications or competencies that should be considered when evaluating the suitability of a person to act in a managerial role for a maintenance organisation.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following advice:

(1) Yes.

(2) Yes.

(3) Yes. CASA advises that the initial appointment as maintenance controller was made on 3 August 2001, with the addition of specific aircraft made on 17 August 2001.

(4) No. CASA advises that the assessment of the maintenance controller under Civil Aviation Regulation (CAR) 42ZY was made based on his responses to questions derived from the requirements for maintenance controllers as specified in Schedule 9 to CAR 1988.

Australian Transport Safety Bureau: Toowoomba Air Crash
(Question No. 2825)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 23 November 2006:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-LQH at Toowoomba on 27 November 2001:

(1) Were the aircraft’s engines operating on a life extension to 5 000 hours time between overhaul (TBO) in accordance with the provisions of the Civil Aviation Safety Authority (CASA) Airworthiness Directive AD/ENG/5 Amendment 7.

(2) Is it a requirement of the Airworthiness Directive that, if the engines were operating to a 5 000 hour TBO, they had to be subject to an engine condition trend monitoring (ECTM) program.

(3) Prior to the fatal crash, was CASA aware that the operator’s maintenance controller had not completed ECTM training and was not qualified to conduct ECTM functions.

(4) Was CASA aware that the operator had entered into an arrangement to have ECTM data analysed by the engine manufacturer’s field representative but failed: (a) to ensure this arrangement was documented by the operator; and (b) to establish whether the ECTM data was being submitted for analysis on a regular basis.

(5) Is it the case that in the 4 months prior to the fatal crash, ECTM data was not recorded or submitted for analysis in accordance with the engine manufacturer’s requirements and AD/ENG/5?

(6) Is the Minister aware that the ATSB supplementary report published in August 2006 found that ECTM data indicated that a potentially significant problem had been developing in the left engine in the months preceding the fatal crash and ‘was both real and indicative of a trend significant enough to warrant a proactive response to identify and rectify a developing problem in the engine’.

(7) Why did CASA surveillance fail to detect problems with the operator’s ECTM program prior to the fatal crash of VH-LQH.
**Senator Johnston**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised that:

1. Yes.
2. Yes.
3. Yes. The maintenance controller was not required to be qualified in ECTM analysis as this was not a regulatory requirement for the position.
4. (a) CASA was aware that the operator had entered into an arrangement to have ECTM data analysed by the engine manufacturer’s field representative. CASA advises that it did not fail to ensure that the operator properly documented this procedure. It is the responsibility of the operator to ensure that he had correctly documented this arrangement as it is the operator’s responsibility to manage, document and oversight arrangements for all services provided by external organisations.

   (b) CASA advises that it did not obtain a report or analysis of the ECTM data, nor was it required to check that the ECTM data was being submitted for analysis on a regular basis. The responsibility for the reporting and analysis rests with the operator, as set out in 4(a) above. The maintenance controller was aware of his responsibility and arrangements were made with the company CEO for this work to be completed.
5. Data was being recorded and submitted through an informal arrangement and not submitted regularly as required by the manufacturer - this was discovered after the accident. It is not the responsibility of CASA to review data from the ECTM program on a regular basis. CASA advises that it is the responsibility of the operator who should review the data every five days. CASA may view data during an audit if ECTM forms part of the scope of an audit. Since this accident CASA inspectors have been provided ECTM training. The training was designed to provide an awareness of this function and allow for assessment of the procedures to be used by an operator.
6. The Minister is aware of the ATSB Supplementary Report published in August 2006 on the fatal crash of the aircraft VH-LQH at Toowoomba on 27 November 2001. It is important to note that a further review of evidence led the ATSB to reconsider its original finding that the initiating event of the engine failure of VH-LQH was a blade release in the compressor turbine. The ATSB now proposes that an alternative possibility could have been that the initiating event occurred in the power turbine. Notwithstanding this possibility, in either scenario, the remainder of the findings and safety recommendations contained in the original ATSB report were still relevant, and CASA formally responded to the ATSB recommendations in August 2004.
7. See Question 5 above.

Civil Aviation Safety Authority: Chief Executive Officer

(Question No. 2831)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 24 November 2006:

With reference to the claim by the Chief Executive Officer of the Civil Aviation Safety Authority (CASA), Mr Bruce Byron, at the Corporate Governance in the Public Sector conference on 30 April 2004, that he had the agreement of the then Minister (Mr Anderson) to hold a formal meeting ‘at least every two months’ on the basis that regular structured communication is an essential element in ensuring CASA’s governance arrangements operate successfully:

1. On what dates have regular formal meetings involving Mr Byron, the Minister and the Secretary of the department been conducted;
(2) If regular formal meetings have been abandoned, can the Minister advise: (a) when; and (b) why these meetings were abandoned.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

    2005: 16 February, 22 June, 12 August, 14 September, 4 October, 8 December.
    2006: 16 February, 20 March, 3 April, 11 May, 8 August, 18 October.
    2007: 12 March, 9 May.

(2) Meetings between Ministers and Mr Byron have not been abandoned.

Civil Aviation Safety Authority
(Question No. 2859)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 November 2006:

(1) By year since 1996, how many non-compliance notices have been issued by the Civil Aviation Safety Authority or any other relevant agencies to international aviation providers undertaking regular passenger transport in Australian controlled airspace.

(2) In each case what was the: (a) reason for the issue of the notice; and (b) the name of the international carrier.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA advises:

(1) Nil.

CASA only issues non-compliance notices for domestic carriers rather than foreign operators. CASA abides by the International Civil Aviation Organisation (ICAO) principles of mutual recognition between contracting states of Air Operating Certificates. CASA recognises the state of origin’s Civil Aviation Authorities responsibility for aviation safety regulatory oversight of the operators certified in that country. However, it does carry out regular ramp inspections of international operators to ensure they meet a minimal level of safety based on the ICAO Standards and Recommended Procedures.

(2) (a) and (b) CASA does not issue non-compliance notices to international aviation providers. Since 1996, CASA has, on two occasions, sent letters to other national Civil Aviation Authorities drawing attention to safety deficiencies of operators under their responsibility.

Civil Aviation Safety Authority
(Question No. 2864)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 November 2006:

With reference to the decision by the Civil Aviation Safety Authority (CASA) on 25 November 2006 to suspend Transair’s air operators certificate (AOC) under section 30DSC of the Civil Aviation Act 1988 on the grounds that the operator had engaged, may be engaging and was likely to engage in conduct constituting, contributing to, or resulting in, a serious and imminent risk to air safety:

(1) Is a serious risk one where conduct has caused, or is reasonably likely to cause, an aviation accident or incident.

(2) On what basis did CASA determine the risk was serious.
(3) On what basis did CASA determine the risk was imminent.
(4) On what date did CASA first receive information about the serious and imminent risk.
(5) On what date did CASA seek from Transair a written explanation of events and/or undertakings necessary to alleviate the serious and imminent risk.
(6) In what form was the request made.
(7) On what date did the operator respond to that request.
(8) Which officer authorised the suspension action.
(9) On what date and at what time did CASA decide to suspend the AOC.
(10) (a) On what date and at what time; and (b) in what form, was the suspension notice served on the operator.
(11) Can a copy of the suspension notice be provided; if not, why not.
(12) If there was a delay between the decision to suspend the operator and the service of the suspension notice, what is the explanation for the delay.
(13) On what date and at what time was the suspension effective.
(14) On what date did CASA make an application to the Federal Court of Australia (FCA) seeking an order under section 30DE of the Act.
(15) What order of the FCA did CASA seek.
(16) Did CASA seek costs.
(17) Can a copy of the application and supporting affidavit be provided; if not, why not.
(18) What was the outcome of the application, including the details of any order made by the FCA.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
CASA has already made public considerable details of its regulatory oversight of Transair, including through extensive testimony provided to senate committees.
A detailed investigation into the Lockhart River accident was released by the Australian Transport Safety Bureau on 4 April 2007 which contains considerable details of CASA’s oversight of Transair.

Iraq
(Question No. 2959)

Senator Allison asked the Minister representing the Prime Minister in the Senate, upon notice, on 12 January 2007:
With reference to the decision by the President of the United States of America (US), George W Bush, to send an additional 21 500 troops to Iraq and the Prime Minister’s public response on 11 January 2006:
(1) To what was the Prime Minister referring when he said that Australia would support the move.
(2) What evidence did Mr Bush provide to the Prime Minister that indicated that these additional troops would achieve victory in the fight against terrorism.
(3) What were the consequences for the stability of the Middle East to which the Prime Minister was referring.
(4) Can the Prime Minister guarantee that there will be no impact on Australian troops as a result of this escalation in the deployment of US Armed Forces.
(5) Why did the Prime Minister not rule out sending more Australian forces to Iraq.

QUESTIONS ON NOTICE
(6) What are the conditions necessary for a decision to be made to withdraw Australian troops from Iraq.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) I was referring to the new initiative announced by Iraqi Prime Minister Nuri Al-Maliki and United States President George W. Bush which outlined an Iraq-led, United States-supported plan that places an increased emphasis on restoring security and the Iraqi government taking greater responsibility for the country’s security and general affairs. The plan also presents an increased diplomatic and political effort to: help encourage political progress and economic growth; engage moderate political forces in Iraq and the region; and to isolate extremists and defeat terrorists.

(2) The details of the discussion are confidential.

(3) Iraq is an active battleground in the international fight against terrorism. A premature withdrawal of Coalition forces from Iraq would have significant ramifications throughout the Middle East. Such a withdrawal would not only abandon the Iraqi people, but also serve to undermine many of Iraq’s neighbours, inflame regional sectarian tensions and provide an enormous boost to terrorists throughout the Middle East, as well as in our own region.

(4) No. The Australian Government is well aware of the significant risks faced by the Australian Defence Force personnel deployed to Iraq, and has sought to minimise these risks by providing them appropriate training, equipment and support. The government constantly reviews the threat level to deployed forces and their force protection; Defence’s advice to the government remains that force protection arrangements for the Overwatch Battle Group (West) in southern Iraq are appropriate.

(5) The Australian Government regularly reviews the deployment of Australian Defence Force personnel on all operations to ensure force levels and composition best reflect requirements on the ground. I recently announced the deployment of a dedicated logistics team of approximately 50 personnel, together with around 20 additional Army training instructors, to assist the Iraqi Army to assume greater security responsibilities. The Australian Government has no current plans to increase combat troop deployments.

(6) The Australian Defence Force personnel deployed to Iraq remain at the request of the Iraqi Government and continue to work towards the key Coalition objectives of a stable and secure Iraq. The Australian Government will look to continue providing this contribution until Iraq, as a sovereign independent state, can take responsibility for its own security. Then, as Iraq moves forward, Australia’s commitment can be drawn back.

Blood Plasma

(Question No. 2983)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 6 February 2007:

(1) Can the Minister confirm that the report of 13 December 2006 by the Australian Institute of Medical Scientists Review of Australia’s Blood Fractionation Arrangements, found that competitive tendering and offshore fractionation of Australian donated blood plasma will undermine access to intravenous immunoglobin (IVIg) by:

(a) increasing the costs to the Australian health services in the regulation of plasma fractionated off shore;

(b) increasing the price of plasma due to increased international handling costs (e.g. transport, special storage and warehousing);
(c) reducing the amount of plasma available due to lower yields achieved by offshore fractionation technology;
(d) increasing the vein to vein time between donation of plasma and clinical use as a finished blood product;
(e) elevating the risk of disturbance of supply (transportation by shipping) the consequences of which are costly and highly disruptive; and
(f) undermining of the volunteer ethos of blood donation and the high regard in which the Australian Red Cross Blood Service is held.

(2) Will the Government be adopting recommendation 10 of the Review which states: ‘Australia should maintain its reservation regarding the procurement of blood fractionation services under the Australia - United States Free Trade Agreement. The reservation exempts the procurement of plasma fractionation services from the government procurement provisions in Chapter 15 of the Agreement. The CSL Act should also be maintained.’; if not: (a) why not; and (b) how will the Government ensure that access to intravenous immunoglobulin (IVIg) does not deteriorate by becoming more expensive, less available and less reliable.

(3) What plans does the Government have to maintain and encourage volunteer blood donation.

**Senator Ellison**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The Review of Australia’s Plasma Fractionation Arrangements was conducted by an independent review committee, appointed by the Minister for Health and Ageing, the Honourable Tony Abbott MP. The committee was chaired by Mr Philip Flood AO. Also appointed to the committee were Mr Peter Wills AC (Deputy Chairman), Sir Peter Lawler OBE, Professor Graeme Ryan AC, and Associate Professor Kevin A Rickard AM. The review committee’s findings on the issues raised in 1(a) to (f) in relation to overseas fractionation of Australian plasma were:

(a) The report concluded that additional audits by the Therapeutic Goods Administration (TGA) would impose an extra cost, estimated in the review report (page 164) at $100,000 per site audit.

(b) The report concluded that there would be additional costs associated with supply logistics compared with current arrangements. However, the report also noted (page 179) that a contested procurement process could lead to lower charges for fractionation services despite these additional handling costs.

(c) The report concluded that the yield for IVIg achieved by CSL Bioplasma from each litre of starting plasma at the present time appears very competitive in comparison with overseas-based manufacturers. All manufacturers are continuously improving product yields, and the review did not attempt to forecast future yields that may be achieved by CSL or other manufacturers.

(d) The report concluded that the estimated “vein to vein” time for delivery of finished products would increase from approximately 3 months to approximately 6 months.

(e) The report concluded that there would be an increased element of risk introduced by longer and more complex supply chains (page 171). Commensurate risk mitigation strategies would therefore be required.

(f) The review committee heard conflicting claims from interested parties about the possible impact of a change in arrangements on blood donation rates, but was not aware of any conclusive evidence to support these claims.

(2) (a) On 30 March 2007 I announced that, after consultation with all state and territory health ministers, the current arrangements for fractionation of Australian plasma will continue. Without
consensus from all governments on changed arrangements, recommendation 10 of the review has been confirmed.

(b) Under the national blood arrangements, the Commonwealth and all state and territory governments are committed to ensuring the safe, secure, adequate and affordable supply of blood and blood-related products to the Australian community. All governments will continue to ensure that there is a safe and secure supply of IVIg to meet clinical demand in line with evidence-based national best practice.

(3) The recently signed deed between the Australian Red Cross Blood Service (ARCBS) and the National Blood Authority provides a solid platform for the ARCBS to continue to recruit new blood donors and maximise retention of existing blood donors. During 2007, governments will develop a workplan to address the recommendations of the review report, including the issues relating to increasing Australian blood and plasma donation rates.

**Federal Elections**

(Question No. 3027)

Senator Murray asked the Minister Representing the Special Minister of State, upon notice, on 23 February 2007:

(1) With reference to sub section 93(1)(b)(ii) of the Commonwealth Electoral Act 1918, how many British subjects coded as being eligible to vote on 25 January 1984 still remain on the Electoral Roll as non-Australian citizens.

(2) Given the current interest in and debate concerning Australian values and an obligation and commitment to Australia, is the Government of the view that voting in federal elections should only be available to citizens of Australia.

(3) Since some non-citizens can vote in elections but not others; since at the local level voting in some jurisdictions is also given to property owners, and in others to non-citizens residents; and, in light of trends in other democracies to widen the franchise to permanent residents or other categories: does the Federal Government consider it opportune to review the varied rights to vote in the three tiers of government in Australia.

Senator Minchin—The Special Minister of State has provided the following answer to the honourable senator’s question, as provided to him by the Australian Electoral Commission (AEC):

(1) As at 5 June 2007, there were 163,887 electors coded as British subjects on the electoral roll. This figure may include British subjects who have become Australian citizens since their last enrolment but about whom the AEC has not received confirmation of their citizenship status. The figure does not include British subjects who are on the roll but not coded as such, for example, British subjects who have not changed their enrolled address since 25 January 1984.

(2) No. The Government views the current position as satisfactory.

(3) The Australian Government has no plans for a review of the varied rights to vote in the three tiers of government in Australia, noting that the Australian Government does not have responsibility for voting in State, Territory and local government elections.


**Water**

(Question No. 3028)

**Senator Lundy** asked the Minister for Finance and Administration, upon notice, on 26 February 2007:

With reference to the proposal to pipe water from Googong Dam to Goulburn, announced on 24 January 2007, by the Liberal Party of New South Wales:

(1) Has the Minister or the Assistant Minister/Parliamentary Secretary ever had contact with the Leader of the Liberal Party of New South Wales, Mr Peter Debnam or other members or representatives of the New South Wales Opposition in relation to the proposal; if so, in each case: (a) who instigated the contact; (b) who was involved in the contact; (c) when and where did the contact occur; (d) what was the nature of the contact; (e) what was the purpose and outcome of the contact; (f) who was present and in what capacity; and (g) do written records of the contact exist; if so, can copies be provided.

(2) Has the Minister, Assistant Minister/Parliamentary Secretary or the department had contact with other members of the Commonwealth Government in relation to the proposal; if so, in each case: (a) who instigated the contact; (b) who was involved in the contact; (c) when and where did the contact occur; (d) what was the nature of the contact; (e) what was the purpose and outcome of the contact; (f) who was present and in what capacity; and (g) do written records of the contact exist; if so, can copies be provided.

(3) Has the department been asked to do or commission any work in relation to any such proposal; if so: (a) when was the work commenced and finished; (b) by whom was the work done; (c) who instigated the work or instructed the department to commission the work; (d) what was the outcome or findings of the work; (e) was the nature of the work financial modelling or engineering feasibility analysis; (f) can the product of that modelling be provided; if not, why not; (g) what was the total cost of the work; and (h) what is the estimated cost of the proposal or proposals.

**Senator Minchin**—The answer to the honourable senator’s question is as follows:

(1) to (3) No.

**Googong Dam Land**

(Question No. 3031)

**Senator Lundy** asked the Minister for Finance and Administration, upon notice, on 27 February 2007:

With reference to the intended transfer of the land on which Googong Dam is situated to the Australian Capital Territory Government or its utility, ACTEW Corporation Limited:

(1) On what date did the Minister and/or the Parliamentary Secretary first become aware of the view that the Commonwealth never intended to transfer the land.

(2) (a) Who made the Minister and/or the Parliamentary Secretary aware of this; and (b) in what manner were they made aware.

(3) On what date and from whom has the Minister and/or the Parliamentary Secretary sought legal advice on the view that the Commonwealth had never intended to make the transfer.

(4) What was the cost of that legal advice.

(5) On what date did the Minister and/or the Parliamentary Secretary receive that legal advice.

(6) On what date did the Minister, the Parliamentary Secretary and/or the Executive as a whole adopt the view that the Commonwealth never intended to transfer the land.

(7) Why was this view adopted.
On what date and in what manner did the Minister, the Parliamentary Secretary and/or the department notify the Minister for Local Government Territories and Roads, his staff or the Department for Local Government, Territories and Roads that the Commonwealth never intended to transfer the land.

(a) What contact has the Minister, the Parliamentary Secretary and/or the department had with the Member for Eden Monaro in relation to the view that the Commonwealth never intended to transfer the land; (b) what was the date of the contact; (c) what was the nature of the contact; (d) what was the purpose of the contact; (e) what was the outcome of the contact; (f) who instigated the contact; and (g) if written records of the contact are held, can copies be provided; if copies cannot be provided, why not.

What contact has the Minister, the Parliamentary Secretary and/or the department had with the Prime Minister, or his office in relation to the view that the Commonwealth never intended to transfer the land; (b) what was the date of the contact; (c) what was the nature of the contact; (d) what was the purpose of the contact; (e) what was the outcome of the contact; (f) who instigated the contact; and (g) if written records of the contact are held, can copies be provided; if not, why not.

The answer to the honourable senator’s question is as follows:

(1) 15 June 2006.
(2) (a) Branch Manager, Special Claims and Land Policy Branch, Department of Finance and Administration. (b) Written briefing.
(3) to (5) No legal advice was sought.
(6) The Parliamentary Secretary to the Minister for Finance and Administration considered a briefing document from the Department of Finance and Administration on 15 June 2006.
(7) This view was adopted because the Department of Finance and Administration brought forward evidence to demonstrate that the Australian Government’s intention not to transfer the land at Goo- gong Dam to the incoming ACT Government had been set down in a statement made by the Minister for the Arts, Sport, the Environment, Tourism and Territories on 24 November 1988 (Senate Hansard p 2742) and that this policy was reflected in the amendments made to the Canberra Water Supply (Googong Dam) Act 1974, assented to on 6 December 1988. The Department of Finance and Administration found no evidence of a change in Commonwealth policy since 1988.
(8) The Parliamentary Secretary to the Minister for Finance and Administration sent a copy of his letter to the Prime Minister about Googong Dam to the Minister for Local Government, Territories and Roads on 16 June 2006.

The Department of Finance and Administration notified the Department of Transport and Regional Services of the results of its research on 25 January 2006 and requested further discussions. This was followed by telephone calls between officials at various levels in both the Department of Finance and Administration and the Department of Transport and Regional Services to arrange a meeting that was held on 9 March 2006.

There was a meeting of Portfolio Ministers on 13 February 2007, attended by the Minister for Finance and Administration, by the Member for Eden-Monaro in his capacity as Special Minister of State and by the Parliamentary Secretary to the Minister for Finance and Administration at which progress on and outlook for the Googong Dam matter was discussed.

During December 2006 and January 2007, the Parliamentary Secretary to the Minister for Finance and Administration had a number of telephone conversations with the Member for Eden-Monaro. During these conversations, the Googong Dam issue was informally discussed. No records were kept of the conversations.
The Department of Finance and Administration had no contact with the Member for Eden-Monaro in relation to this matter.

(10) The Minister for Finance and Administration was copied into a letter of 1 December 2006 about Googong Dam signed by the Acting Prime Minister and which was addressed to the Parliamentary Secretary to the Minister for Finance and Administration.

The Parliamentary Secretary wrote to the Prime Minister about Googong Dam to inform him of developments on the dam’s ownership on 16 June 2006. In response, the Department of the Prime Minister and Cabinet suggested that the Department of Finance and Administration seek legal advice on associated matters relating to legal liability. As the letter contains internal advice to the Prime Minister on policy matters, it will not be provided.

The Acting Prime Minister wrote to the Parliamentary Secretary to the Minister for Finance and Administration on 1 December 2006 in response to the Parliamentary Secretary’s letter to him of 16 June 2006. As the letter contains internal advice to the Parliamentary Secretary on policy matters, it will not be provided.

The Department of Finance and Administration has kept the Department of the Prime Minister and Cabinet informed of developments since May 2006.

Googong Dam Land
(Question No. 3032)

Senator Lundy asked the Minister for Finance and Administration, upon notice, on 26 February 2007:

(1) With reference to the land upon which the Googong Dam is situated, (a) who owns the land; and (b) who manages the land.

(2) Is the Minister aware that the management of this land requires the manager to outlay funds as part of that management role: if so, for each of the financial years 2003-04, 2004-05, 2005-06 and 2006-07 to date, how much funding has been outlaid.

(3) If the land is not managed by the Commonwealth, what is the, (a) type, and (b) quantum, of assistance or payment for management services that the Commonwealth pays to the manager.

(4) With reference the water in Googong Dam, (a) who owns the water, and (b) who manages the water.

(5) Is the Minister aware that the management of this water requires the manager to outlay funds as part of that management role: if so, for each of the financial years 2003-04, 2004-05, 2005-06 and 2006-07 to date, how much funding has been outlaid.

(6) If the water is not managed by the Commonwealth, what is the: (a) type, and (b) quantum of assistance or payment for management services that the Commonwealth pays to the manager.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) (a) Commonwealth of Australia. (b) ACT Government.

(2) Yes. The land is managed by the ACT Government. The Department of Finance and Administration holds no information about the amounts spent by the ACT Government to manage the land between 2003-04 and 2006-07.

The Department of Finance and Administration has taken out public liability insurance at Googong Dam:


2006-07: $84,600.00.
(3) The Australian Government has no financial arrangement with the ACT Government for land management costs.

(4) (a) My understanding is that a right to “own” water, in the sense that ownership is understood in relation to personal property or freehold title in real property does not apply to water. Water rights constitute a bundle of rights including the right to make use of, store, access, allocate or dispose of water.

The role and responsibilities of the ACT Government at Googong Dam are set out in section 4 of the Canberra Water Supply (Googong Dam) Act 1974.

The Commonwealth retains allocation rights to the water stored in Googong Dam as set out under sections 11 and 12 of the Canberra Water Supply (Googong Dam) Act 1974.

(b) ACT Government.

(5) Yes. The water is managed by the ACT Government. The Department of Finance and Administration holds no information about the amounts spent by the ACT Government to manage the water between 2003-04 and 2006-07.

(6) The Australian Government has no financial arrangement with the ACT Government for water management costs.

Water

(Question No. 3034)

Senator Lundy asked the Minister for Finance and Administration, upon notice, on 26 February 2007:

(1) Can the Minister confirm the intent of the Government to transfer the infrastructure of Googong Dam to the Australian Capital Territory Government or its utility, ACTEW Corporation Limited (ACTEW): if so, what pieces of infrastructure would be subject to such a transfer.

(2) Since 1989, has it always been the intent of the Commonwealth to transfer these pieces of infrastructure to the Australian Capital Territory Government and/or ACTEW; if not: (a) since 1989, what pieces of infrastructure have been included or excluded; and (b) what is the reason for their inclusion or exclusion.

Senator Minchin—The answer to the honourable senator’s question is as follows:

The Australian Government is in discussions with the ACT Government to determine how to transfer effective control of the infrastructure to the ACT Government.

Tobacco Advertising

(Question No. 3047)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 16 March 2007:

With reference to the Tobacco Advertising Prohibition Act 1992:

(1) Which categories of contraventions of the Act fall within the statutory reporting obligation.

(2) Does the Minister report only on contraventions that have resulted in a prosecution or a conviction or does the Minister report also on instances where the department considers that a contravention has occurred but no prosecution has followed.

(3) For each of the years 2005 and 2006: (a) how many complaints did the department receive about alleged breaches of the Act; and (b) what action, if any, was taken in relation to each of these complaints.

QUESTIONS ON NOTICE
(4) Can the Minister confirm that: (a) in 2006 the Australian Communications and Media Authority (ACMA) ruled that radio broadcaster 3AW had broadcast three tobacco advertisements in one program that were not an accidental or incidental accompaniment to the broadcast of other matter; and (b) ACMA stated that this conduct could constitute an offence under the Broadcasting Services Act 1992 because the broadcast of a tobacco advertisement in contravention of the Tobacco Advertisement Prohibition Act 1992 was a breach of licence conditions; if so, why was this not noted in the report on the number and nature of any contraventions of the Tobacco Advertising Prohibition Act occurring in the preceding 12 months tabled in the Senate on 7 February 2007, pursuant to subsection 34A of the Act.

(5) Can the Minister explain how each of the following recent promotional campaigns are permitted to be published under the Act: (a) the catalogue of Gripp Jeans, a Melbourne clothing brand, showing two separate images of young women smoking; (b) the advertisement for Wheels and Dollbaby, a Sydney fashion label, in the March 2007 issue of the Australian Harper’s Bazaar that shows a young blonde with a cigarette; and (c) the recent billboard from Everlast, a sports clothing company, that shows a teenage boy with a cigarette in his mouth.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) and (2) The Minister is only required to report on contraventions which have been established by prosecution and conviction.

(3) (a) In 2005 the Department received 18 complaints regarding alleged breaches of the Act. In 2006 the Department received 18 complaints regarding alleged breaches of the Act.

(b) Legal advice was sought as to whether each complaint was a breach of the Act. The Department wrote to the relevant person and enclosed a copy of the Tobacco Advertising Prohibition Act 1992 Handbook outlining the complaint received and requesting a written response. Most people were unaware that they had acted in a manner that may be in breach of the Act and provided an apology, removed the advertisement and gave reassurance that it would not happen again. In these cases, the Department responded with a letter acknowledging the response and advised that no further action would be taken at that time. In instances where no action is taken to remove the advertisement, or in the case of continuing non-compliance, the Department refers the matter to the Australian Federal Police (AFP) for a decision on whether they will undertake an investigation. If appropriate, the AFP refers the matter to the Commonwealth Director of Public Prosecutions for a decision on whether a prosecution is feasible.

(4) (a) This question should be addressed to the Australian Communications and Media Authority which has authority for administration of the Broadcasting Services Act 1992.

(b) The incident was not included in the report under subsection 23A(1) of the Tobacco Advertising Prohibition Act 1992 (the Act) because, although ACMA may have taken the view that the Act had been contravened (for the purpose of determining whether a breach of license condition had occurred), this had not been determined by a court. In any case, the matter was not brought to the attention of the Department so as to enable prosecution action to be considered. Nonetheless, if a decision were to be made to proceed with a prosecution against the broadcaster and a court found an offence against the Act to have been proven in 2007, it would be included in the report prepared with respect to 2007.

(5) (a) to (c) As the Department does not have the resources to actively monitor all media in order to detect potential breaches of the Act or incidences that may be investigated as potential breaches, the Department relies on complaints provided and will then investigate the matter. The Department has no knowledge of any complaints in relation to (a), (b) or (c).
Water
(Question No. 3064)

Senator Hurley asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 21 March 2007:

With reference to projects where funding is provided as part of the Water Smart Australia Programme and Raising National Water Standards, can an outline be provided, for each state, of the projects, detailing: (a) the cost of each project, including the total cost, Commonwealth contributions, and other contributions where known; (b) each organisation that is responsible for an individual project, for instance a state government, local council or private company; and (c) the expected completion date of the project if the project is not completed already.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:
Details of projects can be found at the website below:

Reciprocal Health Care Agreements
(Question No. 3068)

Senator Stott Despoja asked the Minister representing the Minister for Health and Ageing, upon notice, on 22 March 2007:

(1) Can an update be provided on the progress of discussions on a reciprocal health care agreement between Croatia and Australia that commenced in May 2006.

(2) Did the department provide the Croatian Ministry of Health with a questionnaire in order to ascertain the extent of similarities between the Australian and Croatian health care systems; if so, has this exchange occurred; if not, can advice be provided on the reasons for the delay in this process.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) No formal negotiation process for a reciprocal health agreement has been initiated by either the Australian or Croatian Governments. At the request of the Croatian Embassy, discussions were held between the Department of Health and Ageing and Embassy officials in May 2006.

(2) The Department does not have a questionnaire that seeks information on health systems. Typically, a bilateral health treaty can take a number of years to negotiate. This begins with an exchange of information on health systems, preliminary talks on the feasibility of an agreement and the exploration of common ground on which to build a reciprocal arrangement.

One of the issues the Australian Government must be satisfied with is the standard of the foreign health system and its ability to provide health care comparable to that in Australia. Also important are the numbers of people travelling between the countries and the costs of health care to each country arising from the treaty. Formal negotiations would then occur through face-to-face talks and correspondence before a draft treaty was prepared that was satisfactory to both countries.

Discussions between the Australian and Croatian Governments are continuing. Most recently, in February 2007, the Australian Ambassador in Zagreb discussed this matter with the Croatian Minister of Health on behalf of the Government.


Council of Australian Governments’ Indigenous Trials
(Question No. 3098)

Senator Carr asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 10 April 2007:

With reference to the Council of Australian Governments’ (COAG) Indigenous Trials:

(1) (a) For the COAG Indigenous community trial in the Australian Capital Territory, 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 Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) (a) My Department has provided $158,000 in administered funds and $216,000 in departmental expenses for the Australian Capital Territory COAG Indigenous Trial. My Department also funded several other activities including a community workshop and the development and launch of a Shared Responsibility Agreement. These were funded from a variety of programmes and therefore clear breakdowns against each activity cannot be provided. (b) The administered funds were provided for a community facilitator and administrative assistance for the Indigenous Working Group.

(2) Evaluations for each of the COAG Indigenous Trials have been finalised and were released publicly by the Minister for Families, Community Services and Indigenous Services on 22 February 2007. The Queanbeyan Indigenous Coordination Centre is continuing work with the ACT and surrounding Indigenous community to progress community priorities for the area.

Council of Australian Governments Indigenous Trials
(Question No. 3101)

Senator Carr asked the Minister representing the Minister for Health and Ageing, 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 Anangu Pitjantjatjara Yakunytjatjara (APY) Lands 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 Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Department of Health and Ageing spending on the trial is detailed at Attachment A.

(2) On 22 February 2007 the Minister for Families, Community Services and Indigenous Affairs, the Hon Mal Brough MP, announced that the Council of Australian Governments (COAG) trials operating in eight Indigenous communities across Australia would be ‘normalised’. In the APY Lands, the Department of Health and Ageing will continue to see through its commitments in relation to the COAG trials.
ATTACHMENT A

EXPENDITURE BY THE DEPARTMENT OF HEALTH AND AGEING ON APY LANDS COAG TRIAL TO DATE

Administered – only including COAG initiatives – This does not including recurrent funding for service provision.

<table>
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<tr>
<th>Activity</th>
<th>2003-04 Expenditure (GST incl)</th>
<th>2004-05 Expenditure (GST incl)</th>
<th>2005-06 Expenditure (GST incl)</th>
<th>2006-07 Estimated Expenditure (GST incl)</th>
<th>Comments</th>
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<tr>
<td>Contractor</td>
<td>$84,160</td>
<td>$36,703</td>
<td>$30,309</td>
<td>$62,760</td>
<td>$221,073</td>
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<td>COAG miscellaneous (eg workshops, catering, TKP Secretariat support etc)</td>
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<td>$30,309</td>
<td>$62,760</td>
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<td>Mai Wiru Regional Healthy Stores Policy (Rural Health)</td>
<td>$99,000</td>
<td>$319,706</td>
<td>$481,000</td>
<td>$264,700</td>
<td>- One off payment to develop a business plan for a Rural Transactions Centre submission.</td>
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<tr>
<td>Anangu Pitjantjatjara Inc. (Rural Transactions Centre Submission)</td>
<td>$57,200</td>
<td>$264,700</td>
<td>- Provision of funding to PY Media to form a structure for a senior management Committee for the PY Ku Network and a streamlined reporting mechanism to the Board of Management of PY Media and the APY Lands COAG Steering Committee. Set up costs for network operations of PY Ku.</td>
<td></td>
<td></td>
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<tr>
<td>PY Media (auspicing body for PY Ku)</td>
<td>$196,027</td>
<td>$75,437</td>
<td>$626,497</td>
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<tr>
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<td>Consultant (P Nicholls)</td>
<td>$24,632</td>
<td>$113,386</td>
<td>$658,950</td>
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<td>For the purchase of 14 Commonwealth Games Villas to house Indigenous Community Volunteers and visiting Anangu PY Ku staff attending training at the regional centre.</td>
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<tr>
<td>Commonwealth Games Village Units</td>
<td></td>
<td></td>
<td>$12,500</td>
<td>$400,000</td>
<td>AP Lands brochures/web page Evaluation of swimming pools on the APY Lands.</td>
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<td>Swimming Pool - Watarru (Rural Health)</td>
<td>$33,000</td>
<td></td>
<td>$1,485,000</td>
<td></td>
<td>To construct a swimming pool at Watarru. The pool should be completed in mid May 2007.</td>
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| Total                                        | $497,722     | $538,838     | $1,950,144    | $2,920,773             |                                                                         |

**Departmental**

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Figures provided are drawn from a variety of sources and reflect current available data.

**Biomedical Research on Animals**

(Question Nos 3116 and 3117)

*Senator Allison* asked the Minister representing the Minister for Health and Ageing, upon notice, on 17 April 2007:

(1) Is the Minister aware of the study, ‘Comparison of treatment effects between animal experiments and clinical trials: systematic review’, reported in the *British Medical Journal* of 27 January 2007 (p.197), which indicates that much biomedical research conducted on animals is of poor methodo-
logical quality and that there is a lack of concordance between animal experiments and clinical trials.

(2) Can the Minister give assurances that this is not also the case in Australia; if so, on what grounds can these assurances be made.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) I am aware of the study Comparison of treatment effects between animal experiments and clinical trials: systematic review reported in the British Medical Journal (BMJ) on 27 January 2007.

The findings reported in the Perel et al study must be considered in the context of acknowledged limitations by the authors and responses to the article subsequently published in BMJ. Of particular interest is the paper published in the BMJ February 2007 issue entitled A Broader View of Animal Research, which contends that the Perel study is narrow in both size and scope.

(2) Yes. Through the National Health and Medical Research Council, the Commonwealth Government’s main health and medical research funding body, and State and Territory legislation, Australia has comprehensive and effective safeguards in place to ensure high quality research methodologies which maximise concordance between animal experiments and clinical trials.

All research in Australia that involves animals must comply with the Australian code of practice for the care and use of animals for scientific purposes (the Code) and be approved by Animal Ethics Committees. A copy of the Code can be found at http://www.nhmrc.gov.au/publications/synopses/_files/ea16.pdf

1 Pablo Perel, research fellow1, Ian Roberts, clinical coordinator CRASH 2 trial1, Emily Sena, PhD student2, Philippa Wheble, medical student2, Catherine Briscoe, medical student2, Peter Sandercock, professor of medical neurology2, Malcolm Macleod, senior lecturer2, Luciano E Mignini, researcher3, Pradeep Jayaram, senior house officer4, Khalid S Khan, professor of obstetrics-gynaecology4

2 Timothy I. Musch, Professor, Department of Anatomy & Physiology, College of Vet Med, Kansas State University, Manhattan, KS 66506, Robert G. Carroll, Armin Just, Pascale H. Lane, and William Talman

Finance and Administration: MOPS Gateway
(Question No. 3131)

Senator Sherry asked the Minister representing the Special Minister of State, upon notice, on 18 April 2007:

With reference to the department’s Outcome 3 and, specifically, the Member of Parliamentary Staff (MOPS) Gateway:

(1) (a) When will the service be delivered; (b) what additional functionality will it deliver; and (c) what resources are expected to be freed once it is introduced.

(2) (a) What was the original project budget; and (b) what is the current expected budget.

(3) Was the improved automated call centre system implemented by 31 December 2006; if not why not and when is it expected to be implemented; if so, what benchmarks are expected to be set for improved performance.

(4) What was the cost of the 104 MOPS courses provided in the 2005-06 financial year.
Senator Minchin—The Special Minister of State has supplied the following answer to the honourable senator’s question:

(1) (a) to (c) The MOPS Gateway was one of the final projects within the Department of Finance and Administration’s (the Department’s) Business Improvement Program. In 2006, the Department undertook the detailed planning of the final projects within the Program. This work identified that the cost of completing the Program would be substantially higher than initially budgeted. A number of technical complexities also needed to be addressed. The Department then took the decision to suspend the remaining work on the remaining projects, including the MOPS Gateway, on and from 31 October 2006. The Department is examining the viability of completing the Program.

(2) (a) The original project budget was $742,994 (GST exclusive). (b) Refer 1(a) to (c).

(3) The improved automated call centre was not implemented by 31 December 2006 due to the new MOP(S) Collective Agreement which was in the final stages of negotiations, consideration, voting and implementation between November 2006 and January 2007. It was not appropriate to introduce a new telephone system when calls from clients were at a peak. It had also proved difficult to negotiate a suitable time for both the supplier and the Department to fit around Collective Agreement activities. It is now expected that the new system will be implemented in June 2007. The Department already exceeds the current performance target of responding to 95 per cent of client enquiries to the Staff Help Desk within one business day.

The new telephone call management system will, for example, direct callers more quickly to an available Staff Help Desk officer. At times of high volumes of calls, the caller will be offered the choice of holding or leaving a message. These enhancements are designed to improve the client experience. In addition, greater analysis of calls will be possible, including precise numbers of calls, length of time in the queue and the time spent speaking with clients. Levels of client satisfaction will be gauged through a survey of Members of Parliament (Staff) Act 1984 (MOP(S) Act) employees in 2007-08.

(4) The total cost of the 104 training courses provided to MOP(S) Act employees for the 2005-06 financial year was $179,567 (GST exclusive). This does not include costs for induction and office management information sessions or the Australian Government’s Budget Processes which were presented by staff from the Department.

Official Development Assistance

(Question No. 3133)

Senator Sherry asked the Minister for Finance and Administration, upon notice, on 18 April 2007:

(1) (a) Can the forward estimates profile for Official Development Assistance (ODA) contained in the Budget estimates be provided; and (b) of this profile, what component has been committed to current ODA programs.

(2) What is the uncommitted and unobligated amount currently provided for these programs in the budget forward estimates for each financial year up to and including 2009-10.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) (a) In 2007-08, it is estimated that the Government will provide around $3.2 billion in Official Development Assistance (ODA). In the three years from 2008-09 to 2010-11, it is estimated that ODA will amount to around $3.5 billion, $3.8 billion and $4.3 billion respectively (see Budget Paper No. 2, Budget Measures 2007-08, page 202). Of these amounts, an element is retained in the Contingency Reserve in the forward years (but reported as part of the “Foreign Affairs and Economic Aid” function in the Budget Papers). The amounts held in the contingency reserve are, from 2008-09 to 2010-11, $244.0 million, $707.7 million and $1,159.8 million respectively. (b) Information
on the component of the ODA estimates that has been committed to current programmes may be available from AusAID and other agencies involved in delivering ODA-related programmes. Details of the expenditure profile of ODA-related measures announced in the 2007-08 Budget can be found in Budget Paper No. 2, Budget Measures 2007-08. Additional information is available in the Statement on Australia’s Overseas Aid Programme 2007-08 by the Minister for Foreign Affairs on 8 May 2007.

(2) Details of the uncommitted and unobligated amounts currently provided for these programmes may be available from AusAID and other agencies involved in delivering ODA-related programmes.

**Civil Aviation Safety Authority**

(Question No. 3192)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 7 May 2007:

With reference to the answer to question on notice no. 2717, what conclusions has the Civil Aviation Safety Authority reached about the adequacy of its oversight of Transair Pty Ltd.

**Senator Johnston**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

This issue was addressed during Mr Byron’s testimony to the Senate Standing Committee on Rural and Regional Affairs and Transport on 21 May 2007.

**Australian Defence Force: Personnel**

(Question No. 3195)

**Senator Bartlett** asked the Minister representing the Minister for Defence, upon notice, on 9 May 2007:

(a) What is the total number of Australian Defence Force personnel who have been deployed to Afghanistan and Iraq since 2001; and

(b) Of these personnel, how many have been discharged as a result of physical and/or psychological conditions.

**Senator Ellison**—The Minister for Defence has provided the following answer to the honourable senator’s question:

(a) and (b) I refer the honourable senator to the answer provided by the Chief of the Defence Force at Senate Estimates on 31 May 2007, recorded in the proof Committee Hansard on page FAD&T 15.