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SITTING DAYS—2007

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>6, 7, 8, 9, 26, 27, 28</td>
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<tr>
<td>March</td>
<td>1, 20, 21, 22, 26, 27, 28, 29</td>
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<td>8, 9, 10</td>
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<td>June</td>
<td>12, 13, 14, 18, 19, 20, 21</td>
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<td>August</td>
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<td>September</td>
<td>10, 11, 12, 13, 17, 18, 19, 20</td>
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<td>October</td>
<td>15, 16, 17, 18, 22, 23, 24, 25</td>
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<td>5, 6, 7, 8, 12, 13, 14, 15, 26, 27, 28, 29</td>
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<td>December</td>
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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

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- **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. Alan Baird Ferguson
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
Nationalists Whip—Senator Fiona Joy Nash

Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber

Australian Democrats Whip—Senator Andrew John Julian Bartlett
Australian Greens Whip—Senator Rachel Siewert
Family First Party Whip—Senator Steve Fielding

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<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
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<td>Abetz, Hon. Eric</td>
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<td>30.6.2011</td>
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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.
(9) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Hon. Paul Henry Calvert, resigned.

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

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

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

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

(The above ministers constitute the cabinet)
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
The Hon. Teresa Gambaro MP

Assistant Minister for Immigration and Citizenship
The Hon. John Kenneth Cobb MP

Assistant Minister for the Environment and Water Resources
The Hon. Anthony David Hawthorn Smith MP

Parliamentary Secretary to the Prime Minister
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Treasurer
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Peter John Lindsay MP

Parliamentary Secretary to the Minister for Defence
Senator the Hon. Brett John Mason

Parliamentary Secretary to the Minister for Health and Ageing
SHADOW MINISTRY

Leader of the Opposition
Deputy Leader of the Opposition, Shadow Minister for Employment and Industrial Relations and Shadow Minister for Social Inclusion
Leader of the Opposition in the Senate and Shadow Minister for National Development, Resources and Energy
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Shadow Minister for Infrastructure and Water and Manager of Opposition Business in the House
Shadow Minister for Homeland Security, Shadow Minister for Justice and Customs and Shadow Minister for Territories
Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy
Shadow Minister for Immigration, Integration and Citizenship
Shadow Minister for Industry and Shadow Minister for Innovation, Science and Research
Shadow Minister for Trade and Shadow Minister for Regional Development
Shadow Minister for Service Economy, Small Business and Independent Contractors
Shadow Minister for Multicultural Affairs, Shadow Minister for Urban Development and Shadow Minister for Consumer Affairs
Shadow Minister for Transport, Roads and Tourism
Shadow Minister for Defence
Shadow Minister for Climate Change, Environment and Heritage and Shadow Minister for the Arts
Shadow Minister for Veterans’ Affairs, Shadow Minister for Defence Science and Personnel and Shadow Special Minister of State
Shadow Attorney-General and Manager of Opposition Business in the Senate
Shadow Minister for Sport and Recreation, Shadow Minister for Health Promotion and Shadow Minister for Local Government
Shadow Minister for Families and Community Services and Shadow Minister for Indigenous Affairs and Reconciliation
Shadow Minister for Foreign Affairs
Shadow Minister for Ageing, Disabilities and Carers

Kevin Michael Rudd MP
Julia Eileen Gillard MP
Senator Christopher Vaughan Evans
Senator Stephen Michael Conroy
Anthony Norman Albanese MP
The Hon. Archibald Ronald Bevis MP
Christopher Eyles Bowen MP
Anthony Stephen Burke MP
Senator Kim John Carr
The Hon. Simon Findlay Crean MP
Craig Anthony Emerson MP
Laurence Donald Thomas Ferguson MP
Martin John Ferguson MP
Joel Andrew Fitzgibbon MP
Peter Robert Garrett MP
Alan Peter Griffin MP
Senator Joseph William Ludwig
Senator Kate Alexandra Lundy
Jennifer Louise Macklin MP
Robert Bruce McClelland MP
Senator Jan Elizabeth McLucas
<table>
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<th>Shadow Minister for Federal/State Relations, Shadow Minister for International Development Assistance and Deputy Manager of Opposition Business in the House</th>
<th>Robert Francis McMullan MP</th>
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<tbody>
<tr>
<td>Shadow Minister for Primary Industries, Fisheries and Forestry</td>
<td>Senator Kerry Williams Kelso O’Brien</td>
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<tr>
<td>Shadow Minister for Human Services, Shadow Minister for Housing, Shadow Minister for Youth and Shadow Minister for Women</td>
<td>Tanya Joan Plibersek MP</td>
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<tr>
<td>Shadow Minister for Health</td>
<td>Nicola Louise Roxon MP</td>
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<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
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<td>Stephen Francis Smith MP</td>
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<td>Lindsay James Tanner MP</td>
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</tr>
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<td>The Hon. Warren Edward Snowdon MP</td>
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<td>Shadow Parliamentary Secretary to the Leader of the Opposition (Social and Community Affairs)</td>
<td>Senator Ursula Mary Stephens</td>
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</tbody>
</table>
## CONTENTS

**MONDAY, 10 SEPTEMBER**

**Chamber**
- Representation of Tasmania ................................................................. 1
- Senator Sworn .......................................................................................... 1
- Australian Citizenship Amendment (Citizenship Testing) Bill 2007—In Committee ......................................................... 1
- Questions Without Notice—
  - Climate Change .................................................................................. 20
  - Asia-Pacific Economic Cooperation ...................................................... 21
  - Workplace Relations ............................................................................. 22
  - Asia-Pacific Economic Cooperation ...................................................... 23
  - Workplace Relations ............................................................................. 24
  - Indigenous Communities ....................................................................... 26
  - Uranium Exports .................................................................................. 27
  - Employment .......................................................................................... 29
  - NetAlert ................................................................................................ 30
  - Asia-Pacific Economic Cooperation ...................................................... 31
- Housing Affordability .............................................................................. 33
- Questions Without Notice: Take Note of Answers—
  - Answers to Questions .......................................................................... 35
  - Uranium Exports .................................................................................. 41
- Petitions—
  - Attention Deficit Hyperactivity Disorder ............................................. 42
  - Climate Change .................................................................................... 42
- Notices—
  - Presentation ......................................................................................... 44
  - Postponement ....................................................................................... 48
- Proposed Pulp Mill .................................................................................. 49
- Climate Change ....................................................................................... 50
- Matters Of Urgency—
  - United Nations Declaration on the Rights of Indigenous Peoples .......... 50
- Documents—
  - Tabling ................................................................................................. 65
- Committees—
  - Economics Committee—Report .......................................................... 72
- Documents—
  - Responses to Senate Resolutions ......................................................... 72
- Committees—
  - Foreign Affairs, Defence and Trade Committee—Report ................. 77
  - Legal and Constitutional Affairs Committee—Additional Information .... 80
  - Membership .......................................................................................... 80
- Federal Magistrates Amendment (Disability and Death Benefits) Bill 2007—
  - First Reading ....................................................................................... 80
  - Second Reading .................................................................................... 80
- Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008 ................................................................. 81
- Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008 ................................................................. 81
CONTENTS—continued

Families, Community Services and Indigenous Affairs and
Other Legislation Amendment (Northern Territory National Emergency Response and
Other Measures) Bill 2007 .............................................................. 81
Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007 .......... 81
Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007 ...... 81
Aviation Legislation Amendment (2007 Measures No. 1) Bill 2007 .............................. 81
Corporations Amendment (Insolvency) Bill 2007 ......................................................... 81
Customs Tariff Amendment Bill (No. 1) 2007 .............................................................. 81
Industrial Chemicals (Notification and Assessment) Amendment (Cosmetics) Bill 2007 ...... 81
National Health Amendment (National Hpv Vaccination Program Register) Bill 2007 ...... 82
International Tax Agreements Amendment Bill (No. 1) 2007 ........................................ 82
Water Bill 2007 ........................................................................... 82
Water (Consequential Amendments) Bill 2007 ......................................................... 82
APEC Public Holiday Bill 2007—
  Assent .......................................................................................... 82
Committees—
  Standing Committees—Reports ................................................................................. 82
Australian Citizenship Amendment (Citizenship Testing) Bill 2007—
  In Committee .................................................................................. 82
  Third Reading ................................................................................. 90
Telecommunications Legislation Amendment (Protecting Services for Rural and
Regional Australia into the Future) Bill 2007—
  Second Reading .............................................................................. 91
  In Committee .................................................................................. 116
  Third Reading ................................................................................ 125
Adjournment—
  Ms Samantha McIntosh ................................................................................. 126
  Aged Care ....................................................................................... 126
  Myall Creek Massacre: Book Launch .......................................................... 128
  Citizenship Test ............................................................................... 130
  Federal Election ................................................................................ 132
  Harold Gibson Weir .......................................................................... 135
  Address by the Canadian Prime Minister ......................................................... 135
Documents—
  Tabling ......................................................................................... 135
  Indexed Lists of Files ........................................................................... 152
  Departmental and Agency Contracts ............................................................. 152
Questions On Notice
  Exclusive Brethren—(Question No. 2541) ......................................................... 153
  Macquarie Island—(Question No. 2615) ......................................................... 153
  Health and Ageing—(Question No. 2637) ....................................................... 154
  Transair—(Question No. 2707) .................................................................... 163
  Transair—(Question No. 2710) .................................................................... 163
  Transair—(Question No. 2719) .................................................................... 164
  Airservices Australia: Solomon Islands—(Question No. 2810) ................. 165
  Transair—(Question No. 2815) .................................................................... 165
  Transair—(Question No. 2893) .................................................................... 166
  Osteoporosis—(Question No. 2960) .............................................................. 167
  Australian Political Parties for Democracy Program—(Question No. 3148) .... 169
  Solar Technology—(Question No. 3172) ......................................................... 169
United States Air Force—(Question No. 3194) ................................................................. 171
Braddon Electorate: Programs and Grants—(Question No. 3197) ................... 172
Transair—(Question No. 3222) .................................................................................. 172
Transair—(Question No. 3223) .................................................................................. 173
Transair—(Question No. 3224) .................................................................................. 174
Transair—(Question No. 3225) .................................................................................. 175
Transair—(Question No. 3226) .................................................................................. 176
Transair—(Question No. 3227) .................................................................................. 177
Transair—(Question No. 3228) .................................................................................. 178
Transair—(Question No. 3229) .................................................................................. 179
Transair—(Question No. 3230) .................................................................................. 181
Transair—(Question No. 3231) .................................................................................. 182
Transair—(Question No. 3232) .................................................................................. 183
Transair—(Question No. 3233) .................................................................................. 184
Transair—(Question No. 3234) .................................................................................. 185
Transair—(Question No. 3235) .................................................................................. 185
Transair—(Question No. 3236) .................................................................................. 186
Transair—(Question No. 3237) .................................................................................. 187
Transair—(Question No. 3238) .................................................................................. 188
Transair—(Question No. 3239) .................................................................................. 189
Transair—(Question No. 3240) .................................................................................. 190
Transair—(Question No. 3241) .................................................................................. 190
Hexachlorobenzene—(Question No. 3242) ................................................................. 191
Transair—(Question No. 3243) .................................................................................. 192
Transair—(Question No. 3244) .................................................................................. 192
Transair—(Question No. 3245) .................................................................................. 193
Transair—(Question No. 3246) .................................................................................. 194
Transair—(Question No. 3247) .................................................................................. 195
Transair—(Question No. 3248) .................................................................................. 196
Transair—(Question No. 3249) .................................................................................. 197
Transair—(Question No. 3250) .................................................................................. 197
Transair—(Question No. 3251) .................................................................................. 198
Transair—(Question No. 3252) .................................................................................. 199
Transair—(Question No. 3253) .................................................................................. 200
Transair—(Question No. 3254) .................................................................................. 201
Transair—(Question No. 3255) .................................................................................. 201
Transair—(Question No. 3256) .................................................................................. 202
Transair—(Question No. 3257) .................................................................................. 203
Transair—(Question No. 3258) .................................................................................. 204
Transair—(Question No. 3259) .................................................................................. 205
Transair—(Question No. 3260) .................................................................................. 206
Transair—(Question No. 3261) .................................................................................. 207
Transair—(Question No. 3262) .................................................................................. 208
Transair—(Question No. 3263) .................................................................................. 209
Transair—(Question No. 3264) .................................................................................. 210
Transair—(Question No. 3265) .................................................................................. 210
Transair—(Question No. 3266) .................................................................................. 211
Transair—(Question No. 3267) .................................................................................. 212
Transair—(Question No. 3268) .................................................................................. 213
Transair—(Question No. 3269) .................................................................................. 214
CONTENTS—continued

Transair—(Question No. 3270) ................................................................. 215
Transair—(Question No. 3271) ................................................................. 215
Transair—(Question No. 3272) ................................................................. 216
Transair—(Question No. 3273) ................................................................. 217
Budget 2007-08—(Question No. 3277) .............................................. 218
Foreign Affairs and Trade: Appropriations—(Question Nos 3342 and 3344) .... 219
HMAS Westraila—(Question No. 3382) .................................................. 219
Cluster Munitions—(Question No. 3385) ................................................ 220
Monday, 10 September 2007

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

REPRESENTATION OF TASMANIA

The PRESIDENT (12.31 pm)—I inform the Senate that Senator Calvert resigned his place as a senator for the state of Tasmania on 29 August 2007. Pursuant to the provisions of section 21 of the Constitution, the Governor of Tasmania was notified of the vacancy in the representation of that state. I table the letter of resignation and a copy of the letter to the Governor of Tasmania.

I have received, through the Governor-General, from the Governor of Tasmania, a copy of the certificate of the choice by the houses of parliament of Tasmania of David Christopher Bushby to fill the vacancy caused by the resignation of Senator Calvert. I table the document.

SENATOR SWORN

Senator David Christopher Bushby made and subscribed the oath of allegiance.

AUSTRALIAN CITIZENSHIP AMENDMENT (CITIZENSHIP TESTING) BILL 2007

Consideration resumed from 13 August.

In Committee

Bill—by leave—taken as a whole.

Senator ELLISON (Western Australia—Minister for Human Services) (12.35 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved in this bill. The memorandum was circulated in the chamber on 8 August 2007.

Senator BARTLETT (Queensland) (12.36 pm)—by leave—I move Democrats amendments (1) and (2) on sheet 5326 revised together:

1 Schedule 1, page 3 (after line 18), after item 1, insert:

1A Section 3

Insert:

citizenship education program is a program which gives people from non-English speaking backgrounds an understanding of the English language and Australian society and shall be in such form as is prescribed.

2 Schedule 1, item 3, page 3 (line 28), after “successfully completed a citizenship test” insert “or, if from a non-English speaking background, a citizenship education program”.

We have already had the second reading stage of this legislation, a few weeks back. I will restate the Democrats core position: we have the view that this legislation is not necessary. There has not been any evidence provided either to the Senate Legal and Constitutional Affairs Committee inquiry or, indeed, to the wider public as to why it is needed. Let us not forget this is quite an expensive process. Well over $100 million of taxpayers' funds is going into instituting, setting up and running the citizenship test. To me—and this is reinforced by the draft booklet Becoming an Australian citizen that has been put together and released by the government since we had the second reading stage of this debate—the whole thrust behind the citizenship test proposal from the government reflects a very insecure nation, a real example of cultural cringe and a very narrow, timid, inward-looking approach to Australia and what it means to be Australia let alone what the future potential of Australia is.

That is at that the core of why I think this is bad policy and bad legislation. You do not implement a major proposal like this, dealing with the very important issues of citizenship and the qualification for citizenship, without a thorough process—not the flimsy, farcical,
token consultation process and the quite poor issues paper that was put together to initiate that process—and you should certainly put together some evidence as to why it is needed. You do not make these sorts of changes unless there is evidence that there is a problem, and at no stage has there been an indication of a problem with regard to qualification for citizenship and the sorts of things that are addressed in the citizenship test. Let us not forget that nobody is eligible to apply for citizenship, let alone then undergo the test, unless they have already been resident in this country for four years, with at least one of those years as a permanent resident. We are dealing with people who are already permanent residents of Australia and who have been part of our community for four years. To suggest that testing them in the way that is proposed through this legislation is somehow going to fix any problem that exists with regard to people who are part of the Australian community is just ludicrous.

On top of that, I do not accept the premise that we have a problem with people who are part of the Australian community and with people who are taking up citizenship. Hundreds of thousands of people become residents of Australia every year. Over 150,000 new people become permanent residents of Australia every year. More than double that number become long-term temporary residents each year. When we are having such large numbers of new residents coming into the country every year, to suggest, without any evidence to demonstrate it, that there is a problem is poor public policy and generates unnecessary concern in the community when no problem has been identified. To then suggest that some of that goes to the qualification for citizenship creates a completely unhelpful and, I would argue, destructive perception about migrant communities and about the many, many migrants who become Australian citizens.

Let us not forget that by far the largest group of people who are long-term residents of the Australian community who do not take up citizenship are people from the UK and from New Zealand. On my understanding of information provided by the Parliamentary Library, more than half of the very large numbers—hundreds of thousands—of people who live in Australia who are eligible to become citizens but do not bother taking up citizenship are New Zealanders and people from the UK. That is fine; that is their right. If they do not wish to become citizens and just wish to remain as permanent residents they can do that, but to suggest that we have some problem with eligibility for citizenship, with all of the issues that surround it, without actually looking at the evidence is, firstly, poor public policy, secondly, signals a government that is not confident about the vibrant, very strong, diverse and dynamic multicultural Australia that we have and have had for decades and, thirdly, is potentially quite destructive in the long term.

Those points need to be made once again at the start of this debate. This citizenship test is not necessary. At best, I think it will just be a large waste of money and it will be a bit of light entertainment every now and then for the media to run some of the test questions that will inevitably become public, even though the government wants to keep them secret, and test them against the so-called average Australian in the shopping malls and find out how many of us actually get them wrong all the time. I suspect it is quite likely that that is all it will end up being—another pointless piece of bureaucracy paid for by the taxpayer that we can all make fun of from time to time as a bit of a Trivial Pursuit thing on the side. If that is all it is then it is still degrading Australian citizenship, which is more important than that.

But more dangerous is the potential for it to be used consciously, or even subcon-
sciously, as an exclusionary device, and that is where my concerns become greater. I am not saying that is the government’s intent currently, but it can be used for that purpose, particularly given that the desire to keep secret even the questions that are used reinforces the risk of it being used for exclusionary purposes. It is telling in some ways that, in justifying bringing in this test, the government have pointed to other countries that have done the same. I am thinking of the Netherlands, the UK and the US. The government have not provided any evidence that it has produced positive results—improved social cohesion, integration or citizen participation—in the countries that have done it. There is no evidence to back up any of that at all, and none was provided to the Senate committee inquiry. Particularly in the Netherlands, it has been used as a mechanism to target some in the migrant community. It has been used, and proposals have been floated specifically for it to be used, to target and try to exclude Muslims. I am not saying that is the government’s intent, but that is how similar tests have been used in another country, one that this government has pointed to, and the fear that it could be used in this way does exist amongst some within the migrant community in Australia.

If we are putting forward a public policy proposal, particularly one that is going to be creating a whole new web of bureaucracy at great public cost, then we have got to look at what the reason for it is and what the consequences of it are. There has been no evidence put forward as to why it is needed but there is evidence that a consequence of it is greater apprehension amongst some in the community, so we actually have a perverse consequence of it potentially leading to less social cohesion and less effective integration by people perceiving it as having been put forward as an exclusionary device. Such perceptions are real and should be acknowledged. It is not enough just to say, ‘That is not our intent.’ I am not saying it is the government’s intent but I am saying that is a potential future use for it and I am saying there is a real, current perception by some of it being a possible future use and there possibly being such an intent.

I hope we do not need to debate the reality that there is a strong fear amongst many in the Muslim communities around Australia—there is certainly that in my own state of Queensland—that they are being targeted at the moment in all sorts of ways, through all sorts of laws and through public rhetoric. It is a simple fact that members of the Muslim communities have been targeted time after time through public rhetoric by members of this government who have not been disciplined, brought into line or corrected by the leaders of this government. In that circumstance it is simple common sense and human nature for the people who are repeatedly being targeted, those who are repeatedly being misrepresented and who are repeatedly the target of ignorant public statements, to feel that these mechanisms are potentially going to be used to target them, particularly—and there has been no evidence put forward to suggest why these things are necessary—when we have a determination amongst those in the government to ensure that these sorts of things are maintained under a veil of secrecy. Those important points need to be made.

Having said all that, I state that we, as the Democrats often do, will seek to improve the legislation in the committee stage of the debate. That is what our amendments go to. I have already formally moved jointly my first two amendments, which relate to a citizenship education program which gives people from non-English-speaking backgrounds an understanding of the English language and Australian society and would be in a form as prescribed by the minister.
The other amendment provides an alternative mechanism. The intent is to provide an alternative citizenship mechanism for non-English-speaking entrants, so it is being put forward under the assumption that the citizenship test and the legislation will go ahead in some form, even though the Democrats do not believe the test is necessary. The amendment is based upon a significant number of concerns that were put forward by a range of people during the Senate Standing Committee on Legal and Constitutional Affairs inquiry into this legislation. They included the need to ensure that the test did not operate, either deliberately or by default, as an exclusionary mechanism for people from non-English-speaking backgrounds, particularly those from refugee backgrounds.

People from refugee backgrounds are of course, by definition, different from other types of migrants in that they have been forced to flee their homeland rather than having made a choice to simply seek a different country, a different future and a different life. Obviously, refugees have done that as well but they have done that by virtue of having been forced out of a situation that is unsafe, where they are at risk of serious persecution, by definition, and having had Australia offer them the opportunity to rebuild their lives.

It is a simple fact that in those circumstances from time to time such people are going to find difficulty in meeting some of the formal criteria that can be put forward in tests like this. So that amendment is based upon the recommendation that was put forward in my dissenting committee report, or minority report, that we ensure that refugee and humanitarian entrants from non-English-speaking backgrounds with a low level of English proficiency may be exempt from the test if they fulfil an alternative requirement such as attending a citizenship course. So it still provides that mechanism whereby they need to attend a course that specifically looks at issues relating to citizenship.

Let me say that, whilst I have not seen a single piece of evidence that suggests a citizenship test as is proposed is necessary or even helpful, I do think that it is desirable and appropriate for all prospective citizens to learn about what is involved in citizenship. I would actually like to see all Australian-born citizens required to learn that because, quite frankly, most of us do not know—and I would say, on the basis of a number of statements made by members of this parliament on this issue, a number of members of this parliament do not know—some of the basics around Australian citizenship: what is involved, what its history is, what the rights attached to it are, what the responsibilities attached to it are and just how intangible a concept it has been under law in many respects throughout Australia’s history. So I think we could all benefit from that, quite frankly. But, if you are going to create a requirement for new citizens to have done that, even though we are not requiring Australian-born citizens to have done that, then we should at least ensure that there are some options that enable sufficient flexibility for people who are not going to be able, because of their background, to meet the single structure that is being put forward.

I know that there are opportunities for exemptions within the legislation. As is often the case these days, they are pretty much totally at ministerial discretion, so we are just giving to the government, through the minister of the day, more power over people’s lives. I believe that having a specifically detailed alternative pathway for people from non-English-speaking backgrounds who are refugee and humanitarian entrants provides some extra surety that that option will be provided to people.
Let me emphasise, in moving these amendments and in commenting on those who are refugee and humanitarian entrants—it should be continually stressed—that the one group in the community of new arrivals to Australia who are most prompt in wanting to take up citizenship and to engage fully with the Australian community through citizenship and membership of the Australian society, are people from refugee and humanitarian backgrounds. It is well established that they are most likely to want to quickly take up citizenship. So there should be no suggestion that people from refugee and humanitarian entrance backgrounds are some sort of problem. They are the keenest to fully integrate into the Australian community and to get on with fully rebuilding their lives to contribute to the country that has given them another chance. We should not have some poorly thought through bureaucratic and politically motivated citizenship test get in the way of their doing that. Our country would be the loser as well as those people. So let us not forget that part of it: it is in the interests of the entire community to ensure that we can get full participation by people who history has shown contribute enormously to the development, prosperity and richness of Australia.

Senator LUDWIG (Queensland) (12.52 pm)—I want to not only speak to the amendments that have been moved by Senator Bartlett but also comment more broadly on the direction that Senator Bartlett is taking. I will use the more general language of the Democrats for the purpose of the chair. It seems to me that the Democrats are answering a proposal put some time ago and which the Prime Minister originally announced, and I think it is instructive to understand what he said at that time. In December 2006 the Howard government announced that it would introduce a new citizenship test and that migrants wanting to become citizens would be required to sit a formal examination, in English, in which they would answer 30 questions, drawn from a pool of 200, about Australian values, traditions, institutions and history.

A significant amount of water has flowed under the bridge since then and we now have a much changed situation from the government’s perspective. Labor, though, has been consistent throughout. Labor has said it supports the principle of formalising the current citizenship test. The issue, then, centres round the reasonableness of it all.

The amendments proposed by the Democrats today, and the language surrounding them, tend to answer the original proposal put forward by the government and they also focus, in part, on the test itself. I want to draw back a bit from that and have a look at the broader perspective, because Labor has always said that it is about the reasonableness of the test and not about the test individually. Labor recognises that the strength and success of the citizenship test lie in its ability—in other words, a facilitative provision—to promote community inclusion and provide opportunity for people to fully engage in the Australian way of life. That is a journey that people need to undertake, and the way they can undertake it is through this process. What Labor has added to the debate, which is going a bit further from what the government has done, is to say that it will ensure that the citizenship test is not a daunting prospect and that it will not discourage people from becoming citizens. Labor says that it is about recognising the importance of teaching English, that English language skills are important not only in the labour market but also for social inclusion at home and at work in offices around the country.

A Rudd Labor government would also provide for the teaching of English and citizenship. To that end the shadow minister for
immigration moved a second reading amendment in the other place in which lies the crux of the whole debate. The shadow minister noted that the issue is whether the citizenship test to be determined under the legislation is reasonable. He also noted the importance of teaching English, the development of English language skills and the acquisition of knowledge of Australian history, culture and values. And I am sure the Democrats and others in this chamber would agree on those values. It is about ensuring that we do support and provide improvements to the Adult Migrant English Program and other settlement services to assist migrants to participate fully in the Australian community and to ultimately pass the citizenship test.

If we look at the bill now before the committee, we can see that it does provide a flexible approach, and that should not be overlooked. We do say that we continue to have concerns about a great deal of emphasis being placed on the citizenship test rather than on the support services and community initiatives that are critical to building an integrated and inclusive society. That is where the debate should be, quite frankly, but that is where this government has left the field.

By way of background, Democrats amendment (1) explains that a ‘citizenship education program is a program which gives people from non-English-speaking backgrounds an understanding of the English language and Australian society and shall be in such form as is prescribed’. Democrats amendment (2) inserts:

Schedule 1, item 3, page 3 (line 28), after “successfully completed a citizenship test” insert “or, if from a non-English speaking background, a citizenship education program”.

The question arising, then, is whether there may be a way in which the test could be combined with coursework. It is not unusual for that to occur, although traditionally there are tests and there is coursework, and the two generally do not meet. But the Minister for Immigration and Citizenship does have the discretion to make such an alternative test available if necessary.

However, Labor will not be supporting these amendments which propose a citizenship education program, on the basis that the concept of a separate stream of testing for anyone from a non-English-speaking background ultimately ignores the fact that many people from a non-English-speaking background may already be fluent in English. They may have English as their second language and may be fluent in either written or spoken English, or both. Moreover, such a program overlooks the possibility of a person passively sitting in a classroom ignoring the citizenship coursework—in fact, not being particularly receptive to it. The proposed amendments do not go on to indicate how that election of coursework with test would be made, whether it would be elected by the person sitting the test or by determination of a government official. So, on that basis, Labor does not support the amendments and will not be voting for them.

I wanted to raise those couple of issues and to add at the outset the more general comments about this bill in order to ensure that Labor’s position is clear. Of course, if the Democrats want to add anything they certainly may, but I do not think it will convince us to support the proposed amendments.

Senator ELLISON (Western Australia—Minister for Human Services) (1.00 pm)—The government oppose these amendments proposed by the Democrats for a number of reasons, some of which we hold in common with what Senator Ludwig outlined. I think this has the propensity to result in two streams of applicants for citizenship: those
who require an education program and those who do not. More importantly, it presupposes that there is a cohort of applicants for citizenship who do require some education. We have a resources book, and that is where the questions would be drawn from. We say to people: ‘Look, there is the resources book. The test is there for you all.’ As to how that is developed over time and how it is implemented, we have dealt with concerns by saying that we will have a review of this. We not only will closely monitor how this is implemented but also have agreed to a review in three years time.

The Democrats also seek to make this a legislative instrument which would be subject to review by the parliament according to the Legislative Instruments Act. We do not believe it appropriate that this be subject to that act. It would lead to uncertainty because you would have a test in place and a system in place which people had come to accept and then subsequently it could be changed because it is disallowed under the provisions of the Legislative Instruments Act. Of course, that would need a majority of parliamentarians to support it, but this is something which could be done with less requirement than, say, an act of parliament. To that extent, we believe it could lead to some uncertainty. So I say to the Democrats, Mr Temporary Chairman, that we certainly will be watching the implementation of this closely. I think we have approached it carefully—for instance, taking into account youth, age and mental incapacity. People under 18, those over 60 and those with a mental incapacity will not be subject to the test. I think that to go any further, however, would create a division within the community of applicants for citizenship. For those reasons, we oppose the Democrats amendments.

Senator NETTLE (New South Wales) (1.03 pm)—The Australian Greens support these particular amendments. We are opposed to the citizenship test because we do not think it is going to meet the objectives that the government set out for the test about improving the English language skills of migrants and creating a more cohesive society in Australia. In fact, we think it will do precisely the opposite to those two things. What these amendments go to is ensuring that people have the opportunity to learn about citizenship and what that means. We think that is fundamentally important and something that should be made available to all people who are seeking to gain citizenship in Australia. Indeed, we think there is benefit in people who are citizens of Australia by birth also having the opportunity to access that information. So we are very supportive of having an education program such as that proposed in this set of amendments that Senator Bartlett has put forward.

I want to ask the minister a couple of more general questions about some of the criticism of the citizenship test and, in particular, whether the government has a view about what impact the introduction of the citizenship test will have on the existing English language classes for migrants. We heard during the Senate inquiry from people who teach English as a second language in Australia. They were concerned that the existing English language classes for migrants may end up teaching people how to pass the test rather than the communication skills that they need to survive here in Australia.

That is a very significant concern for me because I do not want to see the existing English language programs undermined. I think these programs, by the way, are good and need to be expanded. That is why I moved a second reading amendment on behalf of the Greens calling for that to occur. I acknowledge that there was some additional funding provided in the budget. I think the programs that exist are beneficial and I
would not want to see them undermined by the introduction of a citizenship test that sees those language programs change to end up teaching people only how to pass the test. I do not think that is anywhere near as helpful as teaching people the communication skills that they need. Has the government formed a view about that or done any kind of assessment of the impact that this citizenship test will have on the existing English language programs for migrants?

**Senator ELLISON** (Western Australia—Minister for Human Services) (1.05 pm)—I can answer that question quite clearly. There will be no impact. The program will continue as it is. It is there to teach adult migrants the English language and it will continue to do that. It is funded separately. It is dealt with in a separate area of government and there will be no impact on that program. They will not be classes to pass the citizenship test.

**Senator NETTLE** (New South Wales) (1.06 pm)—There are two things that come out of that. I am not sure whether I have made myself clear in asking my questions. I accept that there is a separate budget, that that is where the funding comes from and that the funding for the English language programs will continue. I totally accept that. I note the comments that the then parliamentary secretary Andrew Robb made some time ago, at the time at which the citizenship test was being proposed, in which he said that if we needed to increase the funding for English language programs as a result of the introduction of the citizenship test then that was open. I recall those comments that he made at a citizenship ceremony—I think it might have been in Melbourne—some time ago. So I do understand. I am not suggesting that there is a budgetary link. If there is going to be an announcement about an increase, that is great—that is welcome; I would love to hear about that.

The minister said they are not going to be teaching people how to pass the test. I accept that that is not the government’s intention of the English language classes that are provided to migrants. I accept at face value what the government says about the benefits of the programs for migrants. I support them; I think they are good. I want to see them expanded. So my concern is not that the government is saying that these programs should be about people passing the test. I am not making the claim that that is the government’s intention. Educators who appeared before the committee said that, when you have a test coming up at school, the classes before the test end up being oriented towards helping people to pass the test. I am not saying that that is the government’s intention, and I accept the minister’s answer that that is not the government’s plan, but does the government have a concern that that may occur? If that which educators have expressed to us is a concern to the government, what kinds of mechanisms might the government be able to put in place to ensure that those classes did not become just about teaching people how to pass the tests? I think we all agree that would not be the best use of that budgetary allocation. I am not questioning the government’s intention. It is more a question of whether the government is concerned that this may occur and what can be done to ensure that it does not occur.

**Senator ELLISON** (Western Australia—Minister for Human Services) (1.08 pm)—We have announced that we will be doing a review in three years time and that we will be monitoring closely its implementation. If, contrary to the government’s intention and will, the courses do become courses for the test, we will take action, but I do not think you can plan or say what action you will take until that problem arises. We have no indication that it will arise, for a number of reasons: (1) we do not intend that it will—it
would be contrary to government policy—and (2) the teaching of adult migrant English is entirely a different program. It is to teach people English. We do not see how it could happen, but if someone wanted to change that, and did so contrary to government policy, we would of course act. But we are monitoring its implementation across the board. We will keep an eye on that.

Senator NETTLE (New South Wales) (1.09 pm)—I have two other general questions that I want to ask the Minister for Human Services. A number of migrant groups in the community are fearful that the introduction of a citizenship test will deter some people from making an application to become a citizen. We can only speculate why somebody may be deterred. Perhaps they do not have the same educational background as people in here and the thought of having to do a test is intimidating. When they see the level of detail in the draft booklet, that may turn them off, but without wanting to speculate on what all those reasons may be, without being able to state categorically the things that would deter each particular individual from applying to become a citizen, I did want to ask the government whether it shared that concern a number of migrant groups have raised. I also raised this concern upon hearing it from migrant communities. None of us wants anyone to be deterred from making an application to become an Australian citizen. So I just ask the government whether it shares any of those concerns that the migrant groups have raised about this citizenship test.

Senator ELLISON (Western Australia—Minister for Human Services) (1.11 pm)—I say again that we will be monitoring the program closely and there will be a review in three years time. We do not have any results of any reviews overseas. I understand there is one being conducted in United States which has not yet concluded. We will watch that carefully. However, I think it is fair to say that the government does not share the concerns of people who think that this might deter people from applying for citizenship. As I understand it, there is a four-year requirement for residency before you can take the test and I think that someone who has been in Australia for four years would have sufficient confidence to make an application for citizenship and go through the test. The longer you stay in a place, the more comfortable you become in that environment, and one would assume that you would have the confidence to do it. I do not think Australia is a country where people are overawed or intimidated by the programs we have. I do not see any reason for there to be a reduction in the number of applications because people do not want to take the citizenship test. We have nothing on which to base any concern. We will be continuously monitoring this, as I say, and in three years time there will be a review. We will also be looking at the overseas experience. We have not yet seen the results of reviews overseas. As I say, we will have a look at the review being conducted in the United States when it is handed down.

Senator NETTLE (New South Wales) (1.13 pm)—The other question I want to ask, which again came up in the Senate inquiry, is about the best way for people to learn about Australian values, as the government defines them. There was a suggestion made by people who appeared in front of the Senate committee that if you teach someone values in their own language they may have a better capacity to understand the intricacies around what values or content you are trying to get across than if you teach them in a language which is not their first language. I note that, in the United States citizenship test, people can learn the values part of the citizenship test in their own language, and I presume that is because they have made an analysis or an assessment that the best way to convey
what can be quite complex, complicated or detailed information is in the language that the person best understands. I acknowledge it is not the government’s intention to do that here. I ask the minister whether the government has looked at and considered that example in the United States—where you learn about the values in your own language, in your first language—and rejected it.

Senator ELLISON (Western Australia—Minister for Human Services) (1.15 pm)—The Australian values section of the resources book is fairly general. It sets out:

Values which are important in modern Australia include:

- respect for the equal worth, dignity and freedom of the individual
- freedom of speech
- freedom of religion and secular government
- freedom of association
- support for parliamentary democracy and the rule of law
- equality under the law
- equality of men and women
- equality of opportunity
- peacefulness
- tolerance, mutual respect and compassion for those in need.

It goes on to say:

These values and principles are central to Australia remaining a stable, prosperous and peaceful community.

Those are fairly general values which can incorporate within them a great deal of difference, which we enjoy in our Australian community. Nonetheless, they are of general application and we do not see a need to have specific tuition in a person’s original language to appreciate those values. They are of such a general nature that you do not really need to drill down into great detail which might require communicating with someone in their own language.

The second part of this is the requirement that a person understands and has a degree of proficiency in English. Part of the application for becoming a citizen of Australia is that you have a basic understanding of English. We think it would defeat the purpose for us to get into the weeds of the detail and do that in a person’s original language because that would be confusing things even more. We believe that the values as set out in the resources manual, which is freely available for people who want to apply to become citizens, are self-explanatory. Even with a very basic understanding of English you can still appreciate what is being conveyed under the Australian values section. We do not think it is so complicated that you need to communicate with a person in their original language. Our view is that what other countries are doing in that regard might suit their regime or the way they have structured their citizenship tests but we think that the way that we have put it is of such simplicity that there will not need to be any tuition or training in a person’s own language.

Senator ELLISON (Western Australia—Minister for Human Services) (1.18 pm)—by leave—I move government amendments (1) and (2) together:

(1) Schedule 1, item 5, page 4 (after line 33), at the end of subsection 23A(1), add:

Note: The test must be related to the eligibility criteria referred to in paragraphs 21(2)(d), (e) and (f).

(2) Schedule 1, item 5, page 5 (after line 6), at the end of subsection 23A(3), add:

Note: The eligibility criteria for sitting the test cannot be inconsistent with this Act and in particular subsection 21(2) (about the general eligibility criteria for becoming an Australian citizen).

The first amendment clarifies the operation of proposed subsection 23A(1) and the sec-
ond amendment clarifies the operation of proposed subsection 23A(3). The first amendment comes as the result of a recommendation of the Senate Standing Committee on Legal and Constitutional Affairs. That committee recommended an amendment to clarify what it believed was some ambiguity existing in the proposed subsection. Although our legal advice indicates that there is no ambiguity, this proposed amendment inserts a notice at the end of the new proposed subsection to make clear that the test approved by the minister under the proposed subsection must relate to the eligibility criteria referred to in paragraphs 21(2)(d), (e) and (f). We appreciate that the Senate committee was of that view and we respectfully disagree but, to make it absolutely beyond doubt, we will insert a note to deal with the concern raised by the Senate committee. Our legal advice is that the note is not needed, but we do appreciate the work the Senate committee did on this. This particular committee does a very good job, so we have taken that on board and we will put in that note.

The second amendment inserts a note into proposed subsection 23A(3) in item 5 of schedule 1 to the bill to make clear that the eligibility criteria for sitting a test cannot be inconsistent with the act and, in particular, with the general eligibility criteria for citizenship contained in the new proposed subsection 21(2) of the bill. Again, this note will alleviate concerns that have been raised regarding the power to determine eligibility criteria for sitting a test. Concerns had been expressed about this during proceedings before the Senate committee. I do not think there was a Senate committee recommendation on this, but the government did take note of those concerns and, in an effort to allay them, has determined to insert this note.

We believe that these two amendments will make absolutely clear the operation of the respective proposed subsections. Again, whilst on legal advice this is not necessary, we are doing it in an effort of good faith and to demonstrate very clearly our position in relation to the operation of these proposed subsections. I commend both amendments to the committee.

Senator LUDWIG (Queensland) (1.21 pm)—The opposition can say that we support the amendments proposed by the government. It is helpful to understand that the government have indicated that they are willing to take up the committee recommendation, if only on the basis of a belt-and-braces approach, although they could always table the advice if they were so minded. I am certainly not asking for it, but they could always table it if they were so minded.

The third recommendation of the Senate Standing Committee on Legal and Constitutional Affairs is:

... that proposed subsection 23A(1) of the Bill be amended to specifically require that the test relate to the eligibility criteria in paragraphs—

and it becomes a little technical—

21 (2)(d), (e) and (f).

The government’s amendments in relation to eligibility criteria do reflect the committee’s recommendations and obviously attract Labor’s support. Labor welcomes the government amendments to the bill. The amendment to clause 23A(1)—that the test must relate to the eligibility criteria referred to in clause 21(2), paragraphs (d), (e) and (f)—and the amendment to clause 23A(3), which adds that the eligibility criteria for sitting the test cannot be inconsistent with the Australian Citizenship Act and, in particular, clause 21(2), which provides the general eligibility criteria for becoming an Australian citizen, actually address one of the key issues that Labor raised as soon as the debate commenced in the other house.
Resolving the matters relating to clause 23A is essential to the credibility of the legislation. Labor supports the shift by the government in this amendment, supports the outcomes of the committee and supports the amendments proposed by the government. Labor does appreciate the work that the Senate committee has done in respect of this bill. Unfortunately, I did not participate in the committee deliberations on this matter. I do recognise the work of the secretariat as well—if that has not already been said before—and the committee members who undertook this work.

Question agreed to.

**Senator BARTLETT** (Queensland) (1.24 pm)—I move Democrats amendment (3) on sheet 5326, as revised:

(3) Schedule 1, item 5, page 4, (after line 33), insert:

(1A) Prior to ministerial approval, the proposed test questions are to be trialled by the Australian Electoral Commission on a demographically representative sample group of Australian-born citizens to determine the suitability of the test questions.

This amendment is important in order to ensure that we do not get a two-tiered standard attached to Australian citizenship. There is a real potential that migrants who have to undertake this test to become a citizen will in effect have to know more about Australian values, history and geography and the Australian system of government et cetera than Australian-born citizens, who get citizenship as of right under law without having to undergo a test.

That point should be emphasised, because we had the repeated mantra coming from some within the government that citizenship is a privilege, not a right. It certainly is a privilege, but it is also a right. I am an Australian citizen by right. It was my right under law, being born in Australia of Australian citizen parents. There are millions of Australians who are citizens as of right. It is a privilege as well, but it is certainly not something that we should present as not being a right.

There is also a risk here, attached to these tests—particularly given the government’s continuing insistence that the questions not be tabled in the parliament and not be made public—that those who have to do this test to become citizens, to then under law obtain the right to citizenship with all of the privileges and responsibilities that attach to it, may be required to have a greater understanding of Australia than another group of citizens. I think that is an inequality that we should seek to avoid as much as is possible.

The simple aim of this amendment is to ensure that, in effect, we test the test to make sure that the vast majority of Australian-born Australian citizens will be able to pass it. This is of course a matter of continuing commentary, some of it fairly light-hearted, as to how well or otherwise many so-called average Australians would go in passing some of the questions on the test. Frankly, I think that is one of the reasons why the government wants to insist on the questions remaining secret. There is a suggestion that the questions have to remain secret because otherwise people would be able to cram for the test.

If you are going to get a random sampling of 20 questions out of a total pool of 200 questions and you manage to learn them all by rote sufficiently that you can pass the test, then, frankly, isn’t that the point—that we want people to understand all these things? If the way that some people understand it is by rote learning hundreds of questions then good luck to them. As has already been indicated, the questions will be derived from a booklet—similar, I presume, to the draft booklet *Becoming an Australian citizen*,
which has already been released. Frankly, I think the difference between people cramming, if you like, for their test by reading a booklet as opposed to reading hundreds of questions is an artificial distinction. It really does not help to allay some of the apprehensions amongst some of the migrant communities around Australia that there is some other agenda here when there is a continuing insistence on the questions not being made public and not being tabled.

I again make the point that the Senate Standing Committee on Legal and Constitutional Affairs itself did recommend that the proposed citizenship test questions be tabled in parliament. That was recommendation 2 of the entire Senate committee. To ignore that is not a helpful move by the government and suggests to me that, firstly, it is poorly thought-through policy and, secondly, it is basically a political stunt. It might be a harmless political stunt, but I for one and the Democrats believe that Australian citizenship is too important to be reduced to a matter for political stunts.

It is also important to not just test the test on Australians but enable Australians to test the adequacy of the questions. We all know in this place just how contentious the simple question is about who Australia’s head of state is or who the head of the Australian government is. That is a sample question that the government has put forward as a possible question in the draft booklet. That simple question—’Who is the head of the Australian government?’—is open to interpretation. Others, like whether or not Australian citizens are required to enrol on the electoral register, have qualifications and exemptions—such as whether it applies to Australian citizens residing overseas—that are not specifically detailed in the question. Those sorts of things do not indicate a problem with our laws; they simply indicate the fact that the obligations, responsibilities, opportunities and all of the other things that are attached to citizenship are not as simplistic and narrow as they are portrayed by the government in putting forward this debate.

Even some of the ideas and ideals that are put forward in the government’s draft booklet, including those about Australian values, beg the question of how serious we are about putting forward these things and seek to prescribe what Australian values are in an officially government ordained book, which is then used as the basis for government ordained questions at the whim of the minister of the day, including in any future government. Quite frankly, this government and this parliament have, from time to time, passed laws that have seriously breached some of the things that are detailed here as important values in modern Australia.

It is always up to the parliament to pass whatever laws it likes, particularly in a country like ours where we do not have basic rights and freedoms entrenched in the Constitution. So the sorts of things detailed in the booklet are things that, in many cases, can be breached at any stage by virtue of this parliament passing a law to make it happen. To some extent that is a wider debate, but to some extent it is not because we are talking about something as fundamental as Australian citizenship. We are putting forward to prospective new citizens the suggestion that these values, these freedoms and these particular characteristics of Australia are so fundamental and so intrinsic that you need to get the right answer in a test to become a citizen. They send a message that these values are locked in stone—that they are intrinsic values that we do not waver from as a nation and that if you become an Australian citizen you have a right to expect them to be attached to that citizenship.

The simple fact is that in many cases that is not so. In many cases those freedoms, val-
ues and rights are able to be removed simply by this parliament passing a law making it happen, and we do that all the time. That is a wider debate and I will not go into a bill of rights except to say that it reinforces just how misleading so many of the messages underlying this debate are. We are passing on those misleading messages to the entire Australian community and to new Australians. To me, it shows how muddle-headed and puerilely politicised this process is.

One way of reducing the potential for puerile politicisation is to ensure that the test is able to be tested, as this amendment seeks to do. I believe it would be very much in this parliament’s interest and would maintain some degree of integrity in the central importance of citizenship to accept this amendment so as to reduce the potential for any future government to more seriously pervert the test down the track and enable it to be used more explicitly as an exclusionary device, because that potential is undoubtedly there. We know, and many migrants know—but many Australian-born Australians do not know—about Australia’s history of using our migration laws in discriminatory ways to specifically exclude people. I am not accusing this government, at this stage, of specifically putting forward this citizenship test to that end, but I am saying that the potential is there for it to be used to that end in the future, particularly given how grievous and unjust the discriminatory abuses have been in the past and, I would argue, how damaging they have been to Australia’s reputation internationally as well as to our own awareness about social cohesion and integration. We need to make absolutely crystal clear that any such tests are not able to be used in that way in the future. This would be one way. It is not a pure, total safeguard but it would be one safeguard that would minimise the chances of that happening.

Senator LUDWIG (Queensland) (1.35 pm)—That was a long contribution for a short issue. It did not have to go on for so long—but I say that in a good-natured way. Labor supports the amendment. It is important to ensure that any test is fair and appropriate for people taking full membership of Australian society and that it is understood by all Australians. This is one way of ensuring that. It seems practical and sensible that you would trial something and then ensure that it works effectively. You would expect the government to ensure that the test is appropriate and designed well. It would be sensible for the government to pick it up and express a view that of course they will be doing this type of work to ensure that any test is appropriately adapted to the circumstances.

Senator ELLISON (Western Australia—Minister for Human Services) (1.36 pm)—The government opposes this amendment. It does so on the basis that we will have testing experts engaged to develop the questions and they will ensure that those questions go through a proper validation and development process. I believe it is not appropriate to have wider testing or sampling of focus groups where you have the Australian Electoral Commission involved. In any event, testing Australian-born people might not be appropriate because the cohort that you are looking at testing, by very necessity, was not born in Australia. They are just some of the aspects of it. Again, we will be monitoring this on an ongoing basis and, in a very formal way, having a review in three years time. All of that will be under public purview, and I believe that this amendment is not necessary for those reasons.

Senator BARTLETT (Queensland) (1.37 pm)—At the risk of being chided by Senator Ludwig again for talking too long, I shall make a brief contribution. As I tried to make clear in my comments, I am not accusing this
government of, from the outset, proposing to misuse the test in that way, but assurances from the minister now about what the government are going to do and how they are going to operate with regard to developing this test are not sufficient. We are passing a law; it will stay as part of the law well into the future. I would not be surprised if, at various stages in the past when amendments were made to migration laws and other laws relating to the entry of people into Australia and when various tests were put forward, commitments were given that they would not operate in particular ways. It is very common in this place, and it was very common in the past, for concerns to be raised that something might be misused, or used in a negative way, and for the commitment to be given that it would not be. Of course, we cannot tie any future government or any future minister to those commitments. They are governed simply by what is in the actual law. And we have seen abuses of the law in the past. Some of the provisions in the Migration Act have been used in ways that were not expressed as an intent when they were originally put forward. Certainly the disgracefully unfair abuse of dictation tests and the like in the past to exclude migrants from particular ethnic and religious backgrounds was not expressly detailed in legislation as being the intent of those tests, but the test has given that power to be misused.

The Democrats amendment being considered here would not provide 100 per cent perfect protection against that sort of abuse in the future but it would at least reduce the prospect of that sort of abuse. We should recognise that putting in place the requirement for a test like this without putting protections in the legislation has the clear potential for such a test to be used for discriminatory and politically motivated purposes in the future. I cannot believe that we could be so ignorant of our history—particularly when we are talking about citizenship tests that are supposed to reaffirm our understanding and knowledge of our history, including quite recent history—in which there are many examples of Australian governments applying laws regarding migrants in unjust and very discriminatory ways. We should be putting protections in this legislation to minimise the chance of any future government using this law in short-term, divisive ways. The legislation is meant to be about inclusion, about encouraging integration and about promoting social unity— I do not think it will particularly achieve that, but that is clearly the intent—but we leave open the potential for it to be used for very divisive purposes down the track, as our current laws relating to migrants have been used in the past and, indeed, the very recent past.

**Senator NETTLE** (New South Wales) (1.41 pm)—I want to indicate that the Australian Greens will be supporting these amendments. It is very difficult for senators who are being asked to vote on this citizenship test to determine whether or not we think the system for creating the questions is appropriate because, as Senator Bartlett has pointed out, we do not know what the questions are going to be. Even though there are sample questions at the back of the government’s document, it is hard to know how hard or easy they will be because we do not know what the multiple-choice options will be. The multiple-choice options can make the question easy or, indeed, can make the question hard.

A range of educators have appeared before the Senate committee and they have commented on the make-up of the citizenship test. In particular, those who teach English to people for whom English is a second, third, fourth, fifth or sixth language have indicated that they do not see a multiple-choice mechanism as the best way to determine whether or not people’s English lan-
The Greens have raised concerns about lack of transparency in relation to the questions, in the past and in my additional comments, and we have an amendment which deals with that further down the track. I acknowledge that the reason the government do not want to make the questions public is that they do not want people to rote learn them, but it is very difficult for senators and members of parliament to assess whether or not the process is a fair one when they are not able to get an understanding of the types of questions. I acknowledge that there are 20 questions at the back of the booklet, but you cannot really tell how hard or easy they are going to be without seeing them proposed as answers in a multiple-choice question.

There has been a lot of speculation in the community about the questions for the citizenship test and how difficult they will be. I noticed that in one of the Greek newspapers a number of different ethnic community groups were consulted and came up with 50 ethnic Australian citizenship test questions, which I have to say I found pretty informative. They were questions like: ‘How many Greeks were convicted of piracy and sent to Australia in 1829 on the Norfolk, arriving in Sydney?’ The answer is seven. ‘Which Chinese Australian former kangaroo shooter won fame at Gallipoli as a sniper?’

Senator Barnett—Billy Sing.

Senator Nettle—That is right: Billy Sing. Here is another one: ‘What was the family name of the Chinese Australian realtor LJ Hooker before he changed his name by deed poll in 1925?’ Anyone? No?

Senator Stephens—No.

Senator Nettle—Tingyou is the answer to that one. And there is some interesting information there about the Italian Australians on Captain Cook’s ship the Endeavour. This article was in a Greek newspaper but it was done in consultation with editors of Greek, Chinese, Italian, Maltese and Indian newspapers.

Following the publication of the draft document, they made some criticism about the draft booklet. They said, ‘The sample citizenship test questions released by the government this week are retrospective and selective, written largely by John Howard to perpetuate and to sustain a golden era of white Anglo-Saxon pre-eminence in Australia.’ They went on to say that, with one in four Australians born overseas and an even higher ratio from non-English-speaking backgrounds born here, they are critical of the government asking new aspiring migrants to answer questions about the narrow band of life experience of white Anglo-Saxon immigrants when so many in the past have come from Europe, Asia and Africa.

The amendments being put forward are about getting a sense within the community of what an appropriate level is for setting these kinds of questions. As I said, I am not able to say whether they are too hard or too easy, because I have not seen the multiple-choice questions. There is certainly an incredible amount of detail in the draft booklet. Perhaps the minister knows the answer to this, but I did not know how many kilometres of water pipe were laid from Perth to the goldfields. That is in the booklet, but is that level of detail going to be asked about? We do not know because we do not know what the questions are. And we do not know whether, in a multiple-choice question, you would be able to guess between it being one metre versus several thousands of metres. You cannot tell unless you have the multiple-choice answers.
I want to ask the minister about the process for the booklet. It is a draft booklet, and I noticed on the minister’s website that there is the opportunity for giving input. I would appreciate it if the minister could let us know what the process and the timeframe are in relation to the finalising of the booklet. During the Senate inquiry, the department indicated to the Senate committee that there was an intended start date of—I think, off the top of my head—17 September for the government to start introducing the test if the legislation passed through the parliament. Could the minister outline if that is still the intended start date, how the process for input into the draft booklet is intended to occur and whether that shifts back the timeframe in which the government would like to see the citizenship test start if it is passed through the parliament?

Sen. Ellison (Western Australia—Minister for Human Services) (1.47 pm)—Assuming this legislation is passed by the parliament this week, the minister, as I understand it, is planning to launch the booklet in the very near future—in the second half of September.

Sen. Nettle (New South Wales) (1.47 pm)—Thank you, Minister. I am trying to remember the date off the top of my head, but during the Senate inquiry the department put a date forward for when they intended the citizenship test to start. My recollection—and it is just a recollection—was that it was 17 September. I could be wrong about that. As the minister is talking about launching the booklet in the second half of September, does that mean that the intended start date for the introduction of the citizenship test has been pushed back? Will it be in late September or in October? I would also like the minister to explain about the process for input on the draft booklet. On the minister’s website, you can provide input in relation to the draft booklet. What is the process for determining that? Will it be that the input comes in, the minister or the department looks at it and then, when the minister makes his announcement in a very short period of time, there will be a government response to the input? Is there a more formalised mechanism for input or do you just send in your information and see how you go when the announcement is made? That and the start date are the two things I would like the minister to explain.

Sen. Ellison (Western Australia—Minister for Human Services) (1.49 pm)—As I said, the announcement will be predicated on the passage of this legislation, so the sooner this is done, the better. I do not want to pre-empt what the Senate may or may not do but Sen. Nettle is asking me to give some idea. That is not unreasonable, and on that basis I will presume that this legislation will go through expeditiously. If this legislation is passed expeditiously, I would envisage an announcement on the final booklet within the next 10 days. The tests would then commence on 1 October, so that would give some time. And, of course, people do not have to make an application on 1 October. If they want to have more time to look at the book they can delay their application. That is how I see it, but I stress—lest I be misrepresented, and I am sure I would not be—that this is based on an expeditious passing of this bill. The answer to the other question is that everything that has come in on the website has been considered by the minister in relation to the formulation of the final draft of the booklet.

Sen. Ludwig (Queensland) (1.50 pm)—Minister, I do not want to be hoist with my own petard by adding to the debate, but in answer to Sen. Nettle’s question you indicated, and the process seems to be, that should the bill pass—and I have every confidence that it will—then people can provide feedback online. For collating that and
providing an outcome, what are the time lines that will allow that to occur before 1 October? In other words, what is in place to ensure that it is taken into account and then answered in a way that allows a dialogue? It seems to be that the date for start-up was originally going to be 17 September. Could the minister indicate whether that has now been vacated for 1 October?

**Senator ELLISON** (Western Australia—Minister for Human Services) (1.51 pm)—As I indicated previously, the feedback is being received on an ongoing basis. We want that to continue, by the way, so what I am about to say should not in any way deter anybody from offering feedback. In that regard, the government seeks the cooperation of all concerned that this continues. But for the purposes of efficiently putting in place a new booklet and giving people time for testing on 1 October and thereafter, everything up until this point today that has been received will be put into the mix and considered. As I have indicated, I envisage the minister making a decision within the next 10 days or so as to the final booklet, and the testing will start on 1 October. However, we still ask that feedback continue to come via the minister’s website. Certainly, the government would not want these remarks to deter anybody or to make them say, ‘Oh well, there was a cut-off point and you cannot put anything in after that date.’ That is certainly not the case. We are monitoring this in an ongoing way, and continuing feedback is not only warmly welcomed but, we believe, essential. For the purposes of drawing a line from where we can start working on a final booklet, anything received up until today will be put into the mix for that final draft. The minister will launch that within the next 10 days or so and the testing can commence on 1 October.

**Senator LUDWIG** (Queensland) (1.53 pm)—Has there been any consideration to provide feedback on the issues that have been raised up to this point? If the line is going to be drawn in the sand today, is the department or the minister going to provide a response to those issues that have been raised? And how are those matters going to be taken into account? The normal process for these sorts of things is that people provide feedback that the department might then summarise and then reject or accept or in principle support—there are a range of possible responses—so that people can understand what the process has been. You can encourage continued feedback by indicating that, for the purposes of the launch, this is a final position, but you might then indicate whether you intend to refine it if further feedback is received. Otherwise, there does not seem to be any point in encouraging feedback after today.

**Senator ELLISON** (Western Australia—Minister for Human Services) (1.54 pm)—The government had not envisaged a formal process of publishing the feedback received. However, I have heard what Senator Ludwig has said and I will take that up with the minister and relay those comments to the minister.

Question negatived.

**Senator BARTLETT** (Queensland) (1.55 pm)—I will not proceed with Democrat amendment (4), because it really links back to my amendments (1) and (2). We have basically had that debate and I do not see much point in revisiting it. So I will not proceed with that amendment. I move Democrat amendment (5) on sheet 5326 revised:

(5) Schedule 1, item 5, page 5 (lines 15 to 17), omit subsection 23A(7), substitute:

Determination is a legislative instrument

(7) A determination made under subsection (1) is a legislative instrument and where the determination relates to a
test, a question or questions within the test, or a component of the test, are subject to disallowance in accordance with the Legislative Instruments Act 2003.

This is the final Democrat amendment and it is fairly similar to one circulated by the Greens, although it is slightly different. It seeks to ensure that any determination made under subsection (1) of the act that relates to a test, a question or questions within the test, or a component of the test, is subject to disallowance.

The minister pre-empted this amendment earlier by giving some reasons why it was not desirable and why the government would not be supporting it. It was nice of him to do so without hearing my coherent arguments in favour of it. You never know; you might be persuaded! The suggestion that it would create uncertainty is not, frankly, a good enough reason. At the heart of the citizenship test, obviously, is the issue of whether it is going to have credibility. That is the question. If it turns out to be a bunch of ridiculous, jingoistic, offensive, misleading or ideologically biased questions then you will distort the credibility of the citizenship test and therefore distort the credibility of citizenship. Again, I am not accusing the government of planning to do that. I would be very surprised if they did, quite frankly, but this is another mechanism to provide that protection, that safeguard, that I believe is needed, particularly given Australia’s history of misusing our laws in discriminatory and unjust ways to target and exclude people from particular ethnic or religious backgrounds.

I emphasise to the Senate that I am not making a political point in saying this; I am very much making a plea about the social consequences of the laws we pass. This debate is not, at its core, about some pre-election positioning or some potential political opportunities or political points to be scored, from all sides. This debate is about whether we pass a law and, if so, what is in that law. We should always remind ourselves that the laws we pass have impacts on human beings, in the Australian community and more widely. Therefore, it is totally appropriate for us to consider the potential, and in some cases the current, impacts of proposed laws.

A current impact of this proposed law is that there is a group within the community—a minority, I fully recognise, but nonetheless a group—who are apprehensive about the intent behind this test and the potential it could be misused for political purposes. One of the reasons they are apprehensive is the history that they all know, and we should certainly know, of laws with regard to migrants being misused in a discriminatory and unjust way, targeting people because of their ethnic, religious or racial backgrounds. We all know—and if we do not we certainly should—that one of the groups in the community at the moment who do feel targeted by some of the rhetoric and policies and by the application of some of the existing laws—not just rhetoric and policies and by the application of some of the existing laws—not just migration laws—is the Muslim community.

I was at a forum just yesterday, as was Senator Ludwig, who gave a very cogent contribution and earned himself a few Mars bars along the way by giving good answers to some questions—the Mars bars were a reward from the audience for giving full and complete answers, to clarify. There is very clearly concern out there. It does not all go just to the citizenship test. It is much wider than that. The Dr Haneef issue is at the heart of it. But that is a symptom; it is not the cause—the Haneef issue is not the cause. The fear and the apprehension in the community is a symptom of a much wider perception that there is a deliberate targeting of Muslim Australians for partisan political purposes and we must ensure that we do not
pass a new law that feeds apprehension and creates that division.

Progress reported.

**QUESTIONS WITHOUT NOTICE**

**Climate Change**

Senator CHRIS EVANS (2.00 pm)—My question is to Senator Abetz, the Minister representing the Minister for the Environment and Water Resources. Is the minister aware that in April this year the Minister for Foreign Affairs specifically dismissed the idea of setting aspirational targets for emissions reductions, saying that this would be ‘code for a political stunt’? Didn’t he also go on to say that ‘an aspirational target is not a real target at all’? Does this mean that the Prime Minister’s APEC aspirational target on emissions reduction is, using the words of Mr Downer, a political stunt? Why won’t the Howard government commit to real and binding targets to reduce Australia’s greenhouse gas emissions?

Senator ABETZ—I think all Australians would be very pleased with the outcome of the APEC forum that we were very honoured and pleased to host in this country over the past week. One of the great strengths that has been able to be displayed as a result of the APEC forum has been the high regard in which Australia is held, right around the world. One of the great achievements of APEC has been to get countries such as the United States and Russia together—and China, might I add—to talk about the important challenge that we face as a world in relation to climate change.

To be able to get developing countries such as Indonesia, Korea, Malaysia and China as well as the US and Russia agreeing on the need for a long-term aspirational global emissions reduction goal is a truly great, ground-breaking consensus. The important thing in relation to these aspirational goals is that we do not of our own volition set up an aspirational goal which is not in the context of the international situation. That is in fact something that the Prime Minister’s task force addressed in relation to the approach that we should take to the issue of climate change.

The Howard government has been very responsible and sensible in its approach to climate change. As the vast majority of workers in this country know, if Australia were to go it alone, all that would happen would be the wholesale export of wealth and jobs to other countries in our region, to the detriment of our own wealth and to the detriment of the working men and women of Australia. That is why, in the context of APEC, the government sought to get together as many of the differing approaches as you can get: the United States—well and truly developed; China—going gang busters; and other countries as well, such as Russia, that have come from a difficult background. So we believe that APEC has served a very useful purpose in getting the world communities together so that we can face this challenge together, because trying to do it alone will not achieve any purpose and, more importantly, it would be to Australia’s great detriment.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I note the minister did not actually respond to the key charge Mr Downer made. Hasn’t the government had 11 long years to respond to climate change? Why is it, after those long 11 years in office, the best the Prime Minister and the government can do is something that his own foreign minister described as a political stunt? Doesn’t this confirm again that the government is full of climate change sceptics—like the minister himself—who are incapable of taking up the serious challenge of climate change?
**Senator ABETZ**—If the key charge is that which the Leader of the Opposition has put, I say it is a struggling opposition. We, as a government, have been dealing with the issue of climate change since we first got into government. I have reminded those opposite time and time again that we established the Australian Greenhouse Office in 1998, within two years of coming into office. What is more, it was the first of its kind within the world. So do not say that we have come to this issue lately. We have been addressing this issue in a good, sensible approach which has the recognition of, indeed, the IPCC itself. The IPCC itself has commended the Howard government’s approach. In relation to symbolic matters, I simply say the Labor Party would still sign on to Kyoto, knowing full well it would make no difference to the real challenges that we face. *(Time expired)*

**Asia-Pacific Economic Cooperation**

**Senator PAYNE** (2.05 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Will the minister advise the Senate of the outcomes of the recent APEC meeting in Sydney?

**Senator MINCHIN**—I thank Senator Payne for that question. If we look back over the last week at APEC, I think all Australians can be very proud of what has been achieved. Not only has the Sydney meeting of APEC strengthened our relationships with our Asia-Pacific neighbours; it has delivered real and meaningful results for Australia across a range of areas: climate change, security and our economic ties. On climate change, as Senator Abetz very capably outlined, APEC has been a chance to address the biggest shortcoming in the Kyoto protocol: the fact the Kyoto protocol seeks to limit the emissions of developed countries, not the developing world. APEC brought together the countries responsible for 60 per cent of CO₂ emissions, including the two largest emitters: China and the US. The fact that all APEC countries, developed and developing, have reached agreement on climate change issues is very significant in itself.

APEC’s agreement to an aspirational goal of at least a reduction of 25 per cent in energy intensity by 2013 is the first time developing countries have made such a commitment. With deforestation a key issue in many APEC countries, APEC’s commitment to the goal of increasing forest cover in the region by 20 million hectares by 2020 is a very significant step forward. It would mean approximately 1.4 billion tonnes of carbon, equivalent to around 11 per cent of annual emissions, would be sequestered. APEC established the Asia-Pacific Network for Energy Technology to strengthen collaboration on energy research. I think the Sydney declaration will be a key input at the upcoming US major economies meeting in September and at the UNFCCC meeting in Bali in December. APEC also committed to re-energising the Doha trade round, a key issue for Australia’s exporters, and to considering further an Asia-Pacific free trade agreement.

APEC was not only significant as a multilateral forum; it gave us the opportunity to advance our bilateral relationships. The US President’s visit to Australia delivered very significant results, most particularly a defence cooperation agreement which our defence companies say will mean more investment and more jobs in Australia. Chinese President Hu’s visit was also significant. The fact that he took the time to visit Western Australia, Canberra and Sydney signifies the growth in our ties with that great country. His visit was an opportunity to sign a number of commercial deals between Chinese and Australian companies, with a total value of no less than $55 billion. In particular, Woodside and PetroChina signed a $45 billion LNG deal, which dem-
demonstrates our standing in the Chinese market as a reliable supplier of energy and the value of the relationship that we have built with China over the last 11 years.

We also had the first ever visit to Australia by a Russian leader, which was an opportunity to sign a new agreement allowing the supply of Australian uranium for use in Russia’s civil nuclear power industry and providing a framework for broader cooperation on peaceful nuclear related activities. Cooperation on nuclear energy, as well as security and other issues, was on the agenda for our meetings with the Japanese Prime Minister.

Sydney provided a terrific setting for this meeting, but the government acknowledges that this came at the cost of inconveniencing businesses and residents. We appreciate their forbearance. The fact the week proceeded so peacefully and successfully is a credit to all the federal and New South Wales authorities involved, and we thank the New South Wales government for their cooperation. The fact the meeting went so positively and delivered several multilateral and bilateral outcomes is a demonstration of the assured and experienced hand that Australia now plays in the Asia-Pacific region.

Workplace Relations

Senator MARSHALL (2.09 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Isn’t it the case that there is a backlog of more than 100,000 workplace agreements waiting to be approved by the government’s Workplace Authority? Given that the Workplace Authority cannot tell Australian employers or employees whether agreements are fair or unfair, doesn’t this mean that 100,000 workers could be on agreements that are unfair? Given the Workplace Authority is likely to take more than 10 months to clear the current backlog before they even start on the additional 30,000 workplace agreements being lodged each month, how many Australians are set to lose out because the Howard government cannot administer its own workplace laws?

Senator ABETZ—The first thing people listening to this broadcast should concern themselves about is this: do not believe the Australian Labor Party when they bandy figures about. I remember when we first introduced these changes. I was making—and I admit this—a brave prediction that there would be 75,000 new jobs potentially created by these reforms. I was pilloried by the other side and I am glad I will be able to report later on in question time that the figure is now in excess of 400,000. So, when the Labor Party deal with figures, let us make sure that they are factual.

The situation is that there has been an overwhelming response to the Australian government’s Australian workplace agreements, and indeed workers and employers are signing up at record levels—a mechanism that has driven jobs growth in this country and a mechanism that Kevin Rudd would destroy as soon as he possibly could, throwing all those people into great uncertainty. In relation to the processing of the fairness test, can I say this: we as a government have always believed in making sure that workers in the Australian workplace are treated fairly and equitably.

Opposition senators interjecting—

Senator ABETZ—It is good news that the fairness test is working. Can I assure the honourable senator that there is no backlog and all of them are being processed. The news is good.

Senator Chris Evans—Introducing more backpackers!

Senator ABETZ—The silly Leader of the Opposition interjects, saying, ‘Introducing
more backpackers!’ I think the state governments of this country have been getting—

Senator Sterle interjecting—

The President—Order! Senator Sterle, you will withdraw that.

Senator Sterle—Mr President, I withdraw that.

Senator ABETZ—I will not get distracted by innocuous interjections from the Leader of the Opposition, Mr President. As a government, we are ensuring that these workplace agreements are fair and reasonable for the workers of this country. That is exactly what we are doing. The good news is that since 7 May, to 31 August this year, 123,100 Australian workplace agreements have been lodged. That is 123,100 jobs, the mechanism for which the Labor Party are committed to destroying. They would destroy all of them, and how unfair could that be! It would be unfair to all 123,100. Currently, 110,351 are being processed. For the fairness test, where further information is being required, the figure is 44,751. Where the fairness test does not apply, the figure is 5,408. Those that have passed total 6,237, and so the list goes on.

Now the good news is that the workers of this country are being protected by the fairness test that we as a government have implemented. Surely that should be welcomed by somebody such as Senator Marshall, an ex-trade union official who allegedly devoted his working life to that. We now suspect that he, like all the others on that side, devoted his working life not to the workers of this country but to Labor Party endorsement to sit in this place, whereas we are committed to looking after the workers of this country—and the figures speak for themselves. The most important thing that we have done for the workers of this country is provide them with jobs. (Time expired)

Senator MARSHALL—Mr President, I ask a supplementary question. I ask it of the minister through you, Mr President. How does the government justify letting thousands of working Australians go without wages and conditions to which they are entitled while they wait for the Workplace Authority to get its act together? How does the government’s claim that these working families will be entitled to back pay in several months time help them struggle with today’s huge mortgages and rents, and spiralling childcare, petrol and grocery costs? Don’t these embarrassing statistics simply confirm that the fairness test was just an extravagant excuse for a $37 million advertising campaign?

Senator ABETZ—The most embarrassing figure for the Australian Labor Party is that over 400,000 Australians have now got jobs and are no longer reliant on social welfare. I say to the honourable senator, as he well knows, that trying to pay off personal loans or trying to pay off a house mortgage on social security is a lot more difficult than it is when you have a job, especially when that job is guaranteed with a safety net which includes the very comprehensive fairness test that we have introduced.

Asia-Pacific Economic Cooperation

Senator SANDY MACDONALD (2.16 pm)—My question is to Senator Ellison, the Minister representing the Minister for Defence. It concerns the extraordinarily successful APEC, which concluded yesterday in Sydney. Will the minister inform the Senate how bilateral agreements signed during APEC Leaders Week will enhance Australia’s defence capability and also deliver benefits to Australia’s defence industries?

Senator ELLISON—I thank Senator Sandy Macdonald for a question which is an important one for Australia’s security and also its defence related industries. That is an area to which Senator Macdonald has made a
lot of contributions and in which he has had an interest over a long period of time. In fact, I think he was even at APEC for part of the time.

During the course of bilateral meetings at APEC, Australia progressed important defence agreements and also agreements relating to defence industries. These were with two of our most important allies, the United States of America and Japan. Firstly, in relation to the United States, the Prime Minister signed with President George Bush an Australia-United States treaty on defence trade cooperation. That was signed on 5 September this year. This is essential for Australia’s security and defence, but also it spells good news for those many businesses involved in Australian defence because what this will do is open up new avenues for industrial cooperation between defence industries in both the United States and Australia.

As an indication of the benefit of this treaty, it has been indicated by the US Department of State that 2,361 export licences and 312 technical data agreements were approved for Australia in 2006. That demonstrates the level of interest that Australian industry has in the defence industry area in the United States. Many of these approvals, which can take three months or more, will no longer be required under the treaty. Again, that is a great step forward for the Australian defence industry. But, apart from improving the timeliness of our access to US technology, this will also strengthen the cooperation between the United States and Australia in relation to defence articles including equipment and spare parts, services, related technical data and a range of other aspects of defence materiel. This is a comprehensive agreement for two-way trade between Australia and the United States. Of course, this will have to go through the domestic processes in both the United States and Australia but this is an essential step forward in relation to trade and defence as well.

Senator Macdonald asked about agreements and our security generally. Can I say that, as well as the agreement with the United States, the Prime Minister announced yesterday an agreement with the Prime Minister of Japan in relation to the endorsement of an action plan to implement the joint declaration on security cooperation, which was signed in Tokyo back in March this year. This action plan identifies a range of cooperative activities to deepen the strategic partnership between Australia and Japan, which is based not only on shared values but on the interests that we have in relation to the region.

This is a new era in the relationship that we have with Japan and history will adjudge this endorsement as a key step forward in engaging Japan in the national security and defence of our region. We have been cooperating with Japan over a period of time but it is this sort of agreement between the two countries’ leaders that takes it all that much further. Of course, it also relates to the trilateral strategic dialogue which brings in the United States, so you have a strengthening of that trilateral relationship, which is also essential to the Asia-Pacific region. This was a great success, just one of many that came out of APEC. It is one which the Australian community should realise is a step forward in protecting this country and enhancing its industry. (Time expired)

Workplace Relations

Senator WONG (2.21 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. I refer the minister to the recent report by Anthony Forsyth of Monash University which confirms that the Howard government’s extreme industrial relations laws have made it easier for large employers to
sack workers. Doesn’t this report show that the Work Choices laws include a catch-all exemption which allows large employers to sack workers for so-called ‘operational reasons’ without any requirement of fairness? Isn’t it the case that since Work Choices started the Australian Industrial Relations Commission has thrown out nearly three in five cases where employers cited operational reasons for sacking staff without even considering other circumstances of the dismissal? Could the minister explain how making it easier to sack hardworking employees is good for Australian working families?

Senator ABETZ—It ill behoves a union dominated Australian Labor Party in this place to talk about hardworking employees being dismissed when the trade union’s record of doing exactly that has been in the media day after day after day during the parliamentary recess. Indeed, within my relatively small home state of Tasmania, there are at least two such places. So, if Senator Wong, the Labor Party and the trade union movement want to get in on this debate, they have to come into it with clean hands—which they clearly do not have. Of course, to make their assertion, who do they rely on? Anthony Forsyth. Interesting. I wonder who used to engage Anthony Forsyth. A guess: it might be a trade union—the Transport Workers Union? Senator Conroy can confirm that I am spot-on.

These independent reports that the Labor Party keep flicking out after time are not independent reports. They are from trade union operatives, and it is on that basis that I would invite all Australians who have the misfortune to be listening in to this broadcast to consider what the actual facts are. The actual facts are that the Labor Party want to concentrate on this union operative’s report because they do not want to talk about the fantastic employment results for the month of August.

Opposition senators interjecting—

Senator ABETZ—You don’t want to talk about that. The Labor Party do not want to talk about that because it undermines their dishonest campaign when our industrial relations changes have seen the lowest rate of industrial disputation since records were first kept in this country—the lowest rate. There has also been a 20 per cent increase in real wages under 11 years of the Howard government, whereas, under 13 years of Labor, they were only able to deliver about 1.8 per cent. That is the compare and contrast.

Whilst Labor presided over one million of their fellow Australians on the unemployment socioeconomic scrap heap, we now have it down to 4.3 per cent—a figure that not even the Labor Party or, indeed, our most keen supporters would have agreed that we could have achieved. But we have achieved that result. Why? Because one of the hallmarks of the Howard-Costello government has been its willingness to take the tough decisions for the long-term benefits. Before those who are sitting over there get a bit too excited about that, they might like to check their wires in relation to what is happening in Queensland.

The reality is that these reports unfortunately do the Labor Party no credit. What they show is that, if Labor were ever to be given the privilege of governing this country, they would surround themselves with pseudoacademics from the trade union movement to try to spin their story when the facts, the raw numbers and the objective data clearly show more Australians are in work than ever before, they have increased wages like never before and they are in circumstances where industrial disputation is at the lowest level ever experienced by this country. So much for the industrial disharmony that the Labor Party asserts exists.
Senator WONG—Mr President, I ask a supplementary question. I note that the minister did not deny at any point in his answer that the government’s Work Choices laws make it easier for large employers to sack people. Can the minister explain why making it easier to sack people is good for Australian workers? Minister, aren’t these laws the reason why the study reports say there is a perception in the business community that they now have much greater freedom to dismiss workers? Could the minister explain why the Howard government believes hardworking Australians should be denied basic entitlements such as severance pay?

Senator ABETZ—If such a false perception does exist in the community, can I say that the workers have only one group to thank for that: the false advertising campaign of the ACTU that claims that employers can do that. In handling claims, the Australian Industrial Relations Commission has to be satisfied that the employer’s operational reasons, to which the senator is referring, are genuine before it rules that the employee’s unfair dismissal claim is excluded. So if there is misinformation within the community, can I say two things: firstly, it shows the unfortunate cut-through that the ACTU’s dishonest campaign has had; and, secondly, it shows the need for genuine information to get out to the community so that employers are not potentially misled by that false information. (Time expired)

Indigenous Communities

Senator ADAMS (2.28 pm)—My question is to Senator Scullion, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. Will the minister update the Senate on positive progress being achieved through the Australian government’s intervention in the Northern Territory?

Senator SCULLION—I thank Senator Adams for the question. I know that it reflects very great interest from the Australian public. Much of the time that we spent in this place last time was on passing a package of legislation to protect children in the Northern Territory. I am very pleased to report that, on the ground, there has been a rollout of practical measures to give the children of the Northern Territory a future by improving their circumstances. All 73 of the prescribed communities have now been visited by the survey teams. As of 6 September, 1,658 children in 29 communities had undergone a child health check. I was actually in Palumpa last week and, despite what is said by those people who are very negative about the impacts of the health checks, they have been widely welcomed by all in the community. There was none of the fear and loathing that had been predicted by those who did not support this legislation.

The council and community briefings on changes to income management are underway, and I understand that by 17 September these will have been implemented in Imanpa, Titjikala, Apatula and Mutitjulu. CDEP is an important issue. As we have heard related in this place, we need to ensure that people understand the significance of the rollout of the changes. So the teams have been visiting the communities to discuss the transition and to ensure everybody understands the transition of CDEP into real jobs. The Australian government will provide $73 million in the first year to create jobs where the Community Development Employment Projects participants in the Northern Territory have in fact been supporting the delivery of Australian government services. I am pleased to say that negotiations are underway and are being progressed with the Northern Territory government to convert their CDEP responsibilities into real jobs, and I would very much encourage the Northern Territory govern-
ment to have a positive attitude towards those negotiations at that level as well as with local government.

The community clean-ups have been rolled out in those communities. They have identified what repairs need to be done on a practical level to what houses. The second phase of that clean-up, of course, will be to identify those repairs and ensure that they are completed.

In terms of governance and law and order I understand that 14 communities now have government business managers in place—who are actually servicing 18 communities—and that six more are right at the moment completing their training. Of course law and order has been an absolute fundamental of this initiative. The first wave of Australian Federal Police officers who have been on secondment in the Northern Territory are finishing up this week and the second wave of Australian Federal Police officers will be arriving. Police officers from Queensland are currently in training in Darwin. I would like to take this opportunity on behalf of Territorians to thank the police officers from all those states and territories which provided assistance, and particularly the Australian Federal Police.

There are a number of things which we are looking at in the area of education. It is very important that the community and individuals in the community understand the new roles and responsibilities, particularly with regard to alcohol and pornography. The print and radio advertisements informing the community of bans on alcohol and pornography will start this week. We have a high level of confidence in the task force team. They have been into the communities and indicated that people have a pretty good understanding. The task force in the Northern Territory is doing an absolutely sterling job and is making a real difference for the children in Indigenous communities in the Northern Territory.

Uranium Exports

Senator ALLISON (2.32 pm)—My question is to the Minister representing the Prime Minister. Minister, when the government made the deal at APEC to sell uranium to Russia was it aware that 21 journalists have been killed in Russia, including the contract killing of well-known investigative journalists, since President Putin came to power? Did the government consider the fact that Russia has a habit of losing nuclear material? I understand that a lot of fissile material went missing after the break-up of the Soviet Union which is missing to this day. Does the government know that Russia has done deals with rogue states such as Iran, Syria and Myanmar including the onselling of uranium to those countries? Why did the government not insist that Russia ratify the additional protocol of the NPT? Why was Russia not asked to dismantle its remaining 10,000 weapons? Is it the case that the government has put mining money ahead of human rights and international security?

Senator MINCHIN—Australia takes very seriously its position in respect of human rights. We have an outstanding record of advancing the cause of human rights in international forums. We raise the issue of human rights wherever we can. We do highlight human rights abuses at every opportunity. At every meeting with countries where we believe that human rights are being abused they are raised. We do work actively in international forums to advance the cause of human rights and we do believe that those international forums are the appropriate place to advance those issues of human rights. We recognise that not every country in the world so protects human rights as does Australia. Australia is one of the great countries on this planet that do ensure—and this is done in a
bipartisan fashion, whether it is a Liberal or a Labor government that governs this country—that the human rights of all Australians are well protected. Whether it is a Labor or a Liberal government, they seek to advance that cause throughout the world.

What the Democrats seem to be advancing is a new strategy whereby some sort of highjump bar is erected below which no country shall participate in trade with Australia. That seems to be what is being suggested: that we should establish some sort of artificial barrier to prevent trade with countries which we believe do not meet certain human rights positions. That has never been the position of the Australian government, I think, under either major party. It is certainly not the position that we have. We will properly seek trade opportunities. We do believe that maximising trade is the way to advance both world peace and world prosperity. We certainly see APEC as a key part of advancing the cause of free trade among nations—which, as I say, is a key way to advance human rights, prosperity and world peace.

In terms of the nuclear safeguards agreement with Russia, which has been signed and which will of course have to be subject to the appropriate parliamentary scrutiny in this country, we do believe that is important. I am surprised that the Democrats, who profess to be concerned about nothing so much as growing greenhouse gas emissions, should be raising concerns about agreements that Australia enters into to ensure that zero-emission energy sources can be increasingly used.

The fact is that Russia is seeking to increase the amount of energy it derives from nuclear power from 16 per cent to some 23 per cent. It does seek to source uranium from countries like Australia to ensure that, with its new generation of nuclear power plants, it has a reliable source of supply. We welcome Russia’s commitment to increasing the proportion of its energy that it derives from nuclear power and the fact that, of course, that nuclear power has zero emissions—something I would have thought that the Democrats would be welcoming. So we applaud the fact that at APEC the Prime Minister was able to agree with the Russian President, in the first-ever visit by a Russian President to this country, on a nuclear safeguards agreement with Russia which will allow the supply of uranium to Russia in accordance with our longstanding and very strict safeguards agreements.

Senator ALLISON—Mr President, I ask a supplementary question. I take it from the minister’s answer that he did not consider any of those human rights or international security matters. He also says that there will be a guarantee that this material will be used for Russia’s new reactors. I ask the minister to give us a guarantee that it will not be sold, and I do not think he can do that. I ask as well: does the minister know that a poll conducted a short time ago showed that 66 per cent of Australians are against the selling of uranium to Russia? What mandate does the government have to make such deals—particularly as close as this is to the next election—that risk global security when the majority of Australians are against exporting uranium?

Senator MINCHIN—The government does make decisions within its ambit to ensure that Australian trade can be advanced. There has been a very long tradition and history in this country of exporting uranium under very strict safeguards. Those safeguards which govern the export of Australian uranium were first established back in the Fraser years and are some of the strictest of any in the world. A number of countries are now in receipt of Australian uranium to power, for peaceful purposes, their energy-producing nuclear reactors. With respect to
the potential for flowthrough of Australian uranium, I remind Senator Allison that, as with all of our safeguards agreements, the new agreement with Russia does require that Australia’s consent be obtained before any Australian obligated nuclear material is transferred to a third country. Under our policy, consent is given only for transfers to countries with which Australia has a safeguards agreement. (Time expired)

Employment

Senator Barnett (2.39 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Abetz. Will the minister update the Senate on the latest employment figures, and is the minister aware of any threats to continuing strong jobs growth into the future?

Senator Abetz—I thank Senator Barnett for his perceptive question. Last Thursday the Australian Bureau of Statistics released the August labour force figures. These figures, which the Labor Party do not want to know about, revealed that, despite a new record high participation rate of 65.1 per cent as a result of Welfare to Work—something opposed by Labor—coming on-stream, the unemployment level in Australia remains at just 4.3 per cent. The reason is that during August another 31,800 jobs were created—

Senator Conroy interjecting—

Senator Abetz—Hold on to that figure of 31,800, Senator Conroy—and 29,100 of them are full time. That means that since the introduction of the workplace relations changes some 18 months ago a massive 417,900 jobs have been created, 84.3 per cent of those being full time, and yet Labor dishonestly claimed that these workplace relations reforms would cause massive job losses. Unfortunately, Senator Barnett is right: there is a threat to continuing massive job creation, and that threat is the Australian Labor Party and its union masters—union masters who will force the Labor Party to reimpose policies such as right of entry by union thugs and the reinstatement of unfair dismissal laws, which would literally destroy jobs in this country.

Mr Rudd has made a great deal of pretending that he will stand up to the unions. He tells us he has drawn a line in the sand and that any unionist crossing that line will be kicked out of the Labor Party. The trouble is that that line keeps shifting. Take the case of Mr Harkins, the former preferred Labor candidate for Franklin and party power-broker. Firstly, the Cole royal commission found that Mr Harkins engaged in unlawful activity. Enough for expulsion? No, the sand shifts. Secondly, Mr Harkins was charged with engaging in an illegal fray. The sand shifts again. Thirdly, Dean Mighell reveals that Mr Harkins approved a $50,000 donation to the Greens—enough to see the end of his own brother, Mr Greg Rudd, but not Mr Harkins. Fourthly, Kevin Harkins actually pleads guilty to engaging in illegal activity and then brags about it. Still not enough—the sand keeps shifting. And now today we hear that the Federal Police are investigating Mr Harkins in relation to possible inducements under the Electoral Act—a most serious allegation. When will Mr Rudd rediscover the line in the sand and expel Mr Harkins from the Labor Party? And, given admissions that their own leader’s office was involved in these discussions about Mr Harkins—

Opposition senators interjecting—

The President—Order!

Senator Abetz—The cacophony from those opposite clearly shows that they have no regard for unionists being required to abide by the laws of this country, and that is why they condone this behaviour. That is the sort of mayhem Australia will be thrown into
if a Rudd Labor government were to be elected. Mr Rudd has now acknowledged he was involved in trying to get rid of Mr Har-kins, and it is time for him to explain what he was doing in the role and not make some lame excuse such as we have heard about Long Tan, Brian Burke and certain other matters. It is time for the Labor Party to show exactly where it stands on these issues. The line in the sand has been drawn in quicksand, as the Independent member for Franklin would be happy to tell you. (Time expired)

NetAlert

Senator CONROY (2.43 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Is the minister aware that on 24 August, just four days after the government’s $84 million NetAlert ISP filters were released, it was reported that a 16-year-old schoolboy had bypassed one of the filters in a little over 30 minutes? Isn’t the government wasting $84 million of taxpayers’ money on a program, as well as a further $22 million on advertising, when the filters could not stop a 16-year-old schoolboy from accessing inappropriate material? Isn’t this why we need the extra protection of ISP filtering provided for under Labor’s policy, which will ensure the offensive material does not enter Australian homes?

Senator COONAN—Thank you to Senator Conroy for the question. As is sympto-matic and systematic with Senator Conroy’s questions in the Senate relating to any matter in his shadow portfolio, he just simply gets it wrong. It is absolutely incorrect that the NetAlert filters have been compromised.

Senator Conroy—I said ‘bypassed’.

The PRESIDENT—Order, Senator Conroy!

Senator COONAN—It is absolutely in-correct. They have in fact been tested by an independent laboratory with the particular young person and his parents so that his claim could be tested. I can say unequivocally that the filters have not been directly compromised.

Senator Conroy—No, they were by-passed.

The PRESIDENT—Senator Conroy, you have asked the question. Listen to the an-swer.

Senator COONAN—Thank you, Mr President. What in fact happened has to do with the fact that software to create a new administrator password is available to people generally, such as people who have forgotten their passwords, and the bypassing on this occasion occurred through the setting aside of a password through the administrator function. This underscores that it is impor-tant that parents are very careful in setting up their Windows administrator function properly and that they regularly monitor the use of their computer to ensure that the settings they have determined have not been compromised by changes to the password. This is a matter that is being very closely investi-gated by Microsoft and it remains the fact that independent testing has indicated that these filters are sound and that they have not been compromised. This is a bit like giving a very young person the keys to a car. You would not do that; you would not give a young child keys to a car, and as a parent you certainly would not give them your pass-word. It is important that those listening to this particular broadcast recognise that in those circumstances it is not the filters that are the problem. The government and the filter vendors are working very closely with Microsoft.

This is a very significant package—$189 million to provide the most comprehensive set of arrangements to assist Australian fami-lies in keeping their children safe online. The
filters are only part of the package. It also contains extensive education and awareness training for families and schools. It contains another $43½ million for the Australian Federal Police to train in the order of another 100 police officers. It provides another $11 million for an outreach function for the regulator to go into schools and to community groups to help families and, most particularly, young people in dealing with issues on social networking sites such as cyber bullying and, of course, stalking, which is every parent’s nightmare.

It is a great shame that the Labor Party, having apparently endorsed this package, simply misunderstands it. It does not know that this completely supersedes anything that Labor has said on this, because the government has already announced that it will be providing a filter at ISP level so that parents have a choice. The Labor Party should stand condemned for criticising such an important program. (Time expired)

Senator CONROY—Mr President, I ask a supplementary question. Didn’t the minister promise Australian parents that they would get the technology and support they needed to protect their children online? Hasn’t the minister totally failed to protect Australian families by stubbornly refusing to adopt Labor’s superior ISP filtering policy? Why won’t she listen to her own backbenchers, such as Senator Guy Barnett, and just do it?

Senator COONAN—Senator Conroy has not yet grasped that we are doing it. There is an ISP-level filtering option as well as a PC based filter option. Senator Conroy can fulminate all he likes. What he must get his head around is the fact that Labor, as usual, just window-dresses. The Howard government has researched—

Senator Conroy—Thirty minutes!

The PRESIDENT—Order! Senator Conroy, I have been very patient with you. I ask you to come to order and let the minister complete her answer.

Senator COONAN—What I was in the course of saying is that the Labor Party will stand condemned for not protecting Australian families and for having some half-baked proposal when the government has a comprehensive arrangement that addresses the very best of technology and the very best of education. It is a fully funded and comprehensive safety initiative that puts Australian families first. The Labor Party has been comprehensively trumped by this whole program for safety on the internet. This is the most comprehensive program in the developed world. Labor might not like it but it should get on board in the interests of Australian families. (Time expired)

Asia-Pacific Economic Cooperation

Senator BOB BROWN (2.50 pm)—My question is to Senator Minchin. I ask: why on earth did this grim Howard government contrive to turn sunny Sydney into ‘sad city’ while the world watched on over APEC? I ask: what is the response to the tourism industry’s Christopher Brown, who said today: Empty streets with concrete barriers, high fences and riot squad officers, snipers in buildings and helicopters. We just got out of control ... we just didn’t get the balance right between the imagery and security. It was not the image we should send to the world and I can understand completely why those from the tourism industry, who had thousands of rooms given back and who had no customers for the period in the city ... that there would be a concern today.

What was the cost to the tourism industry of the excess above necessary security? I ask the minister: what gong will this government give to The Chaser for pricking the bubble of grimness the government put over APEC and for giving the world a bit of a laugh?
Senator MINCHIN—It must be appalling to be Senator Brown; he has such a gloomy view of the world. Everything is awful. Everything is terrible. Through you, Mr President: I do not know how you cope with that, Senator Brown. How you get up every morning, I do not know, to face this gloomy, dreadful world that you keep coming in here to tell us all about. I just do not know how you do it.

The reality is that Australia was honoured to be asked to host APEC this year. We have hosted an extraordinarily successful APEC. Yes, it had to be held in Sydney. There was a view that it might be nice if it could be held in Canberra, and there was some logic to that, but that was deemed not possible because there was simply not the commercial accommodation available for it to be held in Canberra. Therefore, it was decided, in cooperation with the—

Senator Chris Evans—What was wrong with Adelaide?

Senator MINCHIN—Yes, Adelaide might have been a good venue—I agree, Senator. It would have been lovely to have had it in Adelaide, but it was deemed that it would be a good idea to have it in Sydney because Sydney—and I speak as someone brought up in Sydney—is, I would have to say, our most beautiful city. It was an opportunity to showcase that great city to the world, with great respect to my Melbourne friends—

Senator Chris Evans—And Adelaide constituents!

Senator MINCHIN—Even my Adelaide constituents would consider that Sydney Harbour is better than Adelaide harbour, and it was an opportunity to showcase that great harbour to the world. Just as in the Sydney Olympics the whole world saw what a magnificent city Sydney is, through APEC the whole world has seen what a fabulous city Sydney is. I dare say that the tourism industry, having reaped a harvest from the Sydney Olympics, will now reap a harvest of tourism dollars from the fact that Sydney has received such extraordinary advertising—and I dare say, now that you have mentioned it, that The Chaser played some part in giving enormous publicity to Sydney through its particular activities at the Sydney APEC meeting.

I think Senator Brown should acknowledge the great opportunity that APEC provided for Australia. It is a great pity that meetings of this kind involving some 21 world leaders, leaders of three or four of the biggest countries on earth, the biggest economies on earth—such as China and Russia—regrettably have to be surrounded by inordinate security. I can say, as Minister for Finance and Administration, that I hate having to pay those bills. But the fact is that all these leaders are under threat. We do live in a much more dangerous world than any of us would like. There is terrorism abroad. All of these leaders face threats in their everyday lives. It is sad that the United States President, on the advice of his security delegation, has to get into a convoy to go 200 metres—that he cannot walk. That is a great pity, but I am afraid that that is the sort of world we live in and therefore inordinate security, regrettably, is required for these leaders to gather. But woe betide the world where leaders of this kind cannot meet together.

It is fabulous that leaders of these major nations, representing the APEC economies, can meet together in the great city of Sydney in the great country of Australia and discuss the very significant issues that face our region, from climate change to free trade, to security, to developing our economies, to increasing the prosperity of the peoples of the Asia-Pacific region. So I congratulate both the Prime Minister and the Premier of New South Wales on their hosting of this
great meeting and on the fact that they were able to gather together such significant world leaders and achieve such great outcomes for this country and the whole region.

Senator BOB BROWN—Mr President, I ask a supplementary question. I refer the minister to the *Sunday Telegraph* headline a week before APEC saying ‘Chaser planning APEC arrests’. I quote from that article:

Chaser member Julian Morrow told *The Sunday Telegraph* he was expecting his team to be arrested.

“We want to get a working majority arrested … “At this stage I think we’re on target. “We’re hoping at least three … will be arrested.” *The Chaser* said:

“We have every right to be there … “I think … the idea that politicians should be protected from scrutiny is a bad idea and that they should be protected from mockery is an even worse idea.”

I ask: how on earth did *The Chaser*, with such forewarning, get so far? Do ASIO read the *Sunday Telegraph*, the paper with the biggest circulation in Australia, and, if not, can the minister send them a subscription?

Senator MINCHIN—I think all fair-minded Australians delight in *The Chaser* every week. As Foreign Minister Downer said, it is their goal in life to humiliate as many people as they possibly can. It is very regrettable that *The Chaser* team surprised themselves by getting past two roadblocks and finding themselves outside the hotel accommodating the President of the United States. On the other hand, I think it needs to be said that *The Chaser* team would have been well advised to stop well short of the final destination they reached, because their own lives were put at risk by the actions they took and the lives of others were potentially put at risk by the actions they took.

The question of the security breach is of course a matter for the New South Wales Police, who will no doubt be reviewing their security practices. The fact is that this matter is now potentially before the courts, and it would be inappropriate for me to say too much. I think we should all acknowledge *The Chaser* team but note the risks they took in what they did. *(Time expired)*

**Housing Affordability**

Senator STEPHENS (2.58 pm)—My question without notice today is to Senator Scullion, representing the Minister for Families, Community Services and Indigenous Affairs. Is the minister aware that nearly 6,000 families in New South Wales have lost their home since the start of 2006 because they were unable to meet their mortgage repayments? Aren’t 90 households in New South Wales losing their homes every week in 2007 for this same reason? What advice does the minister have for working families who face the risk of losing their homes as a result of nine interest rate rises in a row? Don’t these rate hikes mean that families are now paying $430 extra each month on a $300,000 mortgage compared to before interest rates started going up? How could the government have broken its 2004 promise to these families to keep interest rates at record lows?

Senator SCULLION—I thank the senator for her question. There is something that must annoy those who are thinking about buying a new house, those who are paying rent and the sort of demographic that the senator referred to, and that is the blame game. This government is not into playing the blame game for someone else’s problems or responsibilities. We are about accepting responsibility for our constituents in Australia—right across the state and territory demographics—who deserve the very best. We have made an investment of over $1 bil-
lion a year over the last decade, and I do not think that there is any argument about that. As a consequence of that, through the states and territories, through Labor governments, we now have 13 fewer houses than we started with. We decided that that is probably not the best way to continue.

Senator Chris Evans—What have you been doing for 10 years?

Senator SCULLION—The Leader of the Opposition in the Senate asks what we have been doing for 10 years. To clarify, I was actually referring to the Labor governments in the states and territories. We have decided not to keep going down that road. What we have decided to do is engage the private sector. We have flagged that future investments we make will be made on the basis that the nature of the investment will not change. We are not going to be throwing good money after bad. The people on the other side, who continue to provide advice to us, should look very carefully at the model that is being provided.

Senator Stephens—I rise on a point of order. We are not talking here about department of housing stock. We are talking about 6,000 families—

The PRESIDENT—What is your point of order?

Senator Stephens—Please direct the minister to answer the question that I asked him.

The PRESIDENT—I cannot direct the minister to answer a question, but I remind the minister of the question.

Senator SCULLION—I am more than happy to be reminded. Basically, it is all about supply and demand. If there are not enough houses then there is nowhere to stay and the price of houses goes up. The senator used the example of a $300,000 purchase in New South Wales—the senator’s own state. Stamp duty on a $300,000 house in New South Wales is $8,990. For those who wish to purchase their first home, that is going to be a very dire situation indeed. Where the Commonwealth tries to provide relief for first home buyers in particular—and that is a little over $7,000—it is immediately gobbled up by the states, which have a love affair with money rather than with their constituents.

I think it is a bit trite coming into this place and lecturing us about opportunities for housing affordability. I could go through a number of other areas where stamp duty and the responsibility to try to keep the cost of housing down and make it more affordable go on and on, but in particular there is a close association with the provision of public and community housing. We can never have affordable housing without the amount of public and community housing increasing. We have made an investment of $9.6 billion over a decade. The Labor Party has mismanaged the provision of affordable housing to Australians and we are going to change that.

Senator STEPHENS—Mr President, I ask a supplementary question. I thank the minister for his answer, which of course is cold comfort to those 6,000 families who have lost their home since 2006. I ask the minister: how does his rhetoric help the young families who are losing their home as we speak because they cannot afford their loan repayments? Why does the Prime Minister claim that working families in Australia have never been better off when they are losing their homes in record numbers? How will young Australians be able to afford their own homes if mortgages and prices keep rising along with interest rates?

Senator SCULLION—with their record it is pretty amazing that the senator should come into this place and talk about the history of interest rates and their affect on housing.
Senator Carr—Who holds the record?

Senator SCULLION—Perhaps we need to clarify this on the record. The very lowest that those opposite ever achieved was 8.34 per cent. The highest that we were was 8.3 per cent. Interest rates have fluctuated between 6 and 8.3 per cent, while those opposite lorded over interest rates of between 8.34 per cent and 17 per cent. It was 17 per cent because those opposite have never been able to demonstrate that they could manage a trillion-dollar economy, and Australians who are listening to this broadcast today should be warned: they cannot trust Labor in government.

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

QUESTIONS WITHOUT NOTICE:

TAKE NOTE OF ANSWERS

Answers to Questions

Senator WONG (South Australia) (3.06 pm)—I move:

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

I particularly want to focus on the non-answers provided by Senator Abetz in relation to two issues, which demonstrate yet again how the Howard government’s extreme workplace laws have been bad for working Australians and their families. The first issue which this government is extraordinarily embarrassed about is the enormous backlog in the processing of agreements under their so-called fairness test. From the government’s own figures, we see that over 100,000 Australian workplace agreements are waiting to be approved under the government’s new system. This is a complete bureaucratic bungle. This is a red-tape nightmare for working Australian families and also for employers who are party to those agreements.

There is a backlog of over 100,000 Australian workplace agreements awaiting approval. Guess how many, under the new system, the Howard government have managed to actually process since their much trumpeted and much advertised new industrial relations laws—the result of what Mr Textor told Mr Howard to do. They have managed to process just over 6,000. There is a backlog of over 100,000 and just over 6,000 have actually passed, and 42,000 agreements require more information to be provided. This demonstrates many things. The first thing it demonstrates is that when the government pushed through its extreme industrial relations laws, it did not have a plan other than to get through to the next election. We all know, everyone in this chamber knows—and if those on the other side were honest they would get up and acknowledge this—that the government’s so-called fairness test was nothing more than a fig leaf to get them through to the next election. Australian working families know that these Howard government laws are bad for working people. They are bad for their wages and conditions and for their job security. They know that. The government passed a set of laws that were nothing more than a fig leaf to get them through to the next election because their polling information was telling them that Australians knew what was happening. They knew that these laws were about stripping away hard-won entitlements such as penalty rates, overtime, shift allowances and so forth.

The government have got a complete bureaucratic bungle here, with over 100,000 agreements just sitting there waiting to be processed, with 30,000 a month coming in. Even if this government were re-elected, how many months would it be before this backlog was processed?

I ask the Senate to consider one thing—and the minister refused to engage with this issue when asked the question: how many of
those 100,000 agreements are in fact so unfair that they fail the fairness test? As a result of your bureaucratic bungle, how many Australian workers are working under agreements which would not pass your so-called fairness test and will continue to have to work under inferior wages and conditions and under agreements which strip away penalty rates, overtime and shift allowances? How many Australians are covered by those 100,000 agreements? How many Australians will be working under agreements which are actually unlawful? The fact is you do not know. You cannot give an answer. All you can say is, ‘We’ve managed to process just over 6,000, but we do have 100,000 outstanding.’ There may be 100,000 working Australians involved here, some of whom will be covered by an agreement which is so unfair it would fail the fairness test, but they will have no recourse for months under this government. They will continue to have to take home lower wages and experience inferior conditions because of your unfair laws and because the one change you put in place prior to the election has not been able to be implemented.

Finally, in relation to the revelations in the papers today about the way in which the government’s laws make it easier to sack people, yet again what we see from Senator Abetz is not a denial that these laws make it easier to sack people—he did not even deny it; we see him shooting the messenger, shooting the academic. We see the same thing over and over again from Senator Abetz in this place. He is not prepared to engage with the argument. All we get is a personal, smear attack. That is all he does. He attacks the individual. Come in here, Senator Abetz, during question time and answer the question, and explain to the Australian people why your laws make it easier for large employers to sack people. If you do not believe that that is the case, explain why it is not.

What we saw again today is ducking and weaving, and another political attack on various individuals, but not dealing with the key issue. (Time expired)

Senator TROETH (Victoria) (3.11 pm)—We can see that Senator Wong is engaging in the politics of scaremongering. She has admitted that we do not know whether the number of agreements that she is talking about is fair or not. That is scaremongering. To make a statement and then admit that you do not know what the answer is is absolute scaremongering. The fact is that our workplace relations laws have been in place for less than two years. Yet more than 100,000 agreements are being reviewed and more than 1,000 new agreements are being lodged every day with the Workplace Authority, which is the independent umpire ensuring that the conditions of working Australians are being protected. It is this independent umpire that the Labor Party would scrap if it ever gets into government.

We do not apologise for a small delay in processing agreements, because we want to make sure that people are paid properly. That is our top priority. To speed up the process, we want to encourage employers to pay the right money to begin with. The Workplace Authority has a pre-lodgement system for agreements to fast-track the process. Of the 12,749 agreements which have been fully assessed, only 1,070 did not initially pass. Under the proper procedure, the Workplace Authority has written to the employer and employee, requesting changes be made to the agreement—within 14 days—so that it passes the fairness test. This is our system and it works well. If the employer does not make the changes, the agreement ceases to operate and the employer will need to back pay. If they fail to do that, they will be referred to the Workplace Ombudsman.
This system works very well. A great deal of thought went into putting it into place initially, and our reforms of the workplace shift right away from the Labor Party system where the rights of employers and employees were controlled and could only be changed by industrial tribunals and unions. Our system, workplace relations, fits very well with the idea that individual employers and individual employees can come to an agreement about the working arrangements that suit their own personal circumstances, rather than being forced to work under the old, one-size-fits-all system.

I always used to think of the system before I came into parliament as having the needle pointing totally in favour of unions. All I ever wanted to see was the needle shift to neutral on a gauge, you might say, so that employees and employers had equal rights and, under a fair and balanced system, they could be worked out. The difference between Labor’s approach to industrial relations and the approach taken by the coalition is that the coalition recognise that all of the regulation in the world cannot create jobs. We recognise that providing an economic framework that creates more jobs and better-paid jobs is the system that we want to have.

What we have done has determined whether the jobs growth and the increase in wages over the last decade will continue. We have seen the unemployment rate in Australia fall to an over-30-year low of 4.3 per cent and we have seen growth by 417,900 jobs since March 2006. I need hardly remind the Senate that, under the old industrial relations system presided over by Labor, the unemployment rate peaked in 1992 at 10.9 per cent and almost one million Australians were without a job. We have moved to a single national workplace relations system.

Julia Gillard is on record in the Adelaide Advertiser of 17 February this year as saying that the current workplace system hinders industrial action with all sorts of legal red tape. The fact is that the previous industrial relations system worked under 4,000 separate awards—4,000. And, given the chance, Labor will fall into line with the demands of their union mates—(Time expired)

Senator STERLE (Western Australia) (3.16 pm)—The sad part about the industrial relations debate is the untruths being spread by the government side. I can say that in all honesty, Mr Deputy President, because, like you, Mr Deputy President, I have seen myriad unfair, unbalanced Australian workplace agreements. History will judge the Howard legacy, and no doubt the Howard legacy will have a large contingent of bitterness about industrial relations. This government won the last election; there is no doubt about that. Mr Howard had absolutely no mandate to tip the Australian industrial relations system on its head. But that is what Mr Howard did, with help from honourable senators opposite, back in, I think, November 2005, when the government guillotined debate on the Work Choices legislation and rammed it through this place.

I have the privilege of travelling around the great state of Western Australia, speaking to a lot of people from all walks of life—people who are employed under Australian workplace agreements and people who have children employed under Australian workplace agreements. There are two levels of Australian workplace agreements. Prime Minister Howard, Mr Hockey and the rest of the government love to flag workplace agreements in the highly paid mining and resources industry. They do not like to talk about those disgraceful Australian workplace agreements found in the retail, hospitality, transport and construction industries. The government never wheel those out, because they are so disgraceful that they are embar-
rassed. But that is what Mr Howard’s legacy will be. Honourable senators opposite, you are all guilty—you all supported the legislation. You could not wait to ram it through. You will live with this legislation, and you will live with the effects that this legislation will have on the next generation of workers.

Yes, we are in a mining boom. In my state of WA, more than in any other state, we really are witnessing the mining boom. I have the privilege of going through all of those north-western communities, none more so than Karratha. You can make two visits in Karratha and on the Dampier Peninsula. You can go out to Woodside or you can go out to the Burrup and look around. I know the Burrup very well because I was driving trucks and helping to create that LNG gas plant back in the eighties. I also know of the ballooning of the population in Karratha.

Senator McGauran interjecting—

Senator STERLE—I would like to take the interjection from Senator McGauran, who would not know a worker if they walked up and headbutted him. He would not know a worker. When you are in Collins Street in Melbourne, stuck up on whatever floor you are on, Senator McGauran—through you, Mr Deputy President—do yourself a favour and get out there. Start talking to people who are employed under Australian workplace agreements who are not in the mining industry. Have a chat. Talk to those young kids in the retail industry.

The DEPUTY PRESIDENT—Senator Sterle, address your comments to the chair.

Senator STERLE—I will go through the chair, Mr Deputy President. As I said, through you, Mr Deputy President, Senator McGauran should get out and talk to young people who are employed in the hospitality industry, the retail industry and in some of the transport and construction industries. Do you know what will come and bite this government in the backside, Mr Deputy President? It is the question: how dare you go out there and look the next generation of Australians in the eye and tell them that this is the best thing for them? Mr Howard and this government have chucked decency and fairness out the back door; let us not make any mistake about that.

Labor has a plan. It is not for the next six or seven weeks of the election period, like that of Mr Howard. Labor has a plan for the next 10 years. Labor will install decency and fairness back into the Australian industrial relations system—decency that will create well-paying jobs for the next generation of Australians, not the drive for the bottom and the lowest common denominator. Mr Deputy President, I am sure that in your great state of Queensland it is fantastic to have this mining boom. But what will happen when this boom subsides? What will happen when it slows down? We can go back to the days when employment was running a little bit higher than what it is. The government have overseen the greatest skills gap in history. They have sat on their hands for the last 11 years. They have done nothing about the skills dilemma that we face in this country. The voters of Australia will have the opportunity to decide. Do they want decency and fairness? Do they want balance in the workplace? Do they want the best for their children and their grandchildren? We will know very soon, as the voters of Australia will have the opportunity to say which way they want to take Australia’s industrial landscape into the future. Decency and fairness is something that has built this country over the past 106 years of Federation—(Time expired)

Senator BIRMINGHAM (South Australia) (3.21 pm)—We have seen yet again today another desperate attempt by Senator Wong, Senator Sterle and others to reignite the scare campaign that Labor have been waging over a number of years now—the
scare campaign that they hope will propel them into government, but the scare campaign that Australians should not be fooled by. Towards the end of his remarks in this debate, Senator Sterle spoke of balance. This government has been working hard to get the question of balance right. It is a question of getting the balance right between protecting people in employment and providing jobs, and the economic environment necessary to provide those jobs. No amount of regulation—no amount in the world—creates jobs. The right economic environment is what creates jobs. That is what this government has been focusing on, in tandem with ensuring that we have enough protection for workers.

The results clearly speak for themselves, with more than two million jobs created under this government and employment at a record 10½ million Australians enjoying jobs today. They are the figures that matter. They are the results that have been delivered—more than 400,000 jobs since Work Choices was introduced. Despite all the scaremongering we hear from the other side of this chamber, some 84 per cent, 350,000, of the new jobs that have been created since Work Choices was introduced have been full-time jobs. So we are not seeing the plethora of new part-time opportunities or the casualisation of the workforce that those on the other side of the chamber claimed would occur. Instead, we have seen sustained, strong growth in full-time employment opportunities, which is certainly the most important thing we can do to provide a sound foundation and a sound footing for Australians, going into the future.

My colleague Senator Troeth outlined that the spurious claims being made by the opposition about the new fairness test are unfounded. We have introduced the fairness test in our quest to get the balance right—the balance that I spoke of earlier, between protecting workers rights and having the right economic framework. We have a system which is ensuring that all the AWAs are checked by the new authority and that they are detailed. The overwhelming majority of those that have been checked have been accepted.

The system we have introduced has created jobs and certainty. Contrast it with the system that Labor seeks to take us back to. That is a system that would reintroduce unfair dismissal laws and abolish the flexibility that this government delivered into the workplace. We risk those changes. There would be a reintroduction of unfair dismissal laws at the cost of some billions of dollars to the Australian economy.

Senator Sterle spoke of mandates. The other side of the chamber, time and again, voted against the abolition of unfair dismissal laws, no matter how many times this government—

Senator Colbeck—Forty-two times!

Senator BIRMINGHAM—Forty-two times, I am told, they voted against changing the unfair dismissal laws, no matter how many times this side took that issue to the people. We know that the Labor Party will strip those laws back. The Deputy Leader of the Opposition, whom they keep in hiding—Julia Gillard—has described the laws as fundamentally bad policy, short-sighted and ridiculous. These laws cost an estimated $1.3 billion a year for Australian small business and kept a cap on job creation. Since they have been lifted we have seen growth go through the roof, with some 400,000 jobs being created in that period of time. Instead, Labor and their union mates want to abolish that and take us back to the past.

Senator Sterle spoke about a plan for the future. In fact, Labor’s plan is one for the past. It is a plan to take us back to laws that gave us high unemployment, higher industrial disputation and lower growth in real
wages. That is the world they want to take us back to—all to keep their union mates, who have tipped more than $50 million into the ALP’s war chest over the last decades, happy and to deliver for them the power that they so need. *(Time expired)*

**Senator FORSHAW** (New South Wales)

(3.26 pm)—I think it is interesting that we are here today discussing the government’s workplace relations policy, Work Choices, because I understand that at this very moment there is a discussion going on within the government ranks about whether the Prime Minister is going to keep his job or whether he will be removed for ‘operational reasons’. Will he be fairly or unfairly dismissed? I do not think it matters. I think that on the other side of the chamber they are trying to figure out how they can get rid of the Prime Minister, because he has become a substantial liability to them. He has become a liability because it is his ideological obsession with deregulating Australia’s system of fairness and wage justice that has brought the government to the situation they find themselves in today. It is a situation where the Australian public are making it very clear they have had enough of Work Choices and Australian workplace agreements as a result of this government’s policies. But Mr Howard tells us that Australians have never been better off. What an absolute load of rot that is.

I recall over the past 10 or 11 years of this government the various debates that went on in this parliament as the government sought to whittle away and to undermine our system of industrial relations fairness and wage justice. They presided over an ever-increasing gulf between, on the one hand, a reduction in the protections for ordinary workers who relied upon industrial awards and the Australian Industrial Relations Commission and, on the other hand, executive salaries, which have skyrocketed. You now pick up a copy of the *Financial Review* any day and see the levels of bonus payments, levels of directors’ fees and salaries that are paid to senior executives, and there is absolutely no cap or control on them. The government have used the corporations power to extend their reach into industrial relations, but they have only used it for the weakest—the people who have the least bargaining power when it comes to their employment. They have not once considered the use of the corporations power to try and rein in the growth of executive salaries in this country.

When the government gained absolute control of the Senate after the last election, it proceeded apace to basically rip up the entire system of industrial protection in this country to give effect to the Prime Minister’s
long-held ideological obsession. Suddenly the definition of a small business went from 20 or 25 employees, as we all understood it was, to 100, so that any person employed in a business of fewer than 100 employees lost their rights to pursue an unfair dismissal claim. We just heard from Senator Birmingham about how many times we voted against the government’s changes. I am proud of the 42 times I voted against them, because what you were voting for, what you were putting through as legislation, was taking away the fundamental right of a worker to sue—to take action legally—if they believe they have been unfairly dismissed.

Senator McGauran—Not true!

Senator FORSHAW—That is exactly true. Of course, we now have the situation where many, many standard conditions of employment are no longer included in awards. (Time expired)

Question agreed to.

Uranium Exports

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.31 pm)—I move:

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Allison today relating to the sale of uranium to Russia.

I take note of the answer given to me about the deal which has just been struck between Australia and Russia to supply uranium—a deal said to be worth $1 billion. Last week at a Russia summit we heard from journalist Grigory Pasko, who was jailed in Siberia for five years. Why? Because he reported that the Russian government had dumped radioactive material in the Sea of Japan. He also told us that around 20 journalists who had written extensively on Russia, its corruption and its human rights abuses had lost their lives under the Putin regime. Garry Kasparov was reported this week as saying: ‘Don’t trust Russia. It will sell Australia’s uranium to rogue states.’ He said it is okay to trade in other goods and we should not worry so much about them, but uranium is different. It is not like carrots or car parts; it is a very dangerous commodity which is in great demand by those states that wish to build nuclear weapons.

The government says there is a nuclear safeguards agreement in place and we should not worry—that everything will be all right—but I ask the Senate to consider a couple of things. In just a few recent years there have been almost 200 incidents of radioactive material having gone missing, having been stolen, having been hijacked or having disappeared, and that involved quite large amounts of radioactive material. Russia does not actually need our uranium. It was amazing that the minister should say that this is all about Russia’s development of an extra 30 nuclear reactors sometime in the future. If that were the case, there would be no reason to rush this agreement with a deadline of September. Russia has a supply of uranium—it has its own—and those reactors will not be up and running for at least 15 years, probably more like 20 years. The real issue here is what is going to happen to our uranium. If it does not end up in Russian bombs, and it probably does not need to, it will be onsold. That was the warning given by those journalists.

In fact, Russia has about 700 tonnes of highly enriched uranium right now. It needs uranium to downgrade that highly enriched uranium so that it is useful to be sold on as nuclear power reactor fuel. We have not heard that from the government. The pretence—the great swindle in this whole deal—is that Russia needs our uranium and it needs it for its own domestic peaceful purposes. That is a nonsense. Not only does Russia have 700 tonnes of highly enriched
uranium awaiting reprocessing; it also has 10,000 nuclear weapons and has refused to disarm over the last decade. The first rounds were obsolete in any case, so it was hardly surprising that it would be prepared to dismantle them; but, like all of the weapons countries around the world, it has ignored its obligations under the nuclear non-proliferation treaty and is not disarming further weapons.

It does not make any sense whatsoever that Australia should deal in uranium with Russia. We have the opportunity to get some leverage over this country if it seriously wants our uranium—a $1 billion worth of it; that is a lot of uranium. If it seriously wants it then we should be insisting that human rights abuses be addressed in Russia. We should be insisting on democratic regimes being stronger, which might control what seems to be out of control in terms of the administration of Russia currently ignoring its own laws. What we need to do is make Australia’s efforts heard by Russia. That should have happened at APEC. The minister said: ‘Oh, well. There are international fora for us to talk about human rights protection and the like.’ But where it matters, where we can actually gain some leverage over Russia, we choose to turn the other cheek, to not bother, to not be worried about those journalists who now have been taught a very serious and important lesson by the Putin administration—that is, do not speak out or you will find yourself in jail. (Time expired)

Question agreed to.

PETITIONS

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

Attention Deficit Hyperactivity Disorder
To the Honourable President and members of the Senate in parliament assembled: The petition of the undersigned draws to the attention of the Senate:

That the high number of children in Australia prescribed mind altering drugs for “Attention Deficit Hyperactivity Disorder” is unacceptable. These drugs can cause heart attacks, strokes, suicidal tendencies, hallucination’s and other dangerous side effects and they are putting children’s lives at risk.

Parents are not told that the psychiatric manual (DSM IV) used to diagnose their children actually states, “There are no laboratory tests, neurological assessments or attentional assessments that have been established as diagnostic in the clinical assessment of Attention-Deficit/Hyperactivity Disorder.”

Despite these fact’s, over 250,000 prescriptions were written in 2005/06 for Ritalin and Dexamphetamine both Schedule 8 drugs (in the same category as cocaine, opium and morphine) for something that can not be scientifically proven to exist.

Your petitioners request that the Senate:

1) Protect our children from these dangerous mind altering drugs-and ensure that the rights of children and parents are protected by conducting a Public Royal Commission and or Senate Enquiry to fully investigate the above matters;

2) Ensure that parents are informed about the dangers of these drugs by placing a Black Box warning on all ADHD drugs, warning, of cardiovascular complications, suicidal tendencies, strokes and hallucinations.

3) The petitioners also request that it be made a condition of renewing a prescription under the PBS/PRPBS for “ADHD” drugs that any side-effects experienced during the previous month are reported to the TGA.

by Senator Ferguson (from one citizen)

Climate Change

The petition of young citizens of Australia draws to the attention of the Senate to the many pressing environmental issues likely to face young people, in particular, climate change.

As young Australians we say that climate change is no longer an issue for tomorrow, it is an issue for today. It is time to transform understanding into action. We have a right, along with all spe-
cies, to a sustainable future and a liveable planet. This right carries on to our children and grandchildren. Climate change affects all aspects of our lives. It impacts on our cultural heritage, including that of the oldest continuous culture on earth. It destroys a fragile environment unique in the world. Weather unpredictability, drought, increasing salinity, coral bleaching, sea level rise, habitat destruction, and biodiversity loss threaten our country’s future—and with it, our own.

The unprecedented pace and intensity of climate change becomes more pronounced every year. We recognise that the current extent of climate change is human induced. We no longer have the luxury of continued debate; the time for action is now. As young Australians we are ready to make this change. We call upon all Australians to join us.

This problem is global in dimension and personal in scope: each of us can make change now, and it is our responsibility to respond before it is too late. We see climate change as a threat but also an opportunity to build a more ecologically and socially responsible society.

Climate change poses a disproportionate impact on our Pacific neighbours, less developed nations, and marginalised peoples worldwide. Australia has an obligation to assist these vulnerable communities.

We acknowledge Indigenous Australians as the original inhabitants and continuing custodians of this land and their unique position and valuable knowledge in caring for their country. We are concerned that climate change threatens Indigenous land and Indigenous peoples’ ability to maintain culture. Any climate change debate must include Indigenous perspectives so that land management and environmental practice is respectful of Indigenous culture, heritage and sacred sites.

Economic sustainability and livelihoods depend on our natural environment. We believe the cost of goods and services should reflect their true environmental and social cost, and government subsidies should be directed towards renewable energy rather than fossil fuels. Australia’s economic interest lies upon realising the potential of sustainable innovation.

The solutions to climate change already exist in Australia. We do not need nuclear power; it is too unsafe, too dirty, and too expensive. Similarly, we believe the idea of ‘clean coal’ is a distraction postponing a just transition from fossil fuels to a real clean energy future.

Your petitioners therefore request that the Senate commit to:

- Ratify the Kyoto Protocol and take a leadership role in its upcoming second phase
- Funds and assists developing countries to both mitigate against the effects of climate change and ensure equitable access to sustainable energy resources, including supporting the Global Adaptation Fund.
- Recognise climate refugees and accept them to our country
- Set world-leading domestic mandatory renewable energy targets
- Ensure a just transition to renewable energy including through directing subsidies away from fossil fuels
- Focus its time, research and money on renewable energy sources; not fossil fuels or nuclear.

There should be no further nuclear expansion in Australia.

- Encourage business to adopt true environmental cost analysis
- Improving public transport, building and urban design
- Phase out land-clearing, recognising the value of forests as carbon sinks
- Create incentives for localised sustainable farming including community gardens and urban agriculture, to aim towards water and energy efficient agriculture.
- Incorporate compulsory ecological sustainability and climate change education into school curricula; and increase funding and support for community-based programs around awareness, action and resilience building to combat climate change.

by Senator Milne (from 133 citizens)

Petitions received.
NOTICES

Presentation

Senator Payne to move on the next day of sitting:
That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 September 2007, from 4 pm, to take evidence for the committee’s inquiry into Australia’s involvement in international peacekeeping operations.

Senator Parry to move on the next day of sitting:
That the Parliamentary Standing Committee on Public Works be authorised to hold a public meeting during the sitting of the Senate on Thursday, 13 September 2007, from 9.30 am to 11.45 am, to take evidence for the committee’s inquiry into the refurbishment of staff apartments at the Australian embassy complex in Tokyo, Japan.

Senator Wong to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) between 1932 and 1945, more than 200,000 women and children of Korean, Chinese, Filipino, Indonesian, Burmese and Dutch origin were kidnapped or forced into a sex slavery system enforced by the Japanese Imperial Army,
(ii) these victims, some as young as 12, were systematically raped and tortured in so-called ‘comfort stations’, and coerced to have sex with up to 40 soldiers a day, every day for years,
(iii) 62 years later the Japanese Government still refuses to accept responsibility for this crime, or acknowledge its guilt, or to apologise to the hundreds of thousands of women who suffered from these inhumane deeds, and
(iv) 44 members of the Japanese Parliament recently took out an advertisement in the Washington Post denying that this sex slavery ever occurred; and
(b) calls on the Government to:
(i) urge the Japanese Diet to pass a resolution to formally apologise to the women who were forced into sexual slavery during the Second World War,
(ii) urge the Japanese Government to provide fair compensation to these victims, and
(iii) urge the Japanese Government to accurately teach the history of comfort women in Japanese schools.

Senator Allison to move on the next day of sitting:
That the Senate—
(a) notes that the Medical University of South Carolina has conducted a sophisticated meta-analysis of 17 research papers covering 136 nuclear sites throughout the Western World with the following findings:
(i) death rates from leukaemia for children up to 9 years of age were between 5 per cent and 24 per cent higher depending on their proximity to nuclear facilities,
(ii) death rates from leukaemia for those up to 25 years of age were 2 per cent to 18 per cent higher, and
(iii) incidence rates of leukaemia were increased by 14 per cent to 21 per cent in zero to 9 year olds and 7 to 10 per cent in zero to 25 year olds;
(b) considers that research such as this shows the health impact of nuclear activity; and
(c) urges the Government not to proceed with uranium enrichment or nuclear power reactors in Australia in the light of this research.

Senator Bartlett to move on the next day of sitting:
That the Senate—
(a) acknowledges the World Heritage significance of the Tarkine wilderness in the north-west of Tasmania;
(b) notes that a nomination for the Tarkine to be listed on Australia’s National Heritage list was submitted in 2004; and
(c) calls on the Government to:
(i) put the Tarkine on the National Heritage List,
(ii) progress the Tarkine towards World Heritage listing,
(iii) support the development of a strategic plan, and a conservation management plan for the development of the region and the protection of the Tarkine’s outstanding natural and cultural values, and
(iv) support the development of sensitive and appropriate eco-tourism infrastructure in the region and reject costly and destructive proposals.

Senator Allison to move on the next day of sitting:

That the Senate—
(a) notes the call by the Obesity Policy Coalition for urgent government action to tackle Australia’s escalating obesity crisis, including:
(i) a ban on the marketing of unhealthy food to children under 16 years of age in all media, such as television, the Internet, e-mail and mobile phones, and
(ii) a mandatory ‘traffic light’ labelling system on the front of food packaging, and
(iii) removing the goods and services tax exemption for breakfast cereals that are high in sugar; and
(b) urges the Government to dramatically increase funding for the prevention of obesity in children and adolescents and to actively pursue changes to macro-environment strategies, such as food marketing and labelling.

Senator Allison to move on the next day of sitting:

That the Senate—
(a) notes that:
(i) 150 industrialised countries bound by the Kyoto Protocol met in the week beginning 27 August 2007 in Vienna and agreed to cut greenhouse gas emissions by an average of 5 per cent by 2012 and reached a non-binding agreement to target new cuts of 25 to 40 per cent by 2020 in an extension of the treaty,
(ii) the meeting also agreed on a position to take to the United Nations Framework Convention on Climate Change annual meeting in Bali in December 2007 to make substantial progress towards a final post-2012 agreement to extend Kyoto into a second commitment period,
(iii) the meeting agreed that the 25 to 40 per cent reduction was necessary if global warming was to be constrained to a temperature increase of between 2 and 2.4 degrees Celsius, and
(iv) the meeting officially recognised the findings of the Intergovernmental Panel on Climate Change in 2007 that global greenhouse emissions needed to be stabilised in the next 10 to 15 years and then substantially reduced by mid-century, and
(v) Australia and the United States of America were the only two industrialised nations not involved in the talks; and
(b) concurs with the agreement reached at the Vienna meeting and urges the Government to:
(i) re-engage with the Kyoto Protocol process in time for the Bali meeting, and
(ii) adopt a target for greenhouse cuts of at least 25 per cent by 2020.

Senator Abetz to move on the next day of sitting:

That, on Tuesday, 11 September 2007:
(a) the hours of meeting shall be 2.30 pm to 6.30 pm and 7.30 pm to adjournment;
(b) the routine of business shall be:
(i) questions,
(ii) the items specified in standing order 57(1)(b)(iii) to (ix), and
(iii) from 7.30 pm, government business only; and
(c) the question for the adjournment of the Senate shall be proposed at 10 pm.

Senator Milne to move on the next day of sitting:

That the following matter be referred to the Joint Standing Committee on Treaties for inquiry and report by 3 December 2007:

The Australia-Russia Nuclear Cooperation Agreement signed on 7 September 2007, with particular reference to:

(a) the ramifications of the agreement with respect to global and regional security;
(b) the risk that Australian uranium would be exported from the Russian Federation (Russia) to third states, contrary to agreements;
(c) the 2005 Russian deal to sell uranium to Iran to fuel the Russian-built Bushehr nuclear plant, in spite of widespread fears about Iran’s suspected nuclear weapons program;
(d) the implications of the agreement for sale of nuclear fuel to India;
(e) the extent to which the supply of Australian uranium would enable Russia to increase its export of nuclear material;
(f) the abuse of the rule of law, including corporate law, under Russian President Vladimir Putin’s rule;
(g) the ability to verify Russia’s compliance with any agreed safeguards noting, in particular, the European Parliament’s resolution of 10 May 2007 on the European Union-Russia Summit which expressed concern about, inter alia:
(i) Russia’s lack of respect for human rights, democracy, freedom of expression, and the rights of civil society and individuals to challenge the authorities and hold them accountable for their actions,
(ii) the use of force by Russian authorities against peaceful anti-government demonstration and reports of the use of torture in prisons, and
(iii) the restriction of democratic freedoms in the run-up to the Duma elections in December 2007 and the presidential elections in March 2008; and
(h) any related matters.

Senator Abetz to move on the next day of sitting:

That consideration of the business before the Senate on Wednesday, 19 September 2007 be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Bushby to make his first speech without any question before the chair.

Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (3.39 pm)—I give notice that, on the next day of sitting, I shall move:

That:

(a) the following bill be introduced: A Bill for an Act to amend the Northern Territory National Emergency Response Act 2007, and for related purposes [Northern Territory National Emergency Response Amendment (Alcohol) Bill 2007]; and
(b) the provisions of paragraphs (5) to (8) of standing order 111 not apply to the bill allowing it to be considered during this period of sittings.

I table a statement of reasons justifying the need for this bill to be considered during this period of sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

Purpose of the Bill

The bill makes amendments to consolidate the alcohol measures in the Northern Territory National Emergency Response Act 2007. For example, the 1,350 ml trigger for seeking and recording identification details in relation to takeaway alcohol sales will be clarified, certain exceptions made to the alcohol offences in relation to visitors to parks, and provision made for the
alcohol measures to be determined not to apply in a particular area if warranted, for example, by strong local alcohol management measures.

**Reasons for Urgency**

The existing alcohol measures take effect on Saturday, 15 September 2007. If these amendments do not pass and take effect before that date, stakeholders potentially face dealing with two differing regimes in a short period of time. This would create confusion, particularly at the point of sale, and potentially undermine public support for the new measures.

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

That the Senate—

(a) notes:

(i) the Asia-Pacific Economic Cooperation Leaders’ Sydney Declaration on Climate Change, Energy Security and Clean Development which states that ‘Ongoing action is required to encourage afforestation and reforestation and to reduce deforestation, forest degradation and forest fires...’;

(ii) that Australia is a signatory to the United Nations Framework Convention on Climate Change, which includes the following commitments:

4.1 (f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change’, and

4.2 (a) Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs’, and

(iii) emissions from Gunns Limited’s proposed pulp mill in Tasmania’s Tamar Valley will result in annual greenhouse gas emissions of at least 10.2 Mt CO₂ per annum, equivalent to 2 per cent of Australia’s total emissions in 2005; and

(b) calls on the Government to determine the quantity of greenhouse gas emissions that would be emitted by the pulp mill, including emissions resulting from forest harvesting, in line with the Sydney Declaration and Australia’s obligations under the United Nations Framework Convention on Climate Change Treaty.

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

That the Senate—

(a) notes the congressional testimony by the Commander of the United States of America’s forces in Iraq, General David Petraeus; and

(b) calls on the Government to immediately withdraw Australian forces from Iraq.

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

That the Senate—

(a) notes the:

(i) value and importance to the cultural landscape of Australia of its estimated 15 000 architectural heritage buildings, almost a third of which are in Tasmania,

(ii) dismantling of the independent Australian Heritage Commission, the relegation of the Register of the National Estate to state oversight and the subsequent downgrading of heritage issues at the federal level,

(iii) need for urgent repairs to some of Australia’s most significant heritage buildings, and

(iv) threat to one specific example, being the Holy Trinity Church in Hobart, de-
signed by convict architect James Blackburn, which faces closure and an uncertain future because the Anglican Church cannot afford the cost of sandstone renovation work; and

(b) calls on the Government to allocate monies in the form of a National Cultural Heritage Fund, along the same lines as the Higher Education Endowment Fund, to ensure that Australia's culturally significant heritage buildings are adequately maintained into the future.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes:

(i) that the Asia-Pacific Economic Cooperation (APEC) meeting was held in Sydney in the week beginning 3 September 2007 and that this event cost more than $300 million to stage, and

(ii) that the security operation involved:

(A) overzealous policing methods, including the violent arrests of journalists, an accountant and numerous peaceful protestors,

(B) intimidatory video surveillance of members of parliament and the community,

(C) rifles being pointed at the people of Sydney in low-flying helicopters and by rooftop snipers,

(D) freedom of movement being curtailed throughout Sydney by police,

(E) the prohibition of people entering parts of Sydney, based on unsubstantiated police accusations and secretive blacklists,

(F) police discouraging peaceful dissent against APEC through unnecessary shows of force, including police dogs, water cannons, deployment of the riot squad and the disproportionate show of force, and

(G) police not wearing name badges, and

(iii) the statement of the Prime Minister (Mr Howard) backing the conduct of the APEC security and police operations; and

(b) calls on the Government to:

(i) immediately apologise to the people of Sydney, who have had their civil liberties and freedoms suspended by APEC, and

(ii) support an independent inquiry into the conduct of the New South Wales police and others involved in the security operation during APEC.

Senator STOTT DESPOJA (South Australia) (3.44 pm)—I give notice that, on Thursday, 13 September this year, I shall move:

That the following bill be introduced: A Bill for an Act to guarantee paid maternity leave, and related purposes. Workplace Relations (Guaranteeing Paid Maternity Leave) Amendment Bill 2007.

This is the second time that I have introduced such legislation. Speaking of a second time around, I would like to declare in the nicest possible way a potential conflict of interest due next March. I do not expect to benefit from such legislation but I hope it has as quick a gestation period.

The DEPUTY PRESIDENT—Congratulations! It is not too often that I can say that for a notice of motion.

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 17 September 2007.

General business notice of motion no. 877 standing in the name of Senator Stott Despoja for today, relating to Hearing Awareness Week, postponed till 11 September 2007.
PROPOSED PULP MILL

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.46 pm)—I move:

That the Senate—

(a) calls on the Government to ensure that, in the spirit of the open market, no subsidies, payments or escape of taxes or payments be given to the Gunns Limited’s proposed pulp mill in Tasmania; and

(b) prefers that if taxpayer support for business is available it go to non-polluting, clean, green and environmentally-sustainable business.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.46 pm)—by leave—I move this amendment, copies of which have been circulated, to Senator Brown’s motion:

Omit paragraph (a), substitute:

(a) calls on the Government to ensure that no tax concessions or industry support or subsidy apply specifically or uniquely to the proposed Gunns Limited pulp mill in Tasmania that are not already available to corporations generally in that class of entity or industry; and

Question put.

The Senate divided. [3.52 pm]

(The President—Senator the Hon. Alan Ferguson)

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

AYES

Brown, C.L. Nettle, K. Nettle, R.
Campbell, G. Siewert, R. Stott Despoja, N.
COONAN, H.L. Siewert, R.

NOES

Abetz, E. Adams, J. Abetz, E. Adams, J.
Barnett, G. Bernardi, C. Barnett, G. Bernardi, C.
Birmingham, S. Bishop, T.M. Birmingham, S. Bishop, T.M.
Brandis, G.H. Bushby, D.C.
Brown, C.L. Campbell, G.
Brown, C.L. Campbell, G.
Cormann, M.H.P. Coonan, H.L.
Cormann, M.H.P. Coonan, H.L.
Faulkner, J.P. Eggleston, A. Faulkner, J.P.
Fielding, S. Ferguson, A.B. Fielding, S.
Fifield, M.P. Fieravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Fisher, M.J. Forshaw, M.G. Fisher, M.J.
Humphries, G. Hogg, J.J. Humphries, G. Hogg, J.J.
Hutchins, S.P. Hurley, A. Hutchins, S.P. Hurley, A.
Lundy, K.A. Macdonald, I. Lundy, K.A. Macdonald, I.
McEwen, A. Mcguaran, J.J. McEwen, A. Mcguaran, J.J.
McLucas, J.E. Minchin, N.H. McLucas, J.E. Minchin, N.H.
Moore, C. Nash, F. Moore, C. Nash, F.
Parry, S. * Polley, H. Parry, S. * Polley, H.
Payne, M.A. Polley, H. Payne, M.A. Polley, H.
Watson, J.O.W. Webber, R. Watson, J.O.W. Webber, R.
Wortley, D. * denotes teller

Question negatived.

Original question put:

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

The Senate divided. [3.56 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes........... 4
Noes........... 51
Majority....... 47

AYES

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

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Boyce, S.
Brandis, G.H. Brown, C.L.
Bushby, D.C. Campbell, G.
Colbeck, R. Coonan, H.L.
Cormann, M.H.P. Crossin, P.M.
Eggleston, A. Faulkner, J.P.
Ferguson, A.B. Fielding, S.

CHAMBER
Question negatived.

**CLIMATE CHANGE**

*Senator MILNE (Tasmania) (3.59 pm)—by leave—I move the motion as amended:*

(1) That the Senate notes that:

(a) it is well established that both ozone depleting gases and a number of replacement synthetic gases introduced in response to the Montreal Protocol have contributed to positive direct radiative forcing and associated increases in global average surface temperature;

(b) the Intergovernmental Panel on Climate Change and the Technology and Economic Assessment Panel of the Montreal Protocol have reported that synthetic greenhouse gas emissions represent about 14% of the total anthropogenic greenhouse gas emissions since 1750, and are rapidly increasing; and

(c) the United Nations Environment Programme has compared the accelerated phase out of hydrochlorofluorocarbons (HCFCs) under proposed changes to the Montreal Protocol to efforts to increase energy efficiency and other ‘quick wins’ to fight global warming.

Question put.

The Senate divided. [4.01 pm]

(The President—Senator the Hon. Alan Ferguson)

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Question negatived.

** MATTERS OF URGENCY **

*United Nations Declaration on the Rights of Indigenous Peoples*

The **DEPUTY PRESIDENT**—I inform the Senate that the President has received the following letter, dated 10 September 2007, from Senator Bartlett:
Dear Mr President,  
Pursuant to standing order 75, I give notice that today I propose to move:
That, in the opinion of the Senate, the following is a matter of urgency:
The need for the Australian government to support the adoption of the proposed United Nations Declaration on the Rights of Indigenous Peoples when it is put to the vote in the current session of the UN General Assembly.

Is the proposal supported?

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

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

**Senator BARTLETT** (Queensland) (4.05 pm)—I move:

That, in the opinion of the Senate, the following is a matter of urgency:
The need for the Australian Government to support the adoption of the proposed United Nations Declaration on the Rights of Indigenous Peoples when it is put to the vote in the current session of the United Nations General Assembly.

The Democrats have brought on this matter of urgency today because we believe it is an urgent matter. The United Nations General Assembly is sitting at present and it will be considering the issue of the adoption of a declaration on the rights of indigenous peoples within the next week. It is doubly appropriate because of course we have the Prime Minister of Canada in Australia at the moment. He will be addressing an unofficial session of the Australian parliament tomorrow. Canada and Australia are two governments that have been less than supportive—in fact, they have been amongst the least supportive publicly—of adopting the United Nations Declaration on the Rights of Indigenous Peoples.

It needs to be stated up-front that this declaration on the rights of indigenous peoples would not be binding. It is nonetheless an internationally agreed mechanism for recognising the rights of indigenous peoples and it sets benchmarks which all countries should seek to meet in ensuring that their indigenous peoples’ rights are acknowledged, respected, enforced and implemented.

The Howard government has of course on a number of occasions been quite hostile to the United Nations and to various international treaties and conventions. It has sought to belittle them a number of times. But it is particularly relevant, I think, to note that in recent times there have been fervent references to international conventions and laws by the Howard government to justify and reinforce their actions—including, the intervention in the Northern Territory with regard to Aboriginal people. The Convention on the Rights of the Child in particular was referred to regularly by government speakers and by the minister as part of the reason why the government had to act—to ensure that the rights under the Convention on the Rights of the Child were properly respected and implemented. Certainly that is a convention that the Democrats support, and indeed we would like to see it actually reflected properly in Australian law.

We have even seen the government make fervent pleas referring to the United Nations International Covenant on Civil and Political Rights to justify and reinforce its legislation and action to enable plebiscites on the amalgamations of local government in Queensland. So we are seeing in recent times what I think is a welcome number of statements by coalition government ministers referring to international conventions and international law which Australia has adopted as valuable...
benchmarks to justify actions here in Australia.

It is, I believe, a key moment for Australia and, indeed, for the global community to be adopting internationally agreed declarations setting out basic fundamental rights for indigenous peoples around the world and particularly ours in Australia. It is not engaging in self-flagellation or hairshirt politics or black armband politics, or any other pejorative phrases, to make the simple clear statement that Australia as a nation has failed its Indigenous peoples terribly over centuries. This has been done often unintentionally, often inadvertently, often unknowingly, but it is still a fact that we have done it. That is our legacy, that is our record, across the political spectrum, across all levels of government, across the decades. This covenant provides an opportunity for the Australian government to say, in conjunction with the global community, ‘We recognise these as fundamental rights for indigenous peoples and we will seek to commit to them.’

One of the areas that is often pointed to, and has in the past been pointed to by people speaking on behalf of the Australian government, as a problem in the declaration is the right of self-determination. So it is worth emphasising that, according to the very latest version that I understand is to be put to the United Nations General Assembly, article 46, part 1, specifically says:

Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States ... So any suggestion that self-determination and the right to self-determination somehow threaten the territorial integrity of Australia or the political unity of Australia is a furphy. This declaration also has a recognition in article 3:

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

That is simply a repeat of part 1 of article 1 of the United Nations International Covenant on Civil and Political Rights, which Australia has long ratified, stating that all peoples, including of course indigenous peoples, have the right of self-determination.

It is important in the current debate—not debating the specifics of the policies whether in the Northern Territory or anywhere else—to take note of some of the overarching attitudes that have been expressed and the directions and comments that have been made by government leaders. These are attitudes that have been interpreted by many indigenous communities as supporting assimilation as the only way forward, as supporting paternalism as an adequate attitude. There have been government members in this Senate who have said that. I believe that it is clearly counter to the human rights of anybody to have governments adopting paternalism and assimilation, but this applies particularly to the rights of indigenous peoples. A crucial part of these declarations is recognising that indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, whilst retaining their rights to participate fully in the political, economic, social and cultural life of the state, of the nation, they are a part of. It is possible to do that. It is not only possible but desirable, not just for indigenous peoples but for the future of our state. The Democrats believe that adopting this declaration is a matter of urgency. We urge the Australian government to vote in support of it in the UN General Assembly within the next week, and we also urge the Canadian Prime Minister, who is a guest in
our country at the moment, to consider doing the same on behalf of his nation. (Time expired.)

**Senator PAYNE** (New South Wales) (4.12 pm)—I rise to participate in this debate this afternoon on the United Nations Draft Declaration on the Rights of Indigenous Peoples. I start where Senator Bartlett ended, with the observation that, in the view of the Australian Democrats at least, this is a matter of some urgency. I do not think there is substantial demur about the importance of the declaration itself. In fact, its lengthy and considered development would indicate that, but I really do not think that the importance of considering it in a rushed manner when there are still matters to be resolved, certainly as far as our government and a number of other governments are concerned, is outweighed by the urgency that Senator Bartlett has in his view identified. It was interesting that in his early remarks he indicated that Australia—Canada can speak for itself—is one of the least supportive governments publicly. I find that somewhat ironic given that, in the development of the declaration itself, which has been in play now for over a decade, Australia has been intimately and constructively involved in that process. In many ways, the amount of time that has been spent and the engagement of senior officials which has been undertaken are an acknowledgement and an indication of the fact that we do regard this as an important piece of work by the United Nations.

Senator Bartlett made a number of specific references, including one to the right of self-determination, which I will come to in a moment. We support a meaningful declaration which will hopefully be achieved by a consensus of the states setting what would be regarded as a new standard of achievement with the potential to make some real difference in the circumstances of indigenous peoples across the world. We believe that indigenous peoples deserve and need a declaration which can be implemented meaningfully, not one which is rushed for the sake of signing on a particular dotted line.

As I said before, we have been involved in this process for over 10 years. We approached the consultations that were held in New York recently in a constructive, engaged and flexible manner. We put on record in New York the fact that our concerns could be met through very limited changes to the Chair’s text. We made a concerted effort to reduce our key concerns to the minimum number of possible changes so that we were not seeking a complete rewrite of the entire declaration, which would obviously be an extraordinary process. We are not trying to have the entire text renegotiated.

As I understand it, when a moderator, His Excellency Hilario Davide of the Philippines, was appointed to convene the recent consultations on the Declaration in New York, he recommended to the President of the UN General Assembly that a limited portion of the text that was adopted by the vote in the Human Rights Council in June last year be reopened. We thought that was a sound recommendation. We thought it would have honoured the spirit of the GA resolution of November 2006 which in fact deferred consideration of the declaration pending further consultations. We welcomed the GA decision to defer adoption of the declaration text to allow for further consultations.

I note Senator Bartlett’s observations about Australia’s attitude and approach to the UN, but we have always said that it is our strong preference that human rights instruments in particular be adopted by consensus to ensure the broadest possible support. This text was lacking in consensus. It was hastily put to the Human Rights Council for adoption and it was done without full and final consultations. In fact, as I understand it from
the statement issued by Australia, New Zealand and the United States during the Human Rights Council in June 2006 by Her Excellency Caroline Millar, our ambassador and permanent representative to the UN in Geneva, the text was issued over the internet with no opportunity for states to discuss it collectively, which does not seem to me like the most constructive process in the world.

We have a number of procedural concerns. We are concerned, as I said, that we have not been given the opportunity as states to discuss the text collectively because it was prepared and submitted by the chair of the working group after negotiations had concluded. There was plenary discussion about the declaration in June this year. There has still been no actual collective read-through of the final text and, as Senator Bartlett indicated, it is due to be considered on 13 September in the 61st Session of the GA. We will base the final decision on our voting position on the exact terms of any text which is put to the vote. I note that Senator Bartlett raises some issues about the current drafting of article 46. We really cannot support a text that does not address our key concerns, which have been put on the record, both singly and in company with other nations, on a number of occasions in the General Assembly, the Human Rights Council and the predecessor of the Human Rights Council, the Commission on Human Rights. There has been advanced, in recent times, a so-called African-Mexican compromise text, but we are still concerned about that because we do not think it adequately addresses our key concerns, which include the need for safeguards that will protect the territorial integrity of states and also the rights of third parties.

I will identify the six key concerns we have with the text as it currently stands. Notwithstanding Senator Bartlett’s observations about the drafting of the language in article 46, we still have concerns about the references to self-determination and the potential for misconstruing those. I do not see any particularly significant problem with trying to get clarity around that so that as many people as possible support the declaration. There are other states which have the same concerns.

On the question of land and resources, we are concerned that the provisions on those areas in the text ignore the contemporary realities of many countries which have indigenous populations. They seem, to many readers, to require the recognition of indigenous rights to lands which are now lawfully owned by other citizens, both indigenous and non-indigenous, and therefore to have some quite significant potential to impact on the rights of third parties.

Intellectual property is the third point we would raise. We believe that, as our laws here currently stand, we protect our Indigenous cultural heritage, traditional knowledge and traditional cultural expression to an extent that is consistent with both Australian and international intellectual property law, and we are not prepared to go as far as the provisions in the text of the draft declaration currently do on that matter.

We also have concerns about the inclusion in the text of an unqualified right of free, prior and informed consent for indigenous peoples on matters affecting them, which implies to some readers that they may then be able to exercise a right of veto over all matters of state, which would include national laws and other administrative measures. That would obviously be of concern to any sovereign government.

Further on the question of third-party rights, in seeking to give indigenous people exclusive rights over intellectual, real and cultural property, the draft text does not acknowledge the rights of third parties—in
particular, their rights to access indigenous land and heritage and cultural objects where appropriate under national law. That should not be a big stumbling block, but it is a matter which we wish to see addressed. The text in its current form fails to consider the different types of ownership and use that can be accorded to indigenous people and the rights of third parties to property in that regard.

I also want to make a note about matters of customary law. There are concerns about the way the text is currently drafted on the question of customary law and whether that may place indigenous customary law in a superior position to national law. We understand in talking about customary law that it is a law based on culture and tradition and is not one which is expected to override national laws and is certainly not one which should be used selectively by certain indigenous communities where it is possibly convenient to permit the exercise of practices which would not be acceptable across the broad.

They are the six points where we have concerns. We have tried very constructively—and I really do commend the statement by Her Excellency Caroline Millar on behalf of Australia, New Zealand and the United States in the Human Rights Council in June last year. She is intimately acquainted with this process. She has set out very, very clearly, for the council and for those who are interested, where the concerns actually are. It is a very constructive statement and one which I think others would do well to read. In that statement and on behalf of those nations she also made a number of suggestions about alternative procedures which could be taken which seem to have been ignored. (Time expired)

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (4.22 pm)—I too rise to contribute to this debate on the urgency motion this afternoon. I start at the point that we are really looking at a draft declaration which is not binding—which has, as we have heard, aspirational goals. We have heard a lot about aspirational goals in the last few days, particularly in relation to climate change: aspirational goals are now something that is very worthy and that we should all be adopting.

But, on the issue of the draft declaration and what it represents, Labor is concerned that we have come to the position where this draft declaration is going to be voted on, definitely by 17 September but probably as early as Thursday, and that after 24 years of negotiation, clear discussions, a lot of work and goodwill and a lot of extended negotiations and deliberations by a range of people, we now have the situation where Senator Payne would suggest there is no urgency around this issue, but in fact the situation for indigenous peoples around the world is getting more and more dramatically desperate by the day.

We only have to look at the situation of indigenous peoples in places like Chad and the Sudan—in Darfur—to understand how important this declaration is for the rights of indigenous peoples. It will affect those people. It is not just about the indigenous peoples of developed countries. In fact, it is much more important to the indigenous peoples of undeveloped countries and the circumstances with which they are presented.

The Australian government’s argument, presented by Her Excellency the Ambassador Rosemary Banks, the New Zealand representative speaking also on behalf of Australia and the United States, said that those countries could not accept the adoption of a text that she described as ‘confusing, unworkable, contradictory and deeply flawed’. She
suggested that the declaration’s reference to self-determination:
... could be misrepresented as conferring a unilateral right of self-determination and possible secession ... thus threatening the political unity, territorial integrity and the stability of existing ... Member States.

Senator Bartlett, in his contribution to this debate, has reflected on the most current drafting of the draft declaration. The draft declaration goes to some pains to address that issue in article 45, saying:

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.

Labor’s position on this issue is that this is another very shameful moment for Australia. It certainly confirms to the international community what they already think about our human rights record, especially coming so closely after the adverse international media reports about the Northern Territory intervention legislation. Let me tell you: we did not get very much positive reporting about that legislation.

The Prime Minister himself actually worked quite hard to destabilise the negotiations and the important work of consensus building on the rights of indigenous peoples around the world when he persuaded the new Prime Minister of Canada to completely reverse the position of the Canadian people and the Canadian government, when he visited Canada last year. That is a very significant thing. The Prime Minister’s department admitted last year that the Prime Minister lobbied the new Prime Minister of Canada to change that country’s position on the draft declaration. There was Canada, which had played a significant role in the negotiations for more than a decade and had collaborated with indigenous peoples around the world to draft a number of the provisions that were critical in building support among other states, and then, at the 11th hour, there was an about-face, with arm-twisting by Australia’s Prime Minister, to now denounce the position that the country had previously supported.

The declaration has major global implications. It is urgently needed as a major step towards addressing the widespread human rights violations affecting indigenous peoples across the world, and it is certainly a long-overdue step towards limiting the abuse and murder of indigenous peoples around the world. As I said, it has important implications for places like the Sudan.

We know that the declaration, like other UN declarations, is not legally enforceable. It is a non-binding document that certainly has no capacity to override Australian law. As I say, it is an aspirational document. After being adopted by an overwhelming majority of the Human Rights Council last year, we know that despite the opposition by Australia, New Zealand, Russia, Canada and America it will be adopted by the United Nations this week. We will just be the people, the developed countries, that have not supported the rights of indigenous people in developing countries in the world.

The declaration itself sets international standards for how aboriginal peoples, indigenous peoples, are to be treated in countries around the world. It says aboriginal peoples or indigenous peoples should have the right to determine their political status and have the right to all freedoms granted under the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights laws.

Senator Payne raised concerns about self-determination and that reminded me of what I was reading about the development of this draft declaration and the sudden interest by Australia in the issue of self-determination, which has been part of the Australian gov-
ernment’s Indigenous policy since 1972. Even until 1977, Australia was silent in the whole debate about self-determination. But it was in 1998 when the Howard government decided that Australia would seek to persuade Canada, New Zealand and the United States to demand the removal of the term ‘self-determination’ from the draft Declaration on the Rights of Indigenous Peoples. At the time, the Foreign Minister is reported as saying:

In the case of Australia, we don’t want to see a separate country created for indigenous Australians. We will be arguing that it might be better to use the term self-management rather than leaving an impression that we are prepared to have a separate indigenous state.

Of course, that is alarmist rhetoric. There is no sense that this draft declaration will lead to the establishment of a separate Indigenous state.

Labor is calling on the Howard government to show some moral courage and leadership and support the adoption of the UN Draft Declaration on the Rights of Indigenous Peoples. It is going before the UN this week and, despite the government’s opposition, the UN will adopt it. Labor is very proud of the constructive role that it played in the negotiations during the Hawke-Keating government and is pretty disappointed that the Howard government not only have taken an adversarial attitude to the negotiations but also have successfully lobbied other nation states, like Canada, to reverse their position. It is very clear that their opposition to the declaration is ideological because they continue, as we have heard today, to point out worst-case scenarios rather than interpreting the provisions of the draft declaration in good faith.

There are many people who are concerned about Australia’s opposition. Amnesty International and the National Council of Churches are among dozens of groups seeking a change of heart. We have had demonstrations outside Australia’s UN mission in New York calling on the Howard government to end its opposition to the declaration. More than 25 organisations were there, most representing indigenous peoples from various parts of the world. Right now in Australia, Indigenous Australians have no constitutional acknowledgement, no settlement, no bill of rights, no representative body and no national leadership on reconciliation. Adopting this declaration would give this country a set of aspirations that we can all hold on to.

Senator SIEWERT (Western Australia) (4.32 pm)—The Greens also support this motion and note in today’s paper Amnesty International’s ad, which is addressed to the Prime Minister of Australia, John Howard, and to the Prime Minister of Canada, Stephen Harper. They ask the respective governments to support this declaration. The ad says:

This week the United Nations is set to take a long overdue step when it votes on the adoption of a new Declaration recognising the fundamental rights of Indigenous peoples. Amnesty International members throughout Australia and Canada call on you to make it clear that your governments are prepared to join the world in supporting its adoption.

In Australia, in Canada and around the world, Indigenous peoples are universally among the most marginalised and persecuted people on the planet. There is no question that concerted international attention is needed if these grave abuses are to be addressed. The Declaration on the Rights of Indigenous Peoples will be central to these efforts.

It has taken more than two decades to get this far. In June 2006, the first major hurdle was cleared when the UN Human Rights Council adopted the Declaration. However, Australia and Canada joined forces with other governments and were instrumental in blocking its adoption at the UN General Assembly earlier this year.

Today an overwhelming majority of the world’s nations have indicated they support the Declara-
tion and are prepared to vote for its adoption. At long last there may be an international human rights instrument which delivers minimum human rights standards for Indigenous peoples. Canada and Australia should be among the global champions of this Declaration.

At this significant point in history, it is our hope and expectation that your governments will no longer stand in opposition to the Declaration. Indigenous peoples need your support, and certainly deserve no less.

We hear today that the government cannot possibly support the declaration because it is so rushed. It has been over two decades. Two decades! How long do you need to support this declaration? How long do you need to study it? It is longer than my son’s lifetime— and he is 18. He has not been in this world as long as you have been talking about this declaration.

There are seven states, I understand, who have major objections to this declaration, and I find that deeply objectionable. But when you scratch beneath the surface you probably do not have to scratch too far to realise why the Australian government does not want to support this declaration—because it does not want to exposing itself perhaps to accusations of violations under this declaration. When you look at the racially discriminatory legislation which has just been adopted by this government and which takes away people’s land, their rights to control their income and their decision making, it is no wonder that the government does not want to support this declaration. It is no wonder that this government does not want to support this declaration. It is no wonder that this government does not want to support this declaration when it is still presiding over a 17-year gap in the life expectancy of our Indigenous peoples, when it is still underfunding medical and health requirements for our Indigenous peoples in a major way and when it is still underfunding their housing requirements in a major way. Last year we saw the report from the UN Special Rapporteur on Adequate Housing, which showed the parlous state of housing in our Aboriginal communities.

Of course, the declaration calls on states to work closely with indigenous peoples, ensuring the protection of their rights pertaining to such things as self-determination, education, cultural identity and the use of lands, territories and resources essential to indigenous people’s livelihoods and ways of living. Did we see that with the legislation that just passed through this chamber? No, we certainly did not. There was no consultation with indigenous peoples around that legislation, which had to be exempted from the Racial Discrimination Act because it quite clearly contravenes it. It is no wonder that this government needs a little bit more time—maybe a quarter of a century. We have now had 24 years—maybe we need another year or two! Let us take it over the quarter-century mark to see if we can protect it.

This government has also gone about systematically undermining and removing representative organisations for Indigenous peoples, undermining their ability to make decisions, and has not addressed the issues that are so pertinently covered by this declaration. This is an important declaration, and I would have thought this government would have been proud to be one of the first to sign up. (Time expired)

Senator TROOD (Queensland) (4.37 pm)—It is a great privilege to be able to participate in this debate this afternoon. I want to express, as my colleague Senator Payne has done, some of the concerns that the government has about the declaration. In listening to the opposition and the minor parties on this matter, I have been rather curious. There has been much reference to moral courage, to good faith and to supporting the alleged body of opinion that exists within the international community in favour of this declaration. There was a reference to the fact
that we would be forever condemned if we were not to support the declaration which is to come before the United Nations in perhaps a few days time.

This is quite an extraordinary argument because it seems to suggest that Australia is not permitted to have its own view on these matters, that it is not permitted to assess an instrument that is proposed to become a declaration of the United Nations and that it is not permitted to assess whether or not that particular declaration is in Australia’s interests and in the interests of Indigenous Australians. I would have thought that every member of this chamber would assert and accept the proposition that, in relation to every matter that comes before any international body, any international organisation or any non-governmental organisation, Australia has the right to reflect on whether or not the particular proposal which is before the organisation is in its interests. The Australian government has taken the view that this declaration, as it now stands, is not in the interests of Australia and not in the interests, more widely and more generally, of indigenous peoples around the world. That is the important proposition. This document will not advance the cause of indigenous people anywhere on the planet.

In many ways, the Australian government would like to support this document. It has some merit, as Senator Payne pointed out. It is a document of some 46 articles and contains some articles which I think most of us could quite strongly support, such as ‘the right to a nationality’ and ‘the rights to life, physical and mental integrity, liberty and security of person’. Article 8 contains ‘the right not to be subjected to forced assimilation or destruction of their culture’, and so it goes. The Australian government’s position is to strongly support numerous elements of this document, but the view it takes of the document overall is that it is flawed.

The Australian government has worked constructively with other countries, over a long period of time, trying to secure a document which would have consensus within the international community. It has done that because it believes that that is the only kind of document that will be of value to indigenous people around the world. There is no point in the General Assembly approving a declaration from which a large number of significant countries are likely to dissent. We would be far better off if we could secure a document which had widespread international approval, and this document, as it currently stands, does not command that widespread international approval.

It ought to be a document which we can all look to with some pride and say, ‘This document sets a standard by which we wish governments to show concern for their indigenous people.’ This document, as it presently stands, does not reach that standard. It is an aspirational document. It is not intended to be law and, curiously, I think it was Senator Stephens who said that the fact that it was not going to be law was a reason why the concerns that we have should be set to one side. It is almost as though we should support rhetorical expressions of concern and, if they are not binding in law, add our name to a long list of countries which are apparently entirely happy with this document. The Australian government has worked constructively over a long period of time and, as Senator Payne pointed out in her contribution to the debate, we had hoped that there would be further time to assess the progress of the document.

It is flawed in various kinds of ways, and Senator Payne alluded to those shortcomings. One that she did not mention but I think deserves some recognition in the context of this debate is the fact that the document as it stands does not contain a definition of ‘indigenous peoples’. This seems to be an ex-
traordinary omission. Here is a document proposed to be an international declaration about indigenous peoples and there is no attempt, within the document, to make any kind of effort to define what an indigenous person might actually be. The absence of a definition leaves the document open to abuse. It provides the opportunity for separatist groups and minority groups—anybody who might wish to claim indigenous status—to abuse the forthright intent of the document. I would have thought that that was something which, on further discussion, might easily be eliminated. That opportunity for exploitation could easily be removed, and we could move to something which would have, at least in that respect, a wider degree of consensus.

Senator Payne alluded to some of the other shortcomings of the document. She alluded to the problem of self-determination. She alluded to the problem in relation to intellectual property. She did not allude to the concern expressed by Australia and several other countries in relation to the repatriation of human remains. It seems that, rather than being seen as an opportunity for indigenous people to repatriate remains taken from their country of origin, the document is being interpreted and construed by some states as allowing them to maintain their holdings of indigenous remains and artefacts. There may be some countries in which that would be an acceptable course of action, but it is hardly a state of mind or position that Indigenous Australians would encourage the Australian government to take on their behalf in relation to this declaration before the United Nations.

The general position of the government on this matter is that this is a document which we would very much like to support. It is a document which we have constructively contributed to over a long time. It is a document which we believe ought to be a sign of the international community’s position. (Time expired)

Senator MOORE (Queensland) (4.46 pm)—I too wish to partake in what I find to be a frustrating and disappointing debate. In terms of where we are at, I think it is clear that rarely does a perfect document come out of any organisation—in particular, the UN. The document in front of us, which is now in front of the world community, has been evolving over a long time. Some people say there has been 20 years of discussion since the original International Decade of the World’s Indigenous Peoples was declared. Most particularly, since the mid-nineties there has been a structured approach to the UN principles to look at how there can be an international commitment to the UN Declaration on the Rights of Indigenous Peoples. This declaration is a huge commitment and offers real hope to so many people. It is long and complex and uses many verbs—in fact, the preambles of all the UN documents that I have been acquainted with are often longer than the actual articles that people are agreeing to—but, in terms of what it offers to the world, it is invaluable. In fact, when we were talking with indigenous people this year on the International Day of the World’s Indigenous People, the UN High Commissioner for Human Rights talked about the hope this document could have for indigenous people across the world. She invited states and the international community as a whole to give particular attention to targeting indigenous people in programs to reduce poverty and also to make sure that people have their voice.

This is not an easy document to consume, but what we forget is that it is an aspirational document—a declaration; it does not actually bind any country of the world to take particular action. What it does is bind countries to look within their own programs of law to respect and acknowledge the rights of in-
digenuous people. When Senator Bartlett and Senator Evans talked to Tom Calma from HREOC in October last year, Mr Calma was asked, in his capacity as a commissioner, what the signing of this document would mean. In his evidence, Mr Calma said:

... it is a declaration. As such, it is a non-binding document ... It will then be up to each of the states—

that is, the governments of countries—to take up what they can do in this process. He went on to say:

But, from an indigenous person’s perspective, it will be the benchmark that we will be looking to encourage governments to try and follow. What needs to be recognised is that the declaration is really a compilation of all the various references to indigenous peoples in other conventions and covenants, so there is not really anything new—

in this document. As an integral part of two decades of consideration of issues around indigenous people, it is a declaration about which the United Nations, as a compilation of member nations, can stand together and say, ‘We accept this declaration.’ It does not mean that every state that signs up to the declaration will have to implement all the articles. This declaration will not mean that there will be a binding rule on self-determination and the issues that we have heard Senator Payne and Senator Trood identify—and quite rightly so, because these things belong under individual country laws—but what it will do is put on the international stage an awareness of, and focus on, the role of indigenous people within those frameworks. Australia should be leading in this area—in fact, we have led in the past. That is why I say again that there is a degree of disappointment in our discussion at this time.

There has been a recommendation from the Human Rights Committee that this declaration be taken up, so already a hope has been established amongst a number of indigenuous people who have attended and contributed to meetings of the Human Rights Forum. Many Indigenous Australians have gone to the UN, at various places, to talk about why such a declaration is important to them in their daily lives and about the issues of disadvantage they face on an almost daily basis. We have heard many times in this place about the horrific statistics on the suffering of Australian Indigenous people in health, in education and in life. Those same issues are being suffered—and the statistics are similar—by the various indigenous people across the world. The UN itself has put out statistics—and this is an estimate—that more than 370 million individuals, living in more than 70 countries, could be identified as indigenous people in 2007. Those numbers are confronting, but one of the most confronting things about them is that, when you go around and look at the living conditions, life expectancy and day-to-day issues faced by indigenous people in their own countries, they suffer disadvantage in so many cases. The declaration that is going before the UN assembly acknowledges indigenuous disadvantage and will establish the right of people to have expectations of education, health, land ownership and a genuine life within their own community.

They are the kinds of hopes and expectations that all of us have. Now we are hoping that as a part of the second International Decade of the World’s Indigenous Peoples the UN assembly will acknowledge, through the various articles of this particular declaration, that all peoples who are indigenuous to their lands will be able to work together to achieve these within their own processes.

We are celebrating in so many ways in our country this year the 40th year of the rights of Indigenous people to vote and to be citizens in our country. Earlier this year, a friend of mine, Jackie Huggins, in speaking at one of the very many celebrations around those
issues, talked about the processes that were established in her family when they were fighting for reconciliation 40 years ago. She said:

To me, like my mother ... reconciliation has always encompassed three things: recognition, justice and healing.

They are the three components that are encompassed in the international Declaration on the Rights of Indigenous Peoples. We can look together and see that across the world people are saying that Indigenous peoples have the right to recognition, the right to justice and the right to healing. That is what this declaration is about. We can achieve it and we can work within our own laws to give hope to our own people and people across the world.

Senator CORMANN (Western Australia)
(4.53 pm)—Mr Acting Deputy President, I also rise to contribute to this debate today. Let me say at the outset that I support the view that the Australian government should only support the adoption of the proposed United Nations Declaration on the Rights of Indigenous Peoples if it is in our national interest to do so and if it is in the interests of indigenous people. For that to be the case we require some of our outstanding concerns to be addressed. In fact, when it comes to human rights instruments like this one it is the norm, and quite appropriately our preference, that they be adopted by consensus to ensure broad support. At this point it is very clear that consensus has not been reached. Indeed, it is our view that the current text has been put forward much too hastily for adoption by the Human Rights Council. That is obviously disappointing, and hopefully some more work can be done to reach that consensus between now and when the ultimate vote is taken—although at this stage it would appear that is rather unlikely.

By way of general comment let me say that we need a declaration that is focused on making a real, positive difference in the circumstances of indigenous people. I share the view that we need a declaration that is clear, transparent and capable of implementation. Our concern is that the current text is confusing and would risk endless and conflicting interpretations and debate in its application. There are a series of very specific concerns, and some of them have been mentioned in the debate so far.

Firstly, there is a concern in relation to the provisions about self-determination. Let me read to you current article 3 of the text as it stands:

All peoples have the right to self-determination. By virtue of that right they may freely determine their political status and freely pursue their economic, social and cultural development.

Self-determination has significant meaning in public international law, and we are quite appropriately concerned that references to it in the current text could be misconstrued as conferring the right of secession upon indigenous peoples. Let me read out to you a definition of the principle of self-determination:

The principle of self-determination, often seen as a moral and legal right, is that every nation is entitled to a sovereign territorial state, and that every specifically identifiable population should choose which state it belongs to, often by plebiscite. It is commonly used to justify the aspirations of an ethnic group that self-identifies as a nation toward forming an independent sovereign state, but it equally grants the right to reject sovereignty and join a larger multi-ethnic state.

Senator Moore mentioned that self-determination in this context does not mean that indigenous peoples would seek to exercise their right to self-determination by way of a separate entity. Well, if it does not mean that, why does it say so in the current text of
the declaration? If it does not mean that, why wouldn’t we clarify the text and amend it such that a broader consensus can be reached? Those are questions that will need to be answered.

We also have very serious concerns about the provisions in relation to land and resources. The current provisions on land and resources appear to ignore today’s realities and we believe them to be unworkable and unacceptable. As they currently stand they would appear to require the recognition of indigenous land rights to lands now lawfully owned by other citizens, both indigenous and non-indigenous. In fact, it is our view that the text as it currently stands does not sufficiently recognise third-party rights—in particular, the rights of third parties to access indigenous land, heritage and cultural objects where appropriate under our laws. Another example of that relates to the inclusion of intellectual property rights. We do not support the inclusion of intellectual property rights for indigenous peoples in the text of the declaration. While we protect our Indigenous cultural heritage, traditional knowledge and traditional cultural expression to the extent that they are consistent with Australian and international property law, we will not provide sui generis intellectual property rights for Indigenous communities as envisaged in the declaration.

We are concerned also about the inclusion in the text of the declaration at present of what appears to be an unqualified right of free, prior and informed consent for indigenous peoples on matters affecting them. Senator Payne has talked about that. That provision would seem to imply that they may exercise the right of veto over all matters of state, including national laws and administrative matters. We do support the full and active engagement of indigenous peoples in democratic decision-making processes, but no government can or should accept the notion of creating different classes of citizenship.

Finally, we do not support the text as it currently stands which would appear to place indigenous customary law in a superior position to national law. Customary law is not law in the sense that modern democracies use the term; it is based on culture and tradition and should not override national laws. Very specifically, I strongly support the view that customary law should not be used selectively as an excuse to permit the exercise of practices by certain indigenous communities which would be unacceptable in the rest of the community.

A suggestion was made that the text is aspirational and not legally binding. While that is true, the position put forward by Australia, New Zealand and the United States is that we need a text that is capable of implementation and that represents a standard of achievement that various countries can be measured against. In summing up, previous speakers on the government side have made the point that this is a declaration that we would like to be able to support. It is very clear that at this stage a consensus has not been reached. We very strongly encourage all of the relevant states that are participating in the consultations and negotiations to do everything that they can to reach that consensus between now and 13 September—or even after that if that is necessary. But at this point in time, I support the proposition that it is not in our national interest or in the interests of Indigenous people for Australia to support the adoption of the proposed declaration in its current form.

Senator CROSSIN (Northern Territory) (5.00 pm)—I rise this afternoon to provide some support for the call put forward this afternoon for the need for the Australian government to support the adoption of the proposed United Nations Declaration on the
Rights of Indigenous People. After 20 years of long, hard and considered work and debate internationally through the United Nations, there is an intention to put this declaration before the current session of the United Nations General Assembly sometime this week. I have to say that the government’s response is disappointing but not unexpected. Essentially, what they are saying is that they will not be supporting this declaration because it does not line up with their policy on Indigenous affairs. We have seen that unfold quite dramatically in the last three months in relation to the Northern Territory.

This declaration has evolved through a long process which has stretched from 1982, when it was first suggested that a human rights standard be developed by a working group. In 1985, that working group began preparing the draft declaration. In 1993, the working group agreed on the final text. There have been further amendments to that text recently. There was also a world summit in 2005. In 2006, the fifth session of the United Nations Permanent Forum on Indigenous Issues called for the adoption of the declaration. In June 2006, the United Nations Commission on Human Rights, which is now called the Human Rights Council, endorsed and adopted this declaration. It is pretty much coming down the final straight and heading to the finish line.

It is disappointing that Australia will not be there leading the world when it comes to forging a path on indigenous issues. Unfortunately, we have never been able to step up to the mark when it comes to those issues. Canada and New Zealand have some concerns with this. If we have a look at what is happening over in Norway and other places, we see that some countries have proven to be world leaders when it comes to dealing with indigenous people. But Australia never seems to have gotten it quite right. Australia remains among a group of only seven states to delay the final adoption of this important and long-overdue declaration. We stand with Canada, Columbia, Guyana, New Zealand, the Russian Federation and Surinam, who have all publicly called for further negotiations to redraft the central provisions of the declaration. It is sad to think that this could lead to unacceptable delays in the adoption of the declaration. We run the risk of the declaration never being adopted at all or its provisions being so weakened and undermined as to be meaningless, denying indigenous peoples the protection to which they are entitled. Amnesty International believes that the adoption of the declaration is a critical step towards ending the pervasive human rights violations that are faced by indigenous people right around this globe.

The declaration calls on states to work closely with indigenous people in ensuring that their rights are protected. This is where the government’s intent is fundamentally different to the intent of the declaration. The declaration points to self-determination. This government has publicly said that it has a policy of assimilation. The declaration talks about intellectual property rights. There has long been a call by Indigenous people in this country for their intellectual property rights to be recognised through research and through legislation, particularly when it comes to Indigenous art. The declaration calls for the recognition of customary law. There is some bizarre notion that Indigenous people here would seek to have their customary law override any other sort of judicial law. In fact, what Indigenous people here are calling for is recognition and respect for that customary law. I have not met one Indigenous person who believes that their customary law should override criminal law. (Time expired)
Question put:

That the motion (Senator Bartlett's) be agreed to.

The Senate divided. [5.10 pm]

(The President—Senator the Hon. Alan Ferguson)

Ayes…………… 33
Noes…………… 35
Majority……… 2

AYES

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

NOES

Abetz, E.  Adams, J.  
Barnett, G.  Bernardi, C.  
Birmingham, S.  Boyce, S.  
Brandis, G.H.  Bushby, D.C.  
Colbeck, R.  Cormann, M.H.P.  
Eggleston, A.  Ellison, C.M.  
Ferguson, A.B.  Ferravanti-Wells, C.  
Fifield, M.P.  Fisher, M.J.  
Heffernan, W.  Humphries, G.  
Johnston, D.  Joyce, B.  
Lightfoot, P.R.  Macdonald, I.  
Macdonald, J.A.L.  Mason, B.J.  
McGauran, J.J.J.  Minchin, N.H.  
Nash, F.  Parry, S.  
Patterson, K.C.  Payne, M.A.  
Ronaldson, M.  Scullion, N.G.  
Troeth, J.M.  Trood, R.B.  
Watson, J.O.W.  

PAIRS

Conroy, S.M.  Boswell, R.L.D.  
Evans, C.V.  Coonan, H.L.  
Hutchins, S.P.  Kemp, C.R.  
Sherry, N.J.  Chapman, H.G.P.  

* denotes teller

Question negatived.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator Barnett) (5.13 pm)—Pursuant to standing orders 38 and 166, I present documents as listed below which were presented to the President, the Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised. In accordance with the usual practice, and with the concurrence of the Senate, I ask that the government responses be incorporated in Hansard.

The list read as follows—

Documents presented out of sitting

Committee reports
1. Economics Committee—Report, together with the Hansard record of proceedings and documents presented to the committee—Private equity investment in Australia (received 20 August 2007)
2. Rural and Regional Affairs and Transport Committee—Report—Unauthorised disclosure of committee proceedings (received 22 August 2007)
5. Employment, Workplace Relations and Education Committee—Interim report—Indigenous Education (Targeted Assistance)
Government responses to parliamentary committee reports

1. Parliamentary Joint Committee on Corporations and Financial Services—Report—Timeshare: The price of leisure (received 30 August 2007)

   The Government response read as follows—

   COMMONWEALTH GOVERNMENT RESPONSE TO THE PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES REPORT ON TIMESHARE: THE PRICE OF LEISURE

   Government response to the report of the parliamentary joint committee on corporations and financial services—Timeshare: the price of leisure background

   On 8 December 2004, the Parliamentary Joint Committee on Corporations and Financial Services (PJC) agreed to conduct an inquiry and report on the regulation of the timeshare industry. The report, entitled Timeshare: The Price of Leisure, was tabled in the Parliament on 5 September 2005.

   The report contains 19 recommendations, the main one being that timeshare schemes should no longer be regulated as managed investment schemes under Chapter 5C of the Corporations Act 2001, but should be given their own chapter. The report also recommends that the new chapter should contain a number of consumer protection provisions.

   Other substantial recommendations of the report are that contracts for the purchase of timeshare interests be required to include a minimum buy back amount and that an Australian Government agency (and possibly agencies in the States and Territories as well) be established to acquire compulsorily the interests of delinquent members in older ‘title-based’ timeshare schemes.

   The Government’s response to each of the report’s recommendations is outlined below.

   THE GOVERNMENT’S RESPONSE TO THE COMMITTEE’S RECOMMENDATIONS

   RECOMMENDATION 1

   The Committee recommends that timeshare should continue to be regulated under the Corporations Act 2001.

   The Government supports this recommendation.
Regulation of timeshares under the Corporations Act is appropriate and works effectively to control the operations of the industry and its conduct.

RECOMMENDATION 2

The Committee recommends that:

- Timeshare should be removed as a definitional element of the managed investment funds under s.9 of the Corporations Act 2001; and

- A separate chapter be inserted into the Corporations Act 2001 to deal specifically with timeshare.

The Government does not support this recommendation.

Timeshare schemes share all the basic elements of managed investment schemes and therefore warrant regulation as such. Where timeshare has unique characteristics compared with other managed investment schemes, the Corporations Act contains sufficient flexibility such that the requirements can be modified. Indeed, ASIC has used its power in this area to grant concessions and ‘relief’ to various timeshare schemes.

Inclusion of a new chapter of various consumer protection measures would replicate existing provisions in the ASIC Act and Corporations Act which already apply to financial products such as timeshare interests (as managed investment schemes, timeshare schemes are also financial products.)

RECOMMENDATION 3

The Committee recommends that the Australian Competition and Consumer Commission (ACCC) establish and maintain a watching brief on the level of concentration of the Australian timeshare market.

The Government does not support this recommendation.

The ACCC is the independent statutory authority responsible for enforcing and administering the Trade Practices Act 1974 (TPA). In undertaking this role, the ACCC considers and investigates information regarding potential breaches of the TPA. Relevantly, subsection 29(1A) of the TPA prohibits the Minister from giving directions to the ACCC about the performance of its functions or exercise of its powers under Part IV of the Act (prohibition of anti-competitive conduct).

The ACCC carries out these functions in accordance with its statutory obligations and is resourced sufficiently to do so. The ACCC will continue to make appropriate decisions regarding monitoring, in the light of complaints it receives and other information it gathers.

RECOMMENDATION 4

The Committee recommends that the proposed chapter in the Corporations Act 2001 include specific provisions proscribing pressure selling tactics in the sale of timeshare. These provisions should include the remedy of a full refund to any customer who can reasonably show that their decision to enter a timeshare contract was procured by physical, psychological, social or economic threat or intimidation.

The Government does not support this recommendation.

Existing financial services regulation in the Corporations Act and ASIC Act already deals with this issue. Specifically, sections 12DB and 12DC of the ASIC Act which deal with false representations and other misleading or offensive conduct have a wide application. Additionally, sections 12DJ and 12CB prohibit certain activities, including harassment and coercion and unconscionable conduct, and section 992AA of the Corporations Act addresses anti-hawking practices.

As a condition of their licence, cooling-off provisions apply to Australian financial services licensees who sell timeshare - the length of that cooling off period depended on the nature of the scheme and whether the parties were members of ATHOC. ASIC’s revised policy statement extends this cooling off period across the board to 14 days, effective on 30 September 2007. This will provide added protection for consumers against pressure selling.

Implementing this recommendation would involve the introduction of additional regulation, which would duplicate existing provisions, with little demonstrated benefit.
RECOMMENDATION 5
The Committee recommends that the Australian Timeshare and Holiday Ownership Council (ATHOC) produce a detailed statement of practice outlining the types of behaviour which should be regarded as pressure selling in timeshare.

The Government supports this recommendation but notes that this is a recommendation for which it is not responsible as it is directed to a specific industry body.

The Government recognises the significance and importance of industry bodies in assisting with the co-regulatory process, including providing their industry members with relevant standards and codes of practice to regulate industry behaviour. Codes offer an efficient and flexible method for encouraging good practices.

ATHOC has indicated its strong support for a co-regulatory role with ASIC.

RECOMMENDATION 6
The Committee recommends that future training courses provided to timeshare sales personnel should include specific training on the avoidance of pressure selling.

The Government supports this recommendation. The selling of financial products such as timeshares is regulated under the Corporations and ASIC Acts and includes obligations to ensure staff are trained appropriately. Legislation already regulates pressure selling issues (as set out in the response to recommendation 4 above) and provides a full suite of provisions to regulate how timeshare advice is provided. The legislation also includes appropriate penalties for breaches.

The Government would support further emphasis on training on this issue but notes that in relation to managed investment schemes, such as timeshare, training already exists on misleading or deceptive conduct and unconscionable conduct practices, which would encompass the issue of pressure selling. Again, the industry codes of conduct will help address this issue.

The Government supports training packages that ensure that those selling timeshare schemes are made aware of their obligations under the law and how to comply.

In the context of the Government’s Corporate and Financial Services Regulation Review Proposals Paper, ASIC has committed to undertake a review of its training requirements under Policy Statement 146. Changes suggested and strongly endorsed include providing specific training for specific services, such as timeshare.

RECOMMENDATION 7
The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 state any approach to a potential timeshare customer, whether by a timeshare company, a marketing company, or any other agency, must make it clear that:

- The purpose of the approach is, or includes, selling an interest in timeshare; and
- Any inducement offered is premised on attendance at such sales seminars.

The Government does not support this recommendation. Existing financial services regulation in the Corporations Act and ASIC Act already deals with this issue (misleading and deceptive, and unconscionable conduct). Again, industry codes of practice and conduct would also satisfactorily police this issue without the need for further regulation. We note that ATHOC sets out in its codes for members that all its members who market to consumers must state to their clients that they are being sold a financial product, such as a timeshare or holiday ownership.

RECOMMENDATION 8
The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 mandate that:

- Any term of any offer made in the course of selling timeshare should be available for one week after the term is offered; and
- Such terms should not be offered on the basis that the customer can only obtain the term by signing the contract immediately.

The Government does not support this recommendation.

Cooling off provisions already apply to sales of timeshares by Australian financial services licensees and allow the consumer the option to notify
the seller that they want to rescind the contract and obtain a full refund. This will be further enhanced by ASIC’s extension of the cooling off periods to 14 days (refer recommendation 4 above).

The provisions in the ASIC Act relating to unconscionable conduct and harassment also offer consumer protection against such practices. Further, ATHOC’s industry codes of practice and ethics reflect the need to ensure that operators do not intimidate or threaten consumers to sign contracts.

Any further regulation would mean duplication and be unnecessarily burdensome.

**RECOMMENDATION 9**

The Committee recommends that timeshare sellers be required to disclose to consumers that an interest in timeshare does not involve any form of ownership of real property. This disclosure should be:

- made prior to contract information;
- made in clear language; and
- included in the relevant Schumer boxes.

The Government does not support this recommendation.

The Corporations Act sets out the information which must be provided in a product disclosure statement which needs to be issued for the sale of a financial product such as timeshare. This includes information about any significant characteristics or features of the product or of the rights, terms, conditions and obligations attaching to the product. Further, there is an existing requirement that this information be presented in a clear, concise and effective manner.

The corporations legislation also contains provisions to prohibit false or misleading conduct.

**RECOMMENDATION 10**

The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 should contain anti-hawking provisions similar to those contained in s.992A of the Corporations Act, and should make it clear that those provisions apply to unsolicited contact intended to procure attendance at sales seminars.

The Government does not support this recommendation.

The Corporations Act already prohibits hawking in relation to the offer of financial products (section 992A and 992AA). Section 992AA generally prohibits the offer of interests in managed investment schemes for issue or sale in the course of, or because of, an unsolicited meeting or telephone call.

**RECOMMENDATION 11**

The Committee recommends that the current requirement for Tier 1 level training for timeshare sales personnel should remain, but that training courses should be developed specifically for timeshare.

The Government supports this recommendation.

Legislation already allows the setting of minimum training standards for financial product advisers.

As noted in recommendation 6 above, training requirements are being reviewed in the context of the Government’s current Corporate and Financial Services Regulation Review. The issue of appropriate training requirements was raised in the context of avoiding a “one size fits all” approach and allowing for training requirements to provide greater recognition of different skills and competencies relevant to the different streams of business.

**RECOMMENDATION 12**

The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 should include mandatory cooling-off periods of 10 business days for all timeshare sales, regardless of whether the timeshare company is a member of the Australian Timeshare and Holiday Ownership Council (ATHOC) or not.

The Government does not support the recommendation that there be a new chapter of the Corporations Act devoted to timeshare.

Cooling off periods do not apply under the Corporations Act (as timeshares are not considered to be liquid assets Reg 7.9.64(1)(e)), but do apply under ASIC licensing conditions for timeshare licensees.
RECOMMENDATION 13
The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 should require that timeshare customers be advised of their entitlement to a cooling-off period by:

- a document of one page approved by ASIC for this purpose; and
- advice of the entitlement and the length of the cooling-off period in the contract’s Schumer box.

The Government does not support the recommendation that there be a new chapter of the Corporations Act devoted to timeshare. However, any industry initiatives to provide focussed information to customers about the cooling-off period would be welcomed by the Government.

The Corporations Act already sets out the information which must be provided in a product disclosure statement, which includes that clients be advised of their entitlement to a cooling-off period (para 1013D(1)(i)). The product disclosure statement must present this advice in a clear, concise and effective manner.

ASIC revised Policy Statement 160, which was recently released, enhances these requirements.

RECOMMENDATION 14
The Committee recommends that the cooling-off period for a timeshare sales contract be suspended during the interval between the customer asking for further information, and that further information being provided.

The Government does not support this recommendation.

The cooling-off period generally begins on the day when all required documents (including the cooling-off statement) are given to the consumer and they have acknowledged in writing that they have received them.

It would be inappropriate to suspend the period when the customer asked for information beyond that which was required to be provided.

RECOMMENDATION 15
The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 should require timeshare contracts to have, on their front cover, a prominent disclosure box with the heading ‘Important Disclosure Information’ and the information detailed in paragraph 5.83 of this report.

The Government does not support this recommendation.

The Government considers that the existing disclosure requirements under the Corporations Act, particularly in relation to product disclosure statements, are appropriate and effective.

RECOMMENDATION 16
The Committee recommends that the proposed timeshare chapter in the Corporations Act 2001 should require timeshare contracts to include a minimum guaranteed buy back amount.

The Government does not support this recommendation.

The terms by which an interest in a timeshare is bought back is a commercial decision between the parties. Individuals are best placed to determine what they require.

RECOMMENDATION 17
The Committee recommends that fully sold schemes should be able to sell interests in their own timeshare scheme without holding an Australian Financial Services Licence.

The Government supports this recommendation, provided that relief is restricted to the older style fully sold schemes only.

Fully sold schemes are those schemes which are exempt under state law, exempt title based timesharing schemes or member controlled schemes. ASIC has previously provided relief from the need to hold a licence to a number of participants after individual applications have been received. As part of its revised policy statement on timesharing schemes, ASIC has formally recognised that this relief is available on a case-by-case basis subject to certain conditions, including less than 5% of the interests are resold in any year and that the 14 day cooling off period applies.
RECOMMENDATION 18
The Committee recommends that the Treasurer consult with appropriate state and territory ministers with a view to outlining a scheme outlined in paragraph 6.17 of this report.

The Government does not support this recommendation.

This recommendation relates to the re-acquisition of the interests of ‘delinquent’ members of a few older schemes. These members have failed to keep up payments in relation to their time-sharing interests - the numbers of delinquent members are relatively low. The Government considers that compulsory acquisition would be a disproportionate solution to the problem and the cost of this solution does not justify the benefits.

The operators of such schemes may wish to consider other means, including the possibility of amending the constitution of these schemes, to address this problem.

RECOMMENDATION 19
The Committee recommends that any new regulatory scheme should make clear that the board of a fully-sold scheme can dismiss the resort manager if the board is unsatisfied with the performance of the manager.

The Government does not support this recommendation.

Fully sold schemes may be eligible for relief or modification orders (s601QA) from certain managed investment provisions of the Corporations Act as they often have unusual structures (the older schemes tend to be title based rather than points based systems) because they were set up under old legislation.

When providing relief under the managed investment provisions, ASIC imposes conditions requiring that the schemes provide certain protections which allow for dismissal of management. This relief provides that the decision on dismissing the manager is one for the members, not the board.

It is appropriate that the members make this decision and that the mechanism remain flexible.

2. Parliamentary Joint Committee on Intelligence and Security—Report—Review of administration and expenditure: Australian intelligence organisations—Number 4: Recruitment and Training (received 30 August 2007)

The Government response read as follows—

Government Response to the Fourth Report of the Parliamentary Joint Committee on Intelligence and Security
Review of administration and expenditure: Australian Intelligence Organisations
Recruitment and Training
The Government has considered the Committee’s report on its review of Australian Intelligence Organisations’ administration and expenditure. The Government has decided to implement two of the Committee’s three recommendations. This response sets out the action taken to deal with each of the recommendations.

Recommendation 1
That the Government provide the Committee with separate financial statements for DSD, DIGO and DIO to enable the Committee to fulfil its statutory obligations regarding oversight of the administration and expenditure of the intelligence and security agencies.

Response:
Accepted. The Department of Defence is engaging with ANAO representatives and the Committee Secretariat to discuss how the Defence Intelligence Agencies can best address the Committee’s desire for greater detail in the financial statements, given that the Defence Intelligence Agencies are not statutory reporting entities.

Recommendation 2
The Committee recommends:

• that the Government identify methods to address the security clearance
• backlog of the agencies; and
• that the agencies be required to report every year on the backlog and the
• methods being used to address it in their Annual Reports.
Response:

Accepted. The Government supports this recommendation and notes that the backlog issue is being addressed by the Department of Defence and the Inter-Agency Security Forum.

Recommendation 3

The Committee recommends that the Government enquire into the feasibility of establishing a combined facility for basic training in intelligence either in an existing academic institution or as a separate college.

Response:

Not Accepted. At this stage AIC agencies believe that most training needs are effectively addressed by each agency being able to shape its own training for its specific needs. This takes place in a context in which AIC-wide training programmes have also been established. An AIC training secretariat has been established, funded by all AIC agencies, in response to a recommendation in the Flood Review. As a need is identified for an AIC-wide approach to training in a discrete area the AIC responds to that need - the most recent example being a proposal to provide an AIC-wide course on counter-proliferation.

For the most part, agencies’ training benefits are maximised by each agency being able to tailor its training programme to fit its specific professional needs along with the timing and participation numbers that best suit it. While there are some skills that are common across the community each agency tends to have a core of skill requirements that is unique to that agency. It is not a matter of unnecessary duplication taking place across the AIC.

Exposure to other parts of the AIC is part of agencies’ existing training programmes. Secondments already take place across the AIC, to which a combined training facility would not necessarily add value.

The Report does not elaborate on its reference to ‘current training difficulties’, so we are not clear as to what the Committee believes needs to be remedied by a combined training facility.

Government documents

1. Gene Technology Regulator—Quarterly report for the period 1 April to 30 June 2007 (received 3 September 2007)
2. Accessible Government services for all—Report 2006 (received 6 September 2007)

Return to order

Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 31 July 2007, dated August 2007 (received 28 August 2007)

Ordered that the committee reports be printed.

COMMITTEES

Economics Committee

Report

Senator JOYCE (Queensland) (5.14 pm)—by leave—I table revised additional comments relating to the report of the Senate Standing Committee on Economics entitled Private equity investment in Australia.

DOCUMENTS

Responses to Senate Resolutions

The ACTING DEPUTY PRESIDENT (Senator Barnett)—I present a response from the Premier of Western Australia, Mr Carpenter, to a resolution of the Senate of 21 June 2007 relating to the report of the Senate Standing Committee on Legal and Constitutional Affairs entitled Unfinished business: Indigenous stolen wages.

Senator BARTLETT (Queensland) (5.15 pm)—I seek leave to move a motion in relation to the response by the Premier of Western Australia that has just been tabled.

Leave granted.
Senator BARTLETT—I move:
That the Senate take note of the document.
As you have outlined, Mr Acting Deputy President, this is a response from the Premier of Western Australia to a resolution of the Senate on 21 June this year which related to the report of the Senate Standing Committee on Legal and Constitutional Affairs entitled Unfinished business: Indigenous stolen wages. I moved that resolution of the Senate and it was, as far as I am aware, adopted by the Senate without dissent. The report was tabled by the committee in December of last year by the then chair, Senator Payne. The report of that committee was also unanimous from all senators across all parties in this place. It contained just six recommendations. The resolution of June this year that the Western Australian Premier has responded to basically requested that the relevant state governments and the federal government respond to the recommendations of the Senate committee report regarding Indigenous stolen wages as promptly as possible and ideally by 7 August.

I thank the Western Australian Premier for providing a response to the resolution of the Senate, albeit not as quickly as I would have liked. I note that the federal government is still yet to respond to this resolution of the Senate, and that is something I find very unfortunate and, frankly, totally unacceptable. The recommendations of the Senate committee were tabled, as I said, in December last year. There are only six recommendations and some of them do not even relate to the federal government; they relate specifically to state governments.

I remind the Senate, as I repeatedly do, that it is an existing standing order that governments should respond to Senate committee reports and their recommendations within three months. If it is a very detailed report with a bevy of recommendations numbering in the hundreds then perhaps a longer response time might be justified. But when there are only six recommendations—some of which do not even apply to the federal government—and nine months later we still have no response, that indicates to me not just a contempt for the Senate and the Senate committee but also a contempt for the Indigenous Australians who are directly affected by the injustice identified in the report and who are extremely anxious, upset, distressed and hurt by the continuing failure of governments, particularly at a state level, to respond. And when the federal government joins in failing to respond it compounds that injustice and that hurt. It is very disappointing and I frankly do not understand it. It is not that hard.

The recommendations are not that complex. They are not asking for billions of dollars from the federal government. The committee recommended that the Commonwealth government facilitate unhindered access to their archives for Indigenous people and their representatives for the purpose of finding out about the extent of Indigenous stolen wages and that the Commonwealth government provide funding to the Australian Institute of Aboriginal and Torres Strait Islander Studies to conduct a national oral history and archival project with regard to Indigenous stolen wages. The committee also recommended that the Commonwealth government, in regard to the Northern Territory and the Australian Capital Territory, urgently consult with Indigenous people and conduct some preliminary research of their archival material. It is not that complex.

I do not know why it should take nine months to respond, even if the response is ‘No’. No response at all is contemptuous, particularly given that the committee itself emphasised that this is an urgent matter—not that the federal government or state government need to be told this because they al-
ready know it. Many of the people who were victims of this injustice are very old and they and, of course, their descendants want justice and recognition in relation to this issue. It is totally unacceptable for the federal government to have failed to respond. They have failed to respond to that Senate resolution—which was as polite as it could be. The resolution was in June, six months after the report was tabled. The federal government should already have responded.

The Senate specifically passed a resolution requesting that the government table a response by 7 August. I know the government have a lot of things on their minds with regard to the Northern Territory, but how this could not have been done at the same time is beyond me. It is not that complex, and it really signals to me a show of bad faith. It is a show of bad faith in an area where, frankly, the vast majority of blame in this area is on the state governments. In the current context where we are seeing the federal government grasping any opportunity to point out failures of the state governments you would think that the government would be onto it. But it seems that any issues regarding Indigenous people where it is matter of recognising clear-cut, undisputed injustices of the past which clearly have a link to the poverty and dysfunction of the present—I am not saying it is the sole reason, but there is a clearly a link there—do not fit the mantra, so there is no response. It is hard for me to come to any other conclusion. I am extremely disappointed that the federal government is yet to respond on such an important issue. It was a unanimous Senate committee report. They are not complex recommendations. There is a clearly identified injustice and a clearly identified expression of the fact that it is an urgent issue.

I welcome the Western Australian government’s response. It notes that the Western Australian government has made a commitment to examine the stolen wages issue and to determine its position by 30 June next year. It is a bit unfortunate that it will not be sooner, but at least it has made that commitment, and I accept that it does require an examination of the archives. That is time-consuming and it is painstaking to look at the full extent of the evidence that is there. From the evidence that was provided to the Senate committee inquiry regarding government and commercial entities and other institutions in Western Australia, there seemed to be prima facie evidence that it was very likely that similar practices regarding stolen wages had been acknowledged as having occurred in Queensland and Western Australia. It is good that the Western Australia government has made a commitment to examine the issue. I think it is testimony to the Senate committee’s process and to the report that they helped provide that catalyst—and I am pleased about that.

I note the response to the recommendation about the ministerial council on Aboriginal and Torres Strait Islander affairs to agree on joint funding arrangements for preliminary legal research. I think they have written to the Senate committee, but I will not comment on that ministerial council as I do not think it has been made public yet. The Western Australia Premier has reflected the view that each jurisdiction should undertake their own education and awareness campaign. That is fair enough as far as it goes, but I do believe there was a role for the ministerial council to take that leadership position and recognise this as a national issue, rather than have people having to fight the battle over and over again under each state jurisdiction. I think it is unfortunate that that recommendation has not been fully implemented. At least we are getting some response from the Western Australian government, even if not from the government at the federal level, on whether the recommendation was consid-
erected. It has been put on the agenda and has been flagged with the relevant state ministers. It is a welcome response from Western Australia and it is now a matter of continuing to monitor that process to see what happens. The one thing I would emphasise and urge the Western Australia government to do when they are examining the issue is to make sure that, whatever evidence they find, there is a comprehensive response so that we do not have the abysmal, insulting response that we had from the Queensland government.

I draw the Senate’s attention to the *Hard labour, stolen wages* report that was released by Dr Ros Kidd last week with the assistance of ANTaR, Australians for Native Title and Reconciliation, which details the situation and collates some of the evidence, including evidence that was provided to the Senate committee inquiry, which outlines the facts. It is very stark and very clear that there is more detail in some states than in others, and that is why more work needs to be done in going into the archives, but there is a clear case in most states of the gross injustice done.

To return to Queensland: for the state government to still pretend that offering four thousand bucks—maybe a bit more depending on what they decide to do with the leftover—offering just $50 million as a ‘gesture of reconciliation’, to use their words, as compensation for a lifetime of withheld earnings is an insult; it is not satisfactory. We all know that today Premier Peter Beattie announced that he is retiring. This is a key opportunity for the new premier, who I assume will be Anna Bligh, to make a difference and go that extra step to remedy the failure of the state government in Queensland to address this clear injustice, to make a proper redress and proper reparation. As part of that, I repeat my urging to all other state governments to respond to the Senate resolution and particularly urge the federal government to show some basic respect if nothing else. *(Time expired)*

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (5.25 pm)—I listened very carefully to what Senator Bartlett has just said. I do not have ministerial responsibility for the response to this report but I will undertake, Senator Bartlett, through you Mr Acting Deputy President, to pursue this urgently with the relevant minister.

As Senator Bartlett knows, I sat as a participating member of that inquiry at its Brisbane hearing, and Senator Bartlett rightly points out that the recommendations were unanimous. Senator Payne, whom I see in the chamber, chaired that committee with great efficiency and penetration, if I may say so. It is not an exaggeration to say that all senators from all parties who participated in those hearings were absolutely appalled at the injustice that had been perpetrated, over generations, on Aboriginal people. As you rightly say, Senator Bartlett, this was largely, though not exclusively, at the instance of state governments on both sides. I remember, Senator Bartlett, as you will also recall, being absolutely appalled at the behaviour of the Queensland state government in dealing with proposals to settle these claims for what you rightly say—I agree with you—was an insultingly small amount of money. I also remember being appalled at the behaviour of Mr Beattie, who, mercifully, is not going to be among us as a practising politician for very much longer, in the way he treated these people with contempt. It seemed to me, Senator Bartlett, that Mr Beattie, who was briefly a solicitor many years ago, should have known that some of the conduct in which he engaged, or for which he was responsible in trying to force a settlement on these people, came pretty close to, if not beyond, the legal definition of duress and undue influence.
So, Senator Bartlett, I share your concern about the urgency and the significance of this report. This is not just about the rights of a group of disadvantaged people; it is also about property rights. If the people or their ancestors—their parents, grandparents or great-grandparents—were entitled to the wages and, through well-meaning but nevertheless wrongful conduct of state governments at the time the wages to which they were entitled were not paid to them, then they have a property right just as good as anybody else in the country to have those wages restored to them, to have the governments concerned make restitution. Senator Bartlett, I undertake to you to pursue the matter urgently. I think you know how strongly I feel about it as well.

Senator SIEWERT (Western Australia) (5.29 pm)—I welcome Senator Brandis’s commitment that he will follow up the recommendations. I too was a member of the Senate Standing Committee on Legal and Constitutional Affairs and heard the stories about stolen wages that people throughout Australia told.

I would like to acknowledge that my home state of Western Australia is now picking up this issue. I very strongly continue to push this issue in Western Australia. I know that members of the Aboriginal community in Western Australia who had their wages stolen—those who are still with us, that is, because many people are passing on before this issue is resolved—will be looking to government for reparation. It is not good enough for the Western Australian government to just say, ‘We are looking into this.’ In June next year the people of Western Australia will be looking for a commitment from the state government to address this issue. The government needs to provide the compensation due to the Aboriginal people of Western Australia who helped build that state. Other states need to follow the Western Australian government’s leadership and investigate these issues.

I also think the Commonwealth needs to look to itself and to its records, because the Commonwealth knew something of this. Some of the evidence indicates that the Commonwealth was advising states—in particular my home state of Western Australia—about how to avoid giving all the child endowment and other payments that were due to Aboriginal people. The Commonwealth also needs to look at its own records to see if it has a case to answer. As yet I have not heard the Commonwealth acknowledge that that is an issue and that it also needs to take some action. So I ask Senator Brandis to, if possible, also raise that issue with the minister.

As Senator Bartlett indicated, last week in Melbourne Dr Ros Kidd launched the report *Hard labour, stolen wages* in Melbourne. I would like to remind people of what we are talking about here by quoting the speech she gave at the launch:

We are a wealthy nation today in large part because for decades we did not pay those workers whose labour was said, again and again, to be essential to the pastoral industry on which our national development prospered. We are a wealthy nation today in large part because governments around Australia used the savings and entitlements of Aboriginal families for their own profit. *We are a wealthy nation today. We have a budget surplus of $17.3 billion.* Please read this National Report. Please urge others to read it. Please join the fight to force the men in charge to settle this long overdue debt.

I think that sums it up: Australia was built on the back of the work of these people. White people—non-Indigenous people—whom they worked alongside have prospered. They have built houses. They have managed to create wealth for their families. Continuing generations of people have prospered and live much better lives than the
Aboriginal people whose wages were stolen. If the wages that they earned had been paid to them in the first place imagine how that money could have been invested and what it could have done for the circumstances of those people and their families now.

This is an issue that needs urgent attention because these people are passing on. During the inquiry, one of the senior elders of the Kimberley who is affected by this actually passed on. This is so relevant to people’s lives right now and can make such a difference. As I said, I welcome Senator Brandis’s commitment to follow this up, but I add this plea: could the government also look at the Commonwealth’s role, what it knew and whether perhaps the Commonwealth, even to a small degree, has a role to play in helping to recompense peoples whose entitlements were stolen.

Senator MURRAY (Western Australia) (5.33 pm)—On the same topic, I wish to support and endorse the remarks of the three senators who preceded me—Senator Bartlett, Senator Brandis and Senator Siewert. Through you, Mr Acting Deputy President, I would like to direct a request to Senator Brandis—in view of the commitment he has just given—that anyone who has had their wages stolen, particularly when they were below the age of maturity, should be the subject of government attention in the manner and with the feeling that Senator Brandis has described. In these remarks, I refer to the over 500,000 children who were institutionalised in the last century. There were three cohorts: firstly, the Indigenous Australian children; secondly, the foreign children, who were the smallest group, of British, Irish and Maltese migrants; and, thirdly, and the largest group, Australian non-Indigenous non-foreign children. There were over 500,000 children. Vast numbers of children were used as employees. Their wages were supposed to be paid into trust funds and many of them did not receive their due recompense.

This matter was first referred to during the Senate Community Affairs References Committee inquiry into child migrants, the report of which is entitled Lost innocents: righting the record. It contained unanimous recommendations, and the issue of stolen wages was raised therein. I make these remarks so that Senator Brandis can note that the issue does not just apply to Indigenous children and adults, as important as that is. Whoever had this happen to them should, I think, have restitution and inquiry made on their behalf. I urge the government to take that up if they are of a mind to look at this issue in the depth and with the seriousness that Senator Brandis indicated.

Question agreed to.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Report

Senator PAYNE (New South Wales) (5.36 pm)—I present the third progress report of the Senate Standing Committee on Foreign Affairs, Defence and Trade on reforms to Australia’s military justice system.

Ordered that the report be printed.

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

Leave granted.

Senator PAYNE—I move:

That the Senate take note of the report.

The Senate will be familiar with the engagement of the Senate Standing Committee on Foreign Affairs, Defence and Trade in reviewing the implementation of reforms to Australia’s military justice system. This stems from our initial report on this issue, containing some 40 recommendations, which was presented to the Senate in June 2005.
The government tabled its response to that report in October 2005. In all, it accepted, in whole or in part—or in principle, in some cases—30 of the committee’s 40 recommendations. It indicated at the same time that, where those recommendations could not be accepted, alternative solutions would be found to achieve the intent—I believe that was the turn of phrase—of the committee’s recommendations.

The government at the time gave Defence approximately two years to implement those recommendations and enhancements. Defence was to report to the Senate committee twice a year through that implementation period. In April 2006 the committee received from the Chief of the Defence Force the first progress report on the implementation progress. We responded to that both by taking evidence at a committee hearing and by a close consideration of the report. It was clear to us at the time, and gratifyingly so, that the ADF was demonstrating a very clear commitment to improving Australia’s military justice system. We were able to note positive observations of the Defence Force Ombudsman and his role in the area. We were also able to note that we were particularly impressed with the work of the Inspector-General of the ADF and the role that he was carrying out.

We noted in that inaugural progress report that we had remaining concerns about the culture which prevailed in the ADF and its capacity to potentially undermine the success of the reform process. We were very careful to note that we thought a real shift was necessary in attitudes of ADF personnel so that lasting change—not just changes to process and procedure—could be achieved. We are pleased to say that, since that time, we have considered a second progress report, tabled at the end of last year, and that Defence has published a number of major reports which have had a particular impact on and relevance to Australia’s military justice system. They are referred to briefly in this report.

This is our third progress report. In view of the questions taken on notice and the consideration of earlier reports, the committee has decided to table a relatively brief report on this occasion. We did not hold a public hearing in this case. We have noted that it is our view that it is still a little too early to examine and report on progress towards implementing changes as a result of a range of new recommendations, some of which stem from a number of the reports I just referred to. But we have had recent advice from Defence about a number of reviews which will be undertaken in relation to these reforms, and we have noted those for the record in the committee’s report. We have requested from Defence copies of those reviews when they are finalised, and we look forward to receiving them in due course. Of course, the committee is simultaneously engaged in reviewing some of the legislation that pertains to this reform process, and there have been public hearings in recent weeks—last week in relation to the Defence Legislation Amendment Bill 2007.

I want to note a couple of the responses the committee received to written questions on notice which pertained to the 2006 inquiry into the learning culture in ADF schools and training establishments. We were seeking some clarity from Defence around observations made by the inquiry team in relation to the status, if you like, of the learning culture within the ADF. The clarifications provided by Defence helped us in some cases, but in others, I must say, we reiterate our earlier concerns in relation to cultural matters. If issues of culture are not addressed at the learning end of the ADF, then they have an enormous potential to be inculcated throughout the life of those who are starting at that learning point. So we have been very concerned to review these and to examine...
critically the work of the inquiry team. We found the report of the learning culture inquiry to be very valuable to our considerations. We have said—and it will come as no surprise to Defence—that as a committee, where it is appropriate, we will continue to monitor Defence’s endeavours to change those aspects of its culture that still have the capacity to undermine the major success of the reforms to the military justice system.

We also place on notice in this report that we wish to pursue at a later date the inquiry processes into the very tragic death of Trooper Angus Lawrence. This matter was raised briefly at the public hearing on 26 February and we took evidence about it. Again, the issue concerning the committee was the problem of perceptions of bias which have the capacity to undermine the integrity of the administrative inquiry process. We think it is possible to do more to eliminate those perceptions, and we have made some observations in that regard. I know that there are matters of ongoing concern within ADF as part of this process. We will be interested to see how those matters are progressed.

In conclusion, I want to note a recent report by the Defence Force Ombudsman which relates to the management of complaints about unacceptable behaviour within the ADF. This report was published in June this year. Overall it found:

The information gathered in this investigation supports the view that Defence currently provides an effective complaint-management mechanism that ADF members can readily access. We observed that ADF members consider there have been improvements in the complaint-handling process in recent years and that members have a reasonable level of confidence in the complaints system.

We do welcome these particular findings, and they do strengthen earlier observations of the Defence Force Ombudsman. The ombudsman also made 15 further recommendations, which are intended to enhance the current management system. Given that they are based on suggestions made by members of the ADF—and they relate to areas like record keeping, training, reporting and data collection, the role of inquiry officers and equity advisers and quality assurance—we hope that, given Defence’s agreement to all of those recommendations, progress can be made in those areas. We will further consider the ombudsman’s report in our next review.

At this stage we have identified a couple of other matters contained in that report which we think need to be underlined. They are questions about fear of reprisal; that is, how ADF members feel they will be treated if they lodge a complaint of unacceptable behaviour. I do not hold for a minute that this is confined to the Australian Defence Force but, in an environment of that nature, it is obviously very important to address these concerns. We note that concern, and we note that the ombudsman suggests that Defence may want to conduct additional research in that area. We will be interested to see that progress.

There were also references to deficiencies in record keeping in relation to the management and investigation of complaints about unacceptable behaviour. Record keeping generally, and in relation to this area specifically, has been raised on previous occasions, and we will take these matters up with Defence in due course. There are a number of other issues under consideration by the committee currently. We have not really had the opportunity to canvass those properly at the committee level or specifically with Defence, so it was not considered appropriate in this report to pursue them. We will take those issues up in due course.

I particularly want to thank the Chief of the Defence Force, Air Chief Marshal Angus Houston, for his support in this process and
for the particular engagement he has taken on this reform process. I also want to thank Rear Admiral Mark Bonser and his officers for their assistance in the committee’s efforts in this area. And, of course, I thank my secretariat.

Question agreed to.

Legal and Constitutional Affairs Committee

Additional Information

Senator McGauran (Victoria) (5.47 pm)—On behalf of the Chair of the Legal and Constitutional Affairs Committee, Senator Barnett, I present additional information received by the committee in its inquiry into the Northern Territory emergency response bills.

Membership

The Acting Deputy President (Senator Barnett)—Order! The President has received a letter from a party leader seeking to vary the membership of committees.

Senator Brandis (Queensland—Minister for the Arts and Sport) (5.48 am)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Environment, Communications, Information Technology and the Arts—Standing Committee—

Discharged: Senator Kemp
Appointed: Senator Fisher

Finance and Public Administration—Standing Committee—

Discharged: Senator Cormann
Appointed: Senator Bushby

Privileges—Standing Committee—

Discharged: Senator Kemp
Appointed: Senator Watson

Question agreed to.

FEDERAL MAGISTRATES AMENDMENT (DISABILITY AND DEATH BENEFITS) BILL 2007

First Reading

Bill received from the House of Representatives.

Senator Brandis (Queensland—Minister for the Arts and Sport) (5.48 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator Brandis (Queensland—Minister for the Arts and Sport) (5.49 pm)—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This Bill amends the Federal Magistrates Act 1999 to provide disability cover and death benefits for federal magistrates, as current arrangements for federal magistrates provide no specific entitlements in the event of retirement on the grounds of disability or death.

When the Federal Magistrates Court was established in 2000 it was the Government’s intention to create a low cost court. In keeping with this intention, federal magistrates were not covered by the Judges’ Pensions Act 1968.

Instead, federal magistrates are entitled, by a determination made by the Governor-General under the Federal Magistrates Act, to a superannuation contribution by the Commonwealth. This contribution is currently an amount equal to 13.1 per cent of salary, and is paid to the magistrate’s choice of either a complying superannuation fund or a retirement savings account.
The current arrangements for federal magistrates are potentially problematic, particularly with regard to the lack of insurance against disability. Federal magistrates hold office until the age of 70 unless they resign or are removed by the Parliament on the ground of proved misbehaviour or incapacity. In the absence of adequate protection in the event of serious disability, a federal magistrate whose performance is significantly impaired for medical reasons may nonetheless be unwilling to resign.

The Bill amends the Federal Magistrates Act to provide that where the Attorney-General certifies that the resignation of a federal magistrate is due to permanent disability or infirmity, a pension of 60 per cent of salary would be payable to the federal magistrate until he or she attains the age of 70 or dies, whichever occurs first.

The Commonwealth would continue to contribute to the federal magistrate’s superannuation while the invalidity pension was being paid until the age of 65. This would ensure that an amount equivalent to what would have been received as Commonwealth provided superannuation support for an incapacitated magistrate would be same as if the magistrate had continued to work to age 65, or if the former magistrate dies before the age of 65, until the time of the former magistrate’s death.

The Bill also amends the Federal Magistrates Act to provide death benefits for federal magistrates. Where a federal magistrate dies in office, or a former federal magistrate in receipt of an invalidity pension dies before reaching the age of 65, a lump sum covering the period between the date of death and age 65 is payable to the magistrate’s spouse and dependent children.

The lump sum would be equal to the superannuation contributions the Commonwealth would have made, if the federal magistrate or former federal magistrate had not died, during the period between the federal magistrate’s death and the magistrate’s 65th birthday. The lump sum would be based on the salary payable to the magistrate at the time of their death. Where a former magistrate was in receipt of an invalidity pension prior to death, the lump sum would be based on the salary of a serving magistrate at the time of the former magistrate’s death.

The Bill provides federal magistrates, their spouses and dependants with income protection and death benefits that have until now been lacking. The Government acknowledges the significant contribution federal magistrates make to an efficient federal civil justice system, and is committed to ensuring that they are provided with fair and adequate remuneration and conditions. I commend this Bill.

Debate (on motion by Senator Brandis) adjourned.

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 AMENDMENT (ALCOHOL) BILL 2007

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (WELFARE PAYMENT REFORM) BILL 2007

AVIATION LEGISLATION AMENDMENT (2007 MEASURES No. 1) BILL 2007

CORPORATIONS AMENDMENT (INSOLVENCY) BILL 2007

CUSTOMS TARIFF AMENDMENT BILL (No. 1) 2007

INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT (COSMETICS) BILL 2007
Assent

Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the bills.

COMMITTEES

Standing Committees

Reports

Senator McGauran (Victoria) (5.50 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports from the Foreign Affairs, Defence and Trade Committee and the Employment, Workplace Relations and Education Committee, as listed at item 16 on today’s Order of Business, together with the Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

AUSTRALIAN CITIZENSHIP AMENDMENT (CITIZENSHIP TESTING) BILL 2007

In Committee

The TEMPORARY CHAIRMAN (Senator Barnett)—The committee is considering amendment (5) on sheet 5326 revised moved by Senator Bartlett.

Senator Ellison (Western Australia—Minister for Human Services) (5.51 pm)—For ease of debate, I think it is fair to say that Democrats amendment (5) is very similar to Greens amendment (1). I just wanted to clarify if that is the case. Perhaps we could have a cognate debate in relation to both those amendments. I know Senator Nettle is not here now, but it might assist the running of the committee if we had a cognate debate and put the questions separately.

Senator Bartlett (Queensland) (5.51 pm)—It certainly does not worry me. I think they deal with the same issues and seek to do the same thing. We can put the question separately at the end and I imagine the outcome will be exactly the same. But, just to remind the chamber and those following this debate, the amendment currently before the chamber is Democrat amendment (5), which seeks to make issues relating to the citizenship test and the questions within it and processes surrounding it disallowable instruments. I want to reinforce the point that this citizenship test and its contents are important in terms of the long-term credibility of the test and therefore the long-term credibility of citizenship.

As I was saying before we were interrupted by question time, there is a very understandable apprehension amongst a minority within the community that there is potential down the track for the test to be misused by future governments and for it to be shaped in a way where it can be exclusionary and targeted at individual groups. That is a very real fear. I believe it is one that is totally understandable, particularly given Australia’s history, going back many years; many people, particularly migrants, know that Australia has done that in the past. So we need to put in place some mechanisms to protect against misuse of the test in the future.

I do not believe that enabling the test to be a disallowable instrument is a major impediment. The minister in his earlier contribution today suggested it would create uncertainty. For those who are not aware, the process of disallowance is that an instrument
is gazetted, it is tabled in parliament, it can become operational from when it is gazetted or tabled, and the parliament and the Senate have the opportunity over the next 15 sitting days to move a disallowance motion to negate that legislative instrument—in this case, the citizenship test. There are two aspects. Firstly, it would require the test to be made public, which I think is an eminently sensible and desirable thing for the credibility of the test. Indeed, that was reflected and agreed on by the Senate Standing Committee on Legal and Constitutional Affairs, including by government members of the committee, in one of their recommendations. Secondly, it would also provide a mechanism for the parliament, if it perceived there was a serious problem with aspects of the test or the processes surrounding it, to disallow it. I do not see why that would be a major impediment or how it would create massive uncertainty.

As senators would know, every day a list of legislative instruments is tabled in this place. After a few non-sitting weeks we get a very long list. The list of documents, which was tabled in this place today, is 23 pages long. There are 23 pages containing the titles of legislative instruments which have been tabled in the last couple of weeks. As a member of the Senate Standing Committee on Regulations and Ordinances I see literally thousands of legislative instruments—I must confess I do not read them all—tabled each year. Most of them have the potential to be disallowed. Each one has the potential to be introduced and become operational and, if the Senate should then decide to disallow it, to become no longer operational. That is the nature of disallowance and disallowable instruments. To say that then creates uncertainty is to say that having legislative instruments creates potential uncertainty. Every single one of them has that uncertainty.

You have uncertainty if you introduce legislation and it then gets amended. If there is sufficient concern about starting to put that law or that test into operation and then having to stop putting it into operation once it is disallowed, then there is a very easy mechanism around that: you just do not make it operational until the time for disallowance has expired. It is a simple thing to do and it is done from time to time. It is simply a furphy to say, ‘If you make them disallowable instruments, it creates too much uncertainty and you may have a test coming in, then going out and all those sorts of things,’ and it is not a good enough reason to not have that protection in place.

As the minister would know, I would expect—and I am sure most senators would know—out of those literally thousands of legislative instruments, the number that have actually been disallowed has been minimal, even when the government did not have control of the Senate. It is obviously extremely minimal now they have control of the Senate. They do not disallow anything; they do not support any disallowance motions. But, even including the time when the government did not have control of the Senate and disallowance motions were moved from time to time—even attempts to disallow are extremely rare—I would say, off the top of my head, that the number which have successfully been disallowed every year for the last decade or more would be in single figures. It is extremely rare. Less than 0.1 per cent of all legislative instruments get disallowed. It is that last-resort safety net, it is that final bit of protection, it is that accountability mechanism, it is that oversight. As with many accountability mechanisms and many processes that enable oversight, the fact that the oversight is there is as important as how often it is used.

It is like any other piece of accountability: if you know that if you do something outra-
geous there is a chance you will be stopped then you are far less likely to do something outrageous in the first place. If you know you have open slather to do whatever you want then there is a much greater temptation down the track—whether for political reasons, administrative convenience, covering up a mistake or whatever it might be—to undertake that extra action that you should not, which will have a negative impact. It is simply human nature. It is not a politically partisan statement. If you know you have total power, without any sort of effective mechanism, then there is more scope for it to be used inappropriately, wrongfully or in an unhelpful or damaging way.

Making any instrument a legislative instrument is a valuable safety net, and making it disallowable is not a major drama. For all intents and purposes, 99.9 per cent of the time it will just mean one more title in the long list of legislative instruments tabled by the Clerk that is put on our desks every day. It would mean little more than that, and few of us would even read them. But someone will read and check it; if there is a problem they will let someone else know; and the accountability mechanism is there. To not have that mechanism increases the chances of tests being misused down the track by a future government. It also tends to reinforce the apprehension and suspicion of some within the community that there is some other agenda here or that there is a potential for a citizenship test to be used in an exclusionary fashion.

It is much easier to reassure people that these citizenship tests are benign if people can see what is in them and if they also know there is an accountability mechanism in place. If you are putting in place a mechanism that just gives open powers to any future minister then it becomes that much harder to reassure people. I urge this amendment on the committee because I think it is a valuable one that I do not think would detract in any way from the effective operation of the responsible citizenship test well into the future, even if personally I am not convinced that such a test is needed.

Senator LUDWIG (Queensland) (6.01 pm)—It is worth reiterating where we are now at: we are debating in committee the Australian Citizenship Amendment (Citizenship Testing) Bill 2007 and specifically Democrats amendment (5). At the heart of this matter is what the Senate Standing Committee on Legal and Constitutional Affairs recommended, which is that the proposed citizenship test questions be tabled in parliament. It seems that the Democrats have proposed a sensible solution to the problem—that you use a legislative instrument to effect that recommendation.

The government should not be afraid of using legislative instruments; it should not be concerned about it. The Senate Standing Committee on Regulations and Ordinances will oversee regulations that engage such legislative instruments. The government should not be afraid of scrutiny. The government should not be concerned that the process allows people to have a look at matters such as this to ensure that it meets the commitment and that it continues on an ongoing basis to meet the requirements under the legislation. On balance it seems to me that the government is trying to walk away from oversight. It is not major oversight; it is sensible oversight that the Democrats are proposing. That is why Labor supports this amendment. It reflects not only the Senate committee’s recommendations but also Labor’s view that the questions should be publicly available.

In the current scheme of things the government does have the majority in the House. If the government does not like the matters and is concerned then it can oppose any dis-
allowance motion and win that debate. But a disallowance motion is really the end point. If you look at the way the Senate works, not a lot of disallowance motions are raised in the first instance. But, if you are concerned about that, you are really concerned about the end product, the end of the road. You should be more worried about ensuring that you get it right. In that way you should not be concerned about oversight, because if you get it right then the matter will not get to that end point. You will not end up having to be concerned about whether a disallowance motion is passed.

The Temporary Chairman, Senator Watson, runs the Regulations and Ordinances Committee admirably, as I understand it. There he occasionally puts disallowance motions on matters but then comes back in after consultation with the minister and has those motions removed because the consultative process has fixed any problems. What concerns me is that, in terms of oversight, scrutiny and public availability of documents, this is an admission by this government that it wants to walk away from it all or that it is afraid of it—I am not sure which. The government set up the process with good legislation, which was supported by Labor, to allow legislative instruments to be utilised in this place and now wants to walk away from those commitments. It does not want to use the Regulations and Ordinances Committee, which has been in place since 1932, to oversight its legislation and ensure it meets necessary commitments. I guess we will hear the answer from the minister. But let us not hear, ‘We simply don’t like the process,’ or ‘It’s not going to meet our commitments’; let us hear an appropriate response that says more than simply that.

I am happy to have the cognate debate with Senator Nettle’s foreshadowed amendment and then split the question. Senator Nettle’s amendment that I suspect she will move reads:

A determination made under subsection (1) is a legislative instrument and a question within a test, or a component of a test is deemed to be provisions within the meaning of section 42 of the Legislative Instruments Act 2003 and is subject to disallowance.

On that basis it seems to be very similar to the Democrats’ amendment currently before the chair, and the comments I have just made are germane to Senator Nettle’s foreshadowed amendment in any event. I do not want to prolong the debate, but the government needs to not only justify why not but also demonstrate why their system will provide a better oversight.

Senator ELLISON (Western Australia—Minister for Human Services) (6.06 pm)—I agree with Senator Ludwig that the issues which relate to this are very similar to proposed Greens amendment (1). The remarks I make on behalf of the government about the Democrat amendment are similar to those about Senator Nettle’s proposed amendment.

In relation to this amendment, the government does not believe that the determination which is made by the minister, which will approve the content of the new citizenship test and include the test questions, should be subject to the disallowance provisions of the Legislative Instruments Act. I said earlier that this could breed some degree of uncertainty. You could have people sitting a certain test in a certain form one month and it could be disallowed the next month and they would have to go back and sit a different test, or people applying the next month could have a different test under which to apply.

As well as that, I will add to my previous argument and say that the determination does not fall within the meaning of a legislative instrument as defined by section 5 of the
Legislative Instruments Act. It is not of a legislative character, and that is because it will not determine the law or alter the content of the law. Even if you do think it should be a determination as such, it does not fall within the definition contained in section 5. So there is both a policy reason and a more legalistic reason, if you like, that the government relies on for this—and quite properly so. I think that what you have to look at is the determination and how it will function. You will have attachment A and attachment B. Attachment A will have the form of the test and the way it will be conducted. Attachment B will have the questions. Attachment A will be released publicly, and that will be open to public purview. So that is the form of the test, the rules, how it will be conducted and things of that nature. The part that will not be released, as we have said publicly before, on the record, is the part which deals with the questions that will be in the test, and that is attachment B. We have said that for a policy reason. We do not believe that releasing the questions would achieve the purpose we are setting out to achieve here. What you would have is a set of questions released publicly, and doing that would alert people to the questions. You would have rote learning, not a more genuine understanding of the issues and those aspects of citizenship that we want people to understand when they apply to become an Australian citizen.

Certainly the format and how it is run will all be in attachment A, which will be made public. But to make it a determination which is a legislative instrument, we believe, would not be appropriate, because it would have that uncertainty. More importantly, it simply does not fit the meaning of a legislative instrument as defined by section 5 of the Legislative Instruments Act. I think that that reinforces the government’s position. As I say, this is very similar to the Greens amendment. The government opposes Democrat amendment (5) on the basis of what I have outlined and, for similar reasons, would oppose Greens amendment (1).

Senator NETTLE (New South Wales) (6.11 pm)—I want to indicate that I will not proceed with the Australian Greens amendment, because the Democrats have said that effectively they will be doing the same thing, which is to seek to make the questions within the citizenship test a disallowable instrument—that is, to allow the parliament to see what the proposed questions for the citizenship test are. The Greens think this is an important oversight role that parliament needs to, and can, play. It is about ensuring that the questions are appropriate—whilst recognising, as I have said previously, that the Greens do not support the citizenship test, because we do not think it will achieve the government’s objectives in relation to this.

In particular, we do not support what is proposed in relation to how it should work, which is that the Minister for Immigration and Citizenship has complete say over what the questions are. There are a number of examples you could point to. You could ask the question: ‘What do people in Australia think of the colour pink?’ You could put it in any absurd way and say, ‘I don’t know that that is really an appropriate question.’ People might think that the minister will not do that, but I would look at the sample questions we have already been given in the draft document in relation to the citizenship test—I do not think they are outrageous questions in the way that it might be to say, ‘What do we think of the colour pink?’ but I cannot see that knowing the floral emblem of Australia indicates you are going to obey the laws in Australia, respect Australian values and understand what it is like to be in the culture here. It might mean that you know something about Australia—and, yes, that is good; we do not have a problem with that—but I do not see how, in
terms of the government’s objective around this legislation, the citizenship test will ensure that people who come to Australia will respect Australia and the way of life here. You could be a mass murderer; you could be a person with really evil intentions and still happen to know what the floral emblem is. I do not see how knowing the first line of the national anthem or what day Australia Day is indicates that you are going to be a valuable citizen. There are many people who have made really fantastic contributions as citizens in Australia over the years who may not know the answers to these questions. I do not think that that somehow diminishes the value of the contributions they have made here in Australia.

It is not outrageous to say that we should see these questions to see whether they are appropriate. It is not as though I am proposing that the minister is going to do something outrageous; I just do not see what the questions add. I am not claiming they are outrageous; I am just saying that I cannot see how learning the answers to these questions indicates that you are not going to be a valued, contributing citizen.

I imagine that probably everybody in this chamber could point to people they know who are valued contributing citizens, be they celebrities that we know of who do not speak English all that well or the people around the corner who run the local grocery store who have really contributed to our community. They may not know the answers to these questions, but that does not diminish the contribution that they have to make. That really sits at the heart of the Greens’ concerns in relation to the citizenship test.

I am quite happy to support the objectives the government says are behind this. I absolutely support improving the English language skills of migrants. That is why I moved a second reading amendment about expanding the English language program for migrants. I think we should do that. I think it is great that the government increased funding for that in the last budget. I totally support that. I totally support people understanding what life in Australia is like. But I do not think that the two objectives that the government put forward are going to be achieved through this test. That is essentially why the Greens are not supporting this test.

This particular amendment—which is similar to the amendment proposed by the Australian Greens—is about the parliament having some oversight of this. Deciding who can and who cannot be a citizen of this country is a very significant decision. What this legislation is proposing is that the test that determines who can or cannot be a citizen should not come before the parliament. I think if we are going to set a standard measure on something as significant as who should or should not become a citizen—which is what this test is proposing—the parliament should have some oversight and some say in that standard framework, and there should be some transparency.

Where it is an individual decision, the minister is in a good position to be able to do that, but that is not what is being proposed here. It is a standard, across-the-board mechanism for determining who should or should not become a citizen. I think it is a really fundamental thing in our society to decide who should or should not become a citizen. I think it is core business of the parliament to have some oversight of that, which is why I am so concerned about this particular amendment which says that the minister is the only person to determine that. Okay, if it is a one-off decision, I can see an argument for that. But this is not a one-off decision; this is an across-the-board mechanism for deciding who should or should not be able to become citizens. It is a fundamental component.
Other countries around the world put things like that into their constitutions to determine who should or should not be able to become a citizen of their country. I am not advocating that, but I am using that as an example of how important other countries think that it is to decide who can or cannot become a citizen of their country. That is why I think this amendment is so important. This amendment is saying that the parliament, as the elected representatives of people in this country, should have some say in the standard test the government is proposing to apply to all people to determine who should or should not be a citizen.

I do not think it is a very big ask at all that we in the parliament should have some oversight of that, and that is why the Greens support this amendment. That is why we proposed a similar one ourselves that I indicate I will not move, because we are having the debate here about the way in which this should be determined. When I look at that series of questions, I just cannot see how being able to answer those questions means that you are going to be a contributing citizen. You may be able to answer those questions and be a contributing citizen, but I do not think that being able to answer those questions proves that you are going to be a contributing citizen.

The TEMPORARY CHAIRMAN (Senator Watson)—Thank you, Senator Nettle, for not proceeding with your amendment. That is why we proposed a similar one ourselves that I indicate I will not move, because we are having the debate here about the way in which this should be determined. When I look at that series of questions, I just cannot see how being able to answer those questions means that you are going to be a contributing citizen. You may be able to answer those questions and be a contributing citizen, but I do not think that being able to answer those questions proves that you are going to be a contributing citizen.

Senator LUDWIG (Queensland) (6.18 pm)—I move opposition amendment (1) on sheet 5346:

(1) Schedule 1, item 5, page 5 (after line 17), at the end of section 23A, add:

(8) The Minister must cause an independent and comprehensive review of the operation of the citizen testing regime to be completed by August 2010 to:

(a) gauge its impact on citizenship application and conferral rates in all applicant categories; and

(b) specifically examine the citizenship test regime’s impact on citizenship application and conferral rates on persons seeking to enter Australia and become Australian citizens through refugee and humanitarian provisions.

(9) The person or organisation undertaking the review must give the Minister a written report of the review.

(10) The Minister must cause a copy of the report to be presented in both Houses of Parliament within 15 sitting days of receiving the report.

I note the Senate Standing Committee on Legal and Constitutional Affairs made several key recommendations following its inquiry into the Australian Citizenship Amendment (Citizenship Testing) Bill 2007. The committee recommended that the operation of the citizenship testing regime be reviewed three years after the bill’s commencement, particularly in order to gauge the regime’s impact on citizenship application and conferral rates, and how it is impacting upon groups within our society, particularly the refugee and humanitarian entrants.

As the government would know and the Senate may know, there is a high correlation between humanitarian entrants and their ability to pick up citizenship at the expiration of the humanitarian visa. Of course, that has now been extended to four years, but there is a high uptake of citizenship amongst that group for a range of very good reasons that are reflected in that group. From what I have been led to believe, they are appreciative of the ability to be able to start a new life in Australia and recognise the value embodied in Australian citizenship.
A concern that a review could also look at would be where there may not be a high uptake in citizenship in some groups. All that can be looked at. The government has indicated there will be a review, but Labor thinks that the ability to have a review should be embodied in the legislation itself. It is not unusual, because the government has acceded to those requests in the past, for a review to be contained in the legislation itself. Labor’s amendment also sets out the areas that should be looked at. What can sometimes happen down the track—say, three years hence—is that we lose sight of what the review should encompass. But if you set out the parameters now and leave sufficient scope to add to them if necessary then you have a basis not only to look at now but to continue to look at and then finally review in three years time.

The Labor amendment says, ‘The Minister must cause an independent and comprehensive review of the operation of the citizenship testing regime to be completed by August 2010.’ I think it is necessary to have that element of independence about the citizenship testing regime. It is also necessary to gauge its impact on citizenship applications and to specifically examine the citizenship testing regime’s impact on citizenship application and conferral rates on persons. Those rates could be provided and the review could then be tabled. It would be helpful if this parliament would set out that course of action rather than simply conduct the more generic three-year review promised by the government. I ask the government and the minor parties to support the amendment.

Senator BARTLETT (Queensland) (6.22 pm)—I briefly indicate the Democrats’ willingness to support this. I think that it would at least provide some mechanism for review. As I have said in some of my previous contributions, obviously the test itself and how it operates is at the heart of the credibility of this whole process. I repeat my apprehension that there is potential for the credibility of Australian citizenship in general to be degraded if the test does not operate effectively and is seen to be problematic in some way or other. I am not convinced, and I still have not heard any evidence in this debate or elsewhere, as to why the test is even needed, but if we are going to have it then we should at least have more reliable mechanisms for ensuring that there is oversight and review. Assertions or pledges now from the minister—sincere though I am sure they are—are not sufficient to bind any future minister.

Senator NETTLE (New South Wales) (6.23 pm)—I just want to indicate that the Australian Greens will be supporting this amendment proposed by the opposition.

Senator ELLISON (Western Australia—Minister for Human Services) (6.24 pm)—Just for the record, the government oppose this amendment, and the reason for that is that the minister has given an undertaking that there will be a formal review in three years time. We have said publicly on the record more than once that there will be ongoing review of it. I can understand Senator Ludwig’s terms of reference and why he has spelt them out in that fashion. We think that it is better to develop the terms of reference when you have the review, when it would be more relevant to the times, rather than formulating them at this stage when we still do not know how it will pan out. The government oppose this amendment on that basis.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.
Third Reading

Senator ELLISON (Western Australia—Minister for Human Services) (6.25 pm)—I move:

That this bill be now read a third time.

Senator NETTLE (New South Wales) (6.25 pm)—I just want to put on the record the grave concerns I have about this piece of legislation. I have indicated some of these previously but I want to put on the record how extraordinarily concerned the Australian Greens and I are about this piece of legislation. The government has set out two objectives for the legislation, as I outlined previously: firstly, their intention to improve the English language skills in migrants; and, secondly, to ensure that we have a more cohesive society.

My office did some research into the English language skills of migrants through the last two census data collections. We found that the Department of Immigration and Citizenship statistics branch had to get rid of the bottom two categories for measuring English language proficiency because the English language skills of migrants had improved so much over the life of this government that those two categories for low English language proficiency were meaningless. So there is not a problem to start with. The English language skills of migrants are improving.

There are programs out there. The government increased funding in the last budget for English language skills for migrants. There is not a problem. A number of statements by the Prime Minister, the Treasurer and the immigration minister at the time pointed to particular parts of the community as groups who had not taken up English language skills, and it was the Muslim community that they were pointing out. Muslims as a group are not the religious group with the poorest English language skills. So there is not a problem in terms of English language skills amongst migrants. There is not a problem in terms of Muslim migrants’ English language skills, and the government’s own data tell us that.

The government’s own Department of Immigration and Citizenship have had to change the way they measure English language proficiency in migrants because language proficiency in migrants has improved so much. So there is not a problem.

As I said earlier, my concern is the concern of the educators who appeared before the Senate committee inquiry who said that, if you introduce a citizenship test, English language classes—not intentionally but inevitably—will end up being less effective. Students in the class who are paying money to be there or who are taking time out from work to be there will put pressure on the teacher, and this will mean that the teacher will inevitably spend time teaching people how to pass the test rather than teaching them the English language skills that they need.

Not only is there not a problem in terms of the English language skills of migrants but this test will undermine the existing English language programs for migrants that the government operates in the community. The Greens support these programs and want to see them expanded.

The other thing is that the government has not pointed out what is wrong with our existing citizenship laws. They have served us very well. I think that we are a great country made up of a fantastic group of people from Australia and from a whole lot of different countries. I do not think that there is a problem with the way in which our citizenship laws have served us over so many years. So we do not have a problem. If you look specifically at what the government wants to address with this legislation—the English language skills—again, we do not have a problem. The evidence we have heard is that,
far from this citizenship test improving the English language skills of migrants, it is likely to undermine the existing English language programs.

The other rationale that the government puts forward is about improving the cohesiveness of our society through introducing a citizenship test. I do not think that you can argue, as I have seen department officials attempt to do in the Senate inquiry into this legislation, that the United Kingdom or the United States communities are somehow more cohesive than Australia’s because they have a citizenship test. I do not think that you can mount that argument. I do not think that it is accurate at all. People have talked to the committee about situations like the bombings that occurred in London. Those people were citizens. We just do not have any evidence before us that this test is going to improve the cohesiveness of the Australian community. We may all agree that that would be a good thing to do, but this test is just not going to achieve that.

In fact, it has the potential to create more division in our community. Migrant community groups have said that some people will be deterred from applying to become a citizen because of the test, particularly those people that do not have great English language skills. None of us want to see that occur. So let us not put in place more barriers for people wanting to become citizens. Let us provide incentives through the English language programs and through citizenship courses. Let us encourage people to take out citizenship, not put in place barriers to stop them from getting there.

It is for these reasons that I really want to indicate how strong my concerns and the Australian Greens’ concerns are about this citizenship test. We think we are going down the wrong path in introducing this citizenship test and we want to warn of the danger and the threat that this poses in our multicultural community. We cannot support this, because it is divisive and dangerous and it will not achieve the government’s objectives.

Question agreed to.

Bill read a third time.

Sitting suspended from 6.32 pm to 7.30 pm

TELECOMMUNICATIONS LEGISLATION AMENDMENT (PROTECTING SERVICES FOR RURAL AND REGIONAL AUSTRALIA INTO THE FUTURE) BILL 2007

Second Reading

Debate resumed from 13 August, on motion by Senator Mason:

That this bill be now read a second time.

Senator CONROY (Victoria) (7.31 pm)—I rise to speak on the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007. The bill seeks to protect the $2 billion Communications Fund, the pork-barrelling slush fund that was established by the government in September 2005 under pressure from the National Party in response to the privatisation of Telstra. The Communications Fund was intended to earn an income stream to finance spending on telecommunications projects in Australia. The projects are supposed to come from the government’s response to any recommendations proposed by the Regional Telecommunications Independent Review Committee. Despite the fact that the fund was established in 2005, the first report was not due until 2008—that is, until the government went into full panic mode and brought forward the review committee report, announcing on 13 August that it would start immediately.

Senator Barnaby Joyce was the man who christened the Communications Fund a slush fund—and proudly so, as this was his prize
for selling out the people of Queensland after he promised them that he would oppose the sale of Telstra. This was his slush fund. Senator Barnaby Joyce, along with many other members of the National Party—who have realised that political expediency is yet again failing to deliver broadband to millions of regional and rural Australians—have demanded that the review committee start immediately so that they can get a few photo opportunities between now and the federal election. No-one should be under any illusions: the recommendations that will come forward over the next few weeks will be nothing more than pork-barrelling and photo opportunities for a panicked National Party, which has been involved in a tawdry process from day one when it comes to the sale of Telstra.

This new legislation quarantines the $2 billion capital of the Communications Fund. If passed, only the interest earned on the $2 billion fund may be used to improve the state of telecommunication services in rural, regional and remote Australia. This will result in up to $400 million every three years to ensure that telecommunication services in rural, regional and remote Australia keep pace with the rest of the nation. Just in case the National Party cannot add up, subtract or divide, let me be clear about this: the price of the National Party’s votes was $133 million per annum. I am looking forward to the contribution of Senator Fiona Nash, who is here in the chamber today, as she tries to explain why the National Party went so cheap that it sold out for $133 million per annum. That was the National Party’s price for selling out millions of regional and rural Australians and their ability to get decent telecommunication and broadband. This amount is not enough to ensure telecommunication services in rural, regional and remote areas of Australia keep pace with the rest of the nation.

Does the Minister for Communications, Information Technology and the Arts believe that this amount is enough to ensure that the intent of the Communications Fund is met? Is $133 million a year enough to provide adequate broadband to millions of regional and rural Australians? Is it enough to ensure that Australians living in rural, regional and remote areas have access to affordable, reliable and up-to-date telecommunication services into the future? Labor—and, indeed, some of the government’s own senators—do not believe so. That is right: this may come as a surprise but some of the government’s own senators do not believe that this legislation is worth while. The truth is that the legislation will not improve telecommunication services in rural, regional and remote Australia. If it would do so, the government’s own backbenchers would have recommended a vote for it in the report of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts. Let me be clear: the government’s own senators—your own senators, Senator Nash—did not recommend a vote for this legislation in the Senate committee report. The truth is that this legislation will not improve telecommunication services in rural, regional and remote Australia.

This legislation is another sign of the Howard government’s desperate politics. It is a political stunt with the intended aim of highlighting the fact that Labor will use the Communications Fund to provide investment capital to build a national broadband network. This is a national broadband network that will benefit all Australians. This is a national broadband network that will ensure Australia’s future prosperity. Rather than governing in the national interest, the government prefers to attack Labor for showing leadership and solving the broadband problems that continue to plague our country.
Senator Nash—How can you say that with a straight face!

Senator CONROY—Over the past 11 years the Howard government has proposed 18—that is right: 18—bandaid broadband solutions. How proud you must be, Senator Nash, of your 17th and 18th plans which you have just announced in the shadows of an election—11 years and we have our 17th and 18th broadband plans! Not one of these piecemeal attempts will ensure Australians living in rural, regional and remote Australia have access to high-speed internet. The introduction of this legislation clearly shows that the Howard government is once again, with the connivance of the National Party, abandoning rural, regional and remote Australians.

Senator Nash interjecting—

Senator CONROY—If only you had had the courage, Senator Nash, to stand up for your principles, to stand up for your fibre proposal the Page Foundation recommended, you might not be getting the reaction out there in regional and rural Australia that you are getting.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—And, Senator Conroy, if only you would direct those remarks through the chair you could continue!

Senator CONROY—I accept your admonishment. I have been unduly provoked by Senator Nash’s interjections! Labor believes that this is not good enough and strongly opposes this bill—and so should other senators who believe that all Australians, no matter where they live, should have access to the best available telecommunication infrastructure. Australia does not need another set of patchwork broadband solutions. Australia needs to invest in a national broadband network that will ensure everyone, no matter where they live, has high-speed internet connections. That is why Labor will use the capital of the Communications Fund to help build a state-of-the-art national broadband network that promises to turn around Australia’s poor broadband performance.

Let me remind you that, after 11 years of the Howard government, the state of telecommunication infrastructure and services has suffered. Our ageing infrastructure continues to lag further and further behind countries we consider our international peers. Currently, Australia is ranked just 16th out of 30 countries regularly surveyed by the OECD. The Howard government may think this is good enough but, let me tell you, Australians do not. Over the past 11 years the Howard government has taken a haphazard, pork-barrelling approach to changing the state of broadband services. To date 18 different broadband plans have been proposed, at a cost in excess of $4 billion—rising to nearly $5 billion with the signing of the OPEL contract. How proud the senators on the other side of the chamber must be! Nearly $5 billion, and what will you have to show for it? A clapped-out, obsolete wireless network. Congratulations; you must be proud! Not one of these plans has managed to address the poor quality of telecommunication infrastructure to ensure our broadband performance is turned around—not one of these plans! Australians deserve better. Australians need a government who puts the national interest first rather than one whose sole aim is to get through an election year.

Contrary to the Howard government, Labor recognises that it is imperative that we invest in telecommunication services to enable the full potential of the information superhighway to be reached. Labor understands the benefits of high-speed broadband infrastructure and the impact it will have on Australia’s future. The increased connectivity from vastly improved telco services will ensure future prosperity for all Austra-
lians. True broadband services will allow small and medium businesses to compete in both national and international arenas, increasing productivity gains and opportunities. New markets will be created, resulting in more jobs for Australians. A study by the New South Wales government has shown that true broadband would boost the state economy by up to $1.4 billion. A similar study in Queensland has shown productivity returns of up to $4 billion. The Victorian state government anticipates that broadband will boost the state economy by $15 billion over the next decade. But none of these calculations was based on a clapped-out, obsolete old fixed wireless network.

The potential for broadband is enormous. New services will change the way we lead our lives. E-health will revolutionise the health care sector, enhance patient services and ultimately save lives. E-education promises to enhance learning opportunities for primary, secondary and tertiary students and beyond. These services will benefit all Australians, particularly those in rural, regional and remote Australia. Broadband promises to overcome the tyranny of distance, which up until now has inhibited the potential of many Australians, socially and economically. However, Labor recognises that the full potential of the enhanced services offered by broadband will only be achieved by investing in state-of-the-art communications infrastructure. And let me make it very clear: the best technology, which under Labor’s broadband plan will be available to at least 98 per cent of Australians, is a fibre-to-the-node network.

Senator Nash interjecting—

Senator CONROY—And let us be clear—because I accept that last interjection from Senator Nash, being provocative again—that this is the sort of proposal that Senator Nash herself signed up to, that she herself put her name to with the Page Foundation. How galling it must be to have not been able to convince her own colleagues to adopt her own idea and then to watch as Labor receives applause and plaudits from around the country for having the courage and initiative to go for a national high-speed fibre network. Her own colleagues rejected it. She was dismissed with a simple “The government will look at it”—not that they ever did. For nearly 12 months I asked the department at Senate estimates whether they had looked at the Page Foundation report. Not once did the department ever even bother to consider Senator Nash’s idea. How disappointing, how galling, how bitter it must be for Senator Nash!

We have only to look to the countries who continue to lead the way in telecommunications, including Japan and Korea, to see the countries that have invested in fibre technologies. No fixed wireless for them! Fibre-to-the-node networks offer minimum connection speeds over 40 times faster than today’s average—and I stress the word ‘minimum’. I know it is something that the minister has a lot of difficulty with. She cannot get the words ‘up to’ out. She will keep misleading the Australian public about the speeds and the coverage. If you are listening, Senator Coonan, just make sure that you put the words ‘up to’ in. I know you are not engaged in trade in commerce; otherwise Graeme Samuel would have fined you by now.

Fibre-to-the-node networks are future proof. They scale in ways that alternative technologies just cannot. Over time, they can be easily upgraded to cope with the ever-increasing demand for bandwidth. Fibre-to-the-node infrastructure is an investment. It is not a quick-fix solution. It is more costly to deploy than cheaper, less scalable alternatives. Nevertheless, the government should stand up and meet the challenge of deploying a fibre-to-the-node network across Australia.
To achieve this Australia needs a government that is prepared to invest in telco infrastructure, and oversee the deployment of a national broadband network. Australia needs a Rudd Labor government. A Rudd Labor government will use the Communications Fund to enable all Australians to have access to vastly improved telecommunication services. Labor will deliver a fibre-to-the-node service that will deliver guaranteed minimum—again I stress ‘minimum’—connection speeds that are 40 times faster than today’s average to 98 per cent of Australians. The remaining two per cent of Australians will receive a standard of service which—depending on the available technology, including fixed line, wireless or satellite—will be as close as possible to that provided by the new network. Labor’s new network will have open access. This will promote competition and drive consumer prices downward.

Labor’s carefully costed fibre-to-the-node network is based on a detailed calculation of the number of nodes required to reach 98 per cent of Australians. This includes the number of upgrades of exchanges and pillars into nodes that are required. To deliver the national broadband network Labor will use a $4.7 billion public equity injection, which includes the $2 billion asset in the Communications Fund. Under Labor’s network the Communications Fund will be used to achieve the aim for which it was intended. ‘To future proof’ were the famous words—bandaids worth $133 million. Labor will build a network that is actually future proofed, when it puts the fibre in the ground, just as Senator Nash and the Page Foundation recommended all those years ago.

Labor’s broadband network will ensure that Australians living in rural, regional and remote areas have access to affordable, reliable and up-to-date telecommunication services into the future. The national broadband network will ensure Australians living in rural and regional areas will have not just metro-comparable pricing—the bauble that the National Party and the National Farmers Federation rolled over to endorse—but also parity of service. This is in stark contrast to the Howard government, who prefer to insist on a two-tier system. Some Australians living in metropolitan areas—and we do not know who, judging by the incredibly vague and highly criticised guidelines—will have access to a fibre-to-the-node network. The remainder of the population, including those in rural, regional and remote Australia, will have to put up with a second-rate system. The second-rate system is based on the government’s favourite technology, fixed wireless WiMAX. This technology is widely regarded by industry experts as obsolete.

Under ideal conditions fixed wireless WiMAX will allow broadband speeds up to—there are those words again; ‘up to’—20 times faster than today’s average, but in reality the technology is plagued with a number of issues. Firstly, the connections speeds are shared. These things work according to the laws of physics—for Senator Nash’s and the Senate’s interest—and no amount of spin by Senator Nash when she speaks next, or jawboning by Senator Coonan, when she eventually turns up in the chamber for her own bill, will get away from the laws of physics. The laws of physics say that with wireless the further you stand away from the tower the slower the speeds and the more people using the connection at the same time the slower the speeds. Senator Nash might sit there making notes and trying to rewrite the laws of physics but it is just not going to wash. The laws of physics are the laws of physics and there is nowhere to go.

The connection speeds, as I said, are shared, meaning that the average speeds for Australians living in the outer suburbs of the major cities, as well as for those living in
rural and regional areas, will only be double today’s average. So, when you hear the words ‘I’ll deliver you 12 meg in the bush,’ just remember that the average speed that they will be able to deliver over this network, if they are lucky, is double what you get today. Congratulations to Senator Nash and the National Party! As I said, the connection speeds depend on the distance from the tower. In fact, the Optus-Elders consortium, OPEL, who were awarded the grant to build the new network, have acknowledged this in their press release. You will not hear this from the other side of the chamber. The consortium say:

Actual speeds will vary due to various factors such as distance from the base station, selected service, customer equipment and general internet traffic.

There it is in black and white. OPEL have to tell the truth. I know that Senator Nash is not going to, but OPEL have to. (Time expired)

Senator BARTLETT (Queensland) (7.51 pm)—I seek leave to incorporate Senator Allison’s speech.

Leave granted.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.51 pm)—The incorporated speech read as follows—

The Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007 ensures that the $2 billion principal of the Communications Fund—part of the proceeds of the final tranche of Telstra’s sell-off—is maintained as a perpetual fund.

The $2 billion is under management and invested in short term, low risk assets. The earnings on investments are made available at around $130 million a year to fund infrastructure for broadband, additional mobile telephone towers and backhaul fibre capabilities to rural communities.

According to the government, it enables the Commonwealth to implement responses to recommendations made by the Regional Telecommunications Independent Review Committee relating to the adequacy of telecommunication services in regional, rural or remote areas.

This is a very common approach of this government. It steers clear of guarantees of universal entitlements and instead drip feeds funds, mostly through grants to organisations in a patchwork of projects.

However, there is no overall plan and despite spending over $11 billion on telecommunications in rural Australia between 1997 and 2005 broadband services are still inadequate.

We said then and we say again now that there needs to be an audit of current fibre networks, a national plan and an adequate fund to roll broadband out.

We suggested that rather than use the $2 billion for infrastructure that it be used to maintain and upgrade services into the future.

Of course the commitment by the government at the last election was to not sell Telstra until rural service obligations and levels of service in rural areas were met. They were not acceptable when that last tranche was sold and they are still not acceptable.

But of course, as Minister McGauran admits, this bill is all about playing politics and a total waste of our time. It will obviously pass into law but as everyone knows, takes only a bill to repeal it which presumably the ALP will introduce as soon as it wins office.

The Government is quite open about it. This is to ensure that the Labor Party in office cannot, by ‘sleight of hand, or under cover of night’, abolish the Communications Fund.

Minister McGauran says if Labor wants to undo the legislation it will have to ‘do so in the full glare of public accountability’.

Well I suppose it will but would people in rural and regional areas prefer to wait for services while the interest of about $130 million a year is dribbled out for broadband or would they like the benefits of the full rollout as soon as possible.

In the full glare of the public gaze, as people despair at ever getting fast, affordable Internet services, I think they are likely to go for the latter.
The interest on this $2 billion was always going to be inadequate which may be why the government has only provided the woolliest idea of what these services are that the government is protecting or who will be entitled to them.

Like most politicians I receive a lot of correspondence from constituents on broadband. A tourist business in the Grampians (Royce Raleigh) said: “We are disgusted that after all the publicity and advertising re Broadband in rural areas by both the Government and providers, that even while paying $49.50 per month, the best we can get in practice, is a Broadband service slower than Dial-up. When is the Government going to get fair dinkum and make Broadband /SP providers deliver the speeds that they advertise? When are we going to get the same Communication Technology that people in the city take for granted?

We have put up with bushfires and drought in the last 12 months. We are trying to run a business in a very busy Tourist area, with no mobile phone coverage and no Broadband service. We are getting more and more international guests, who comment and ask: ‘Why is the Internet so slow in Australia? Why is mobile phone coverage so poor?’ We can only respond that the government does not see it as priority for country people. When are we going to get some real communication?"

In another instance an Albury-based businessman located in a regional hub with close to 100,000 people complains about the service level of broadband upload and download speeds and the impact to his business.

There are many cities in regional Australia with over 40,000 people, and a number with over 80,000.

This bill should be about delivering minimum services to regional cities and towns that match the standards in our capital cities.

And at the heart of this—the broadband debate—is the future competitiveness of regional Australia. What is needed is public Fibre to the Node infrastructure that gives fair access to all players, and a level playing field.

One solution might be to replace existing networks entirely and put in fibre or a wireless solution to every home and business as South Korea and Japan have done. They would cost far more than the $4.7 billion the ALP is offering but we need an honest debate about whether this is the way to go or not.

If this level of investment is not an option then we need as a minimum to sort out the regulatory mess. On the one side we have Telstra claiming that it will not make investments on account of the risk to shareholder returns and the share price because of current competition regulation.

The G9 group has the opposite problem - it needs regulation to get access to premises and that means connecting its fibre to Telstra’s copper pair.

I hear that Telstra will not even switch on the equipment it has, arguing that the Australian Competition and Consumer Commission will force it to accept unreasonably low rates. Of course if the equipment remains switched off and effectively mothballed then it can’t generate return on share holders’ investment in any case—so the question has to be asked: what is Telstra’s game?

Should the G9 lay their own fibre network there is the risk that has been Optus’ experience that Telstra will duplicate the infrastructure. This would deliver another Mexican stand off.

So while the G9 proposal is a way forward, the options are to do this with public money as Labor is proposing or to place restrictions on Telstra.

In either case these problems would not exist if Telstra was properly structurally separated and all retailers, including Telstra Retail, bought network services on the same terms. Critically the issue of access to Telstra’s copper pair needs to be dealt with and through competition policy.

It is regrettable that we are today dealing with a bill that achieves nothing constructive. Instead, we should be removing the structural impediments to competition through the restructuring of Telstra and by giving the regulator effective divestiture powers, as recommended by ACCC and OECD.

We should be introducing a well funded national strategy with targets and timeframes that has as its basis the supply of affordable broadband to all Australians.
We should have an industry/government co-ordinating body to implement this national strategy. The Democrats say funding should be available for new technology only, not to upgrade existing copper networks. Fibre-to-the-House and/or true wireless broadband at a minimum of 10Mb, should be implemented as a high priority. Federal Government should support local councils to facilitate broadband access in their communities. All new housing estates should be fibre. The Government should specify in legislation and regulations minimum service requirements for broadband access and minimum broadband speeds to provide Australians reasonable access to data services.

Subsidisation of satellite technologies should be reviewed to find the most appropriate means of supplying the technology to isolated areas and where possible provide all Australians with equal access.

The Democrats call on both the government and the opposition to act in the long-term national interest rather than the short term politicking reflected in this bill.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Just before we proceed further, Senator Conroy, are you circulating a second reading amendment?

Senator CONROY (Victoria) (7.51 pm)—I move the amendment circulated in my name:

At the end of the motion, add “but the Senate condemns the Government for failing to invest the $2 billion Communications Fund in a national fibre to the node broadband network to ensure:

(a) parity of service and metro comparable pricing for all Australians serviced by the fibre to the node network;

(b) the state of broadband services in Australia is turned around, after the past 11 years of neglect under the Howard Government;

(c) that Australians have access to the best available telecommunication technologies;

(d) that Australians in rural and regional areas have improved telecommunication services, including access to e-health and e-education, which are only possible over a fibre to the node network—the interest earned on the Communications Fund (up to $400 million every 3 years) is not enough to ensure this;

(e) that 98 per cent of Australians, including those in rural and regional areas, have access to future proof telecommunications technology; and

(f) that the 2 per cent of people that the new fibre to node network will not reach have a standard of service, depending on the available technology, that is as close as possible to that provided by the new network”.

Senator NASH (New South Wales) (7.51 pm)—I rise tonight to make some comments about the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007. I do so because, quite simply, if the government had not moved to introduce this legislation, rural and regional Australia would have been completely disadvantaged and would have lost out as a result of the Australian Labor Party—there is no way around that; there is no other way of saying it, but that is it.

The National Party and the coalition government introduced a $2 billion Communications Fund to ensure that rural and regional Australia would have telecommunications to a level that they needed into the future. It was fairly simple and obvious to those people looking at it. Senator Conroy on the other side of the chamber would have you believe that the Labor Party’s plan is going to deliver for rural and regional communities, so I rise tonight to let the people, particularly of rural and regional communities, know that this is not the case. The government has put in place a $2 billion principal Communications Fund to ensure telecommunications for regional communities. Interestingly, Senator Conroy fails to tell the Senate that they have no plan for rural and regional Australian telecommunications whatsoever—absolutely
none. As I have referred to before, I do not think Senator Conroy has actually been out of Melbourne and into regional Australia, because I live out in a regional community, Mr Acting Deputy President, and I can tell Senator Conroy that there are no nodes where I live and no nodes anywhere nearby, and I live in a reasonably populated part of rural Australia.

Their plan will not work. What is fascinating about this is that all we have had from the Labor Party so far on their grand plan for broadband rollout in rural and regional Australia—actually all of Australia—is one media release. There are no costings, there is no detail and there is no substance. There is absolutely nothing except this superficial commentary about the great things they are going to deliver. It is absolute rubbish and there is no substance whatsoever, which is like a whole lot of other Labor policies at the moment—there is absolutely no substance to them whatsoever. We have from Labor a plan for broadband for the nation which, if it were not so sad for rural and regional communities, would be absolutely laughable. Interestingly, their fibre to the node—and I think that side of the chamber got so caught up with the actual word that they cannot get past the phrase ‘fibre to the node’ because it is all really exciting—does not get to more than about 75 per cent of Australians.

I represent rural and regional communities and they are the most important thing to me as a National Party senator. The very simple message for our rural and regional communities is that, under Labor’s plan for fibre to the node, 25 per cent of Australia is going to miss out and that includes every single little bit of rural and regional communities, because fibre to the node is exactly that; fibre to the node. Senator Conroy—‘No Nodes Noddy’, on the other side—again: there are no nodes out there. I do not know if Senator Conroy does not ‘get’ the technology of what fibre to the node is—maybe that is true; I am not quite sure. It does not go to rural and regional communities. I can stand here and talk for 20 minutes and say 27 million times how this is not going to get to rural and regional Australia. But it is simple—Labor’s policy will not deliver to rural and regional communities. There is nothing; there will be no broadband and no fast speeds, because it is all about ‘big city’ Labor and making sure that everything is okay in the cities. Well, that is not okay, because rural and regional communities are the ones that are going to miss out and that is not fair and it is not right.

Labor are going to steal the very money from rural and regional communities that was put there to ensure that they had telecommunications services. It was put there by the National Party and the Liberal Party to ensure that it was guaranteed into the future that we would have those services for regional communities, because we recognise how important it is that we have them. Those on the other side in the Labor Party have absolutely no idea. I might be wrong, but I would imagine that every single person living in a rural and regional community at this moment, tonight, is aware that, if they have a Labor government after the election, they will have no capacity for faster broadband speeds because Labor want to steal the money from the very fund that is going to help deliver to those rural and regional communities. I do not think it is right for them to take that money and put it into the cities when, by the way, private commercial companies are delivering broadband services to the city anyway. The Australian Labor Party want to steal that $2 billion and put it into the cities. I defy anybody around this country to tell me why that is right, because it is not—it is absolutely wrong. As I said earlier, Senator Conroy should be ‘No Nodes Noddy’ because there are no nodes; they
cannot deliver. Most people probably do not realise that the speeds of broadband delivered from the nodes go 1.5 kilometres. That is fine if you are living in the middle of Sydney, Melbourne or Brisbane, but it is not fine if you are living in Young, or Albury, or Mendooran, or in Tamworth or on the north coast.

It is not fine and it is not right. We are talking about a distance of 1.5 kilometres. The Australian Labor Party are dealing in ‘fraudband’. They are not being fair and they are not being truthful with the people living in our rural and regional communities. The Labor Party would have people in our regional and rural communities believe that they are going to deliver this great broadband speed that the government cannot possibly deliver. That is rubbish. It is absolute rubbish. They are leading the people of rural Australia down the garden path, because they cannot deliver what they say they are going to purely by the dint of technology. I know that, and many of my colleagues on this side know that. Certainly my National Party colleagues know that. My National Party colleagues in the House who have spoken on this bill—Mrs Hull, Mr Scott and Mr Neville—all made the point that the Australian Labor Party were going to steal from rural and regional communities. That is exactly what it is.

What we have under this government is a very solid plan for the delivery of broadband around this nation. It is not just about regional communities getting the level of service that they need. It is not just about our regional communities being able to communicate with the cities around this nation. It is about our regional communities being able to play on the global stage—we are part of the world; the barriers have broken down—and we need that ability. This government actually has a plan to make sure that those people in regional communities have the telecommunications services that they need. We are putting $958 million into the rollout of a broadband network that will reach 99 per cent of the country. The last one per cent of the country, as everybody knows, out in those very remote areas, needs satellite capacity to get this broadband network there. We are going to ensure that 100 per cent of the country is covered. That 99 per cent figure is not some pie-in-the-sky, Senator Conroy style grand plan of absolute rubbish; it is a substantive, costed, sensible, measured rollout of broadband capability for this nation. We are doing the right thing in ensuring that this nation gets the broadband capability that it needs.

It really concerns me that we see a scare campaign coming from the Australian Labor Party, denigrating what the government is doing. If the Australian Labor Party were really concerned about telecommunications in this nation, if they were really concerned about telecommunications in rural and regional communities, they would actually say how they are going to deliver their fibre-to-the-node plan—because, quite frankly, one media release does not cut it. The people of this country deserve more. They deserve to know how it is being costed. They deserve to know where it is going to be rolled out. They deserve to know where all these nodes are going to be, given that it is only 1.5 kilometres from the node that this technology is going to deliver to. I can almost hear people around regional communities laughing about the 1.5 kilometres, because they are tens of hundreds of kilometres from nodes and they know that that is not going to deliver.

What is also really interesting is that the $958 million, which this government is putting in to roll out broadband around this nation, is there because this government has the economic credentials to be able to afford it. It is a bit like running a household; you cannot spend money on things if you have not
saved it up. This is the money the government has very carefully saved because it has managed the economy of this country well. While that phrase sometimes gets lost on people, what that actually means is that this government has money to spend on things that are important to the people of this nation—and one of those things is telecommunications. When I came into this place, and for a long time before, I was very aware of the fact that we had budgets in deficit. There was no money. We came into this place with a $96 billion debt from Labor. And it was not just $96 billion of debt; along with that came an $8 billion a year interest bill. That meant that there was no money to spend on things like telecommunications broadband plans for the nation. Now, because we have finally paid off that debt—and it took a lot of hard work and a lot of good management—we have that money in our household budget, in this country’s household budget, to spend on telecommunications. It is all very well for Senator Conroy to stand on the other side and talk about his grand plan about fibre-to-the-node blah, blah, blah but under Labor there would not be the money to pay for it. That is not just a throwaway line; there is a track record.

You only have to look at all the state Labor governments right around this nation to know that Labor cannot manage money, and there is absolutely no reason to believe that federal Labor would be any different because the philosophy is entirely the same. For state Labor, federal Labor, Labor people and the unions it is exactly the same. To suddenly expect that, because Mr Rudd says, ‘I’m an economic conservative,’ all will be okay in the economy is wrong. It will not be okay, and people in rural and regional Australia in particular need to know that Labor cannot manage money. It is because they cannot manage money that they have never been able to do things like roll out a $958 million broadband plan, which is what we are doing.

The fibre-to-the-node proposal from the Australian Labor Party means that they have to steal $2 billion from rural and regional communities. I find that absolutely abhorrent because, at this moment, an enormous percentage of the nation—including 75 per cent of New South Wales—is going through one of the worst droughts on record. People in those areas are doing it very tough. I take my hat off to them because they battle and battle to provide food for this nation and to provide an economic powerhouse for us as a trading nation. On top of that drought, we see Labor wanting to rip out the $2 billion Communications Fund that was set up purely to help rural and regional communities. We do not know where technology is going to go in the future, but The Nationals and the Liberal Party know that we have to make sure that we look after those rural and regional communities and we look ahead, we think and we prepare. We know there may well be changes in technology and technology delivery down the track, and we have prepared by setting up a $2 billion fund from which $400 million every three years is going to go to rural and regional communities. It was set up to be substantive and ongoing.

We need to protect that $2 billion fund, which is why this legislation has been introduced. If we protect that $2 billion fund, then rural and regional communities will have $400 million every three years in perpetuity to go towards their security of telecommunications. It is a sensible, practical measure that will ensure telecommunications in rural and regional communities. But, oh no, Labor want to get rid of it. Very simply, the Australian Labor Party want to take $2 billion from rural and regional communities and put it in the cities. That is not fair. It is not right. Private enterprise is going to deliver broadband to the cities anyway. How the Australian La-
bor Party can sit on the other side of the chamber and say, ‘This is fine; we will steal this money from the bush and give it to the cities.’ I do not know. I do not know how they can possibly think that is right, proper or fair, because it is not.

The government has had to bring in this legislation because, if we had not, rural and regional communities around Australia would have missed out. We have had to do this as a safety net because we know that the Australian Labor Party would steal the fund. We will not stand for it. We will not wear it. We are going to secure the future of rural and regional communities. We are going to secure the telecommunications needs of rural and regional communities into the future.

Senator WORTLEY (South Australia) (8.11 pm)—I rise to speak on the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007. This bill seeks to introduce legislation to prevent the $2 billion principal of the Communications Fund from being drawn upon to deliver telecommunications services to rural, regional and remote Australia. It is a bill that Labor opposes. The Minister for Communications, Information Technology and the Arts, Senator Coonan, in her press release on 21 June 2007, made it clear that this legislation is to prevent Labor from using the Communications Fund to provide a national broadband network should a Rudd Labor government be elected. Surely such motivation is further evidence that the government does not hold the national interest as paramount. The government is more interested in trying to cover up its own incompetence than in getting on with the task of connecting the nation to world-class broadband access.

There is one little, simple, single-syllable word that characterises the Howard government’s action on the issues that matter to the Australian people. The word is ‘slow’. We know only too well that the government has been slow to even admit climate change is a crucial, compelling challenge. It has been slow to address the nation’s growing skills shortage. Infrastructure is yet another area that has suffered due to the federal government being slow to act. And now in this chamber, focusing on the issue of broadband, again the government has been slow. The only thing slower than the government’s moves in this area are the snail-paced internet speeds that many Australians have to deal with on a daily basis in family homes, in small businesses and in rural and regional Australia.

It is not in dispute that fast, reliable broadband is essential for our society—for families, for education, for medicine and health, for small businesses and for the economy. As it stands, our nation’s lack of high-speed broadband is hurting and holding back Australian families and small businesses. Australia’s broadband performance is poor. We are ranked only 16th out of the 30 countries surveyed by the OECD. We lag a long way behind the countries we consider our international peers. Yet the coalition has sat on its hands for years, only cobbled together a plan in the shadow of a looming federal election. And even now the result is unsatisfactory on so many levels—a poorly devised plan that will inhibit Australia’s potential both socially and economically.

The government’s plan is a two-tiered system which discriminates against rural and regional Australians. They will be treated as second-class citizens by the legislation the government wants to enact. Those living outside of metropolitan areas will be left with an inferior wireless service. Those living outside of the inner suburbs of any of the nation’s five major cities will have shared connection speeds. There should not be a debate over how important this issue is for a
progressive and competitive Australia. There really is no argument. As we look at the detail of the government’s plan, it is hardly worthy of the tag ‘next generation’. Despite its posturing, the government just does not seem to get it.

Some months ago, Senator Coonan told The 7.30 Report that Australian broadband is ‘okay’ and that ‘no-one is complaining about the speeds of broadband in metropolitan areas’. How complacent and out of touch with Australian families this government is. Its procrastination in this matter has been costly for many people in metropolitan areas and in rural and regional areas. Mr Howard has had years to deal with broadband—as he has with other aforementioned issues—and is only acting now because there is an election on the way. Indeed, the federal government’s performance on broadband has been a broad-scale hoax on all Australians, particularly those who live in rural and regional Australia.

Despite its name, the purpose of this legislation is not to protect people in rural, regional and remote areas. Senator Coonan’s claims that the government would deliver high-quality, high-speed broadband to 99 per cent of Australians, using the income generated by the Communications Fund, have been little more than an act. By the government’s own figures, the slush fund will generate a maximum of $400 million dollars in interest and other income every three years. Labor believes this is not nearly enough revenue to raise the standard of telecommunications services outside of city areas. Instead, Labor will make the Communications Fund true to its name. Under a Rudd Labor government, the fund’s capital would be used to build a national broadband network that would guarantee that those in rural and regional Australia would no longer be left behind when it comes to crucial, even lifesaving, communication. There is no risk to the government in being part of a joint venture for such a network; broadband is an essential utility and therefore an important investment.

The Communications Fund would form part of the $4.7 billion which will see 98 per cent of Australians serviced by a fibre-to-the-node network, with minimum connection speeds of 12 megabits per second. The remaining two per cent of Australians will receive a standard of service as close as possible to that provided to other users. Labor believes it is crucial that people living in regional and rural areas have, where possible, access to metro-comparable broadband. Labor rejects the claim that the coalition’s proposed new network would deliver broadband services 20 to 40 times faster than today’s average. The OPEL consortium—which was awarded the grant to build the government’s planned new network—admits: ‘Actual speeds will vary due to various factors such as distance from the base station, selected service, customer equipment and general internet traffic.’ So speeds under the government’s plan are seriously in question, with even the successful tenderer unable to confirm Senator Coonan’s claims. When I asked Senator Coonan in this chamber on 20 June why the government was spending up to $1 billion to duplicate an existing service, she replied that there was no duplication, but she then went on to say, ‘You cannot push out to 99 per cent of the population without having some minimal duplication of coverage.’

A failure to rule out investment in a duplicate network is not the only problem Labor sees in the guidelines for the government’s 18th broadband plan. They also failed to specify whom the network would reach. They omitted to state a minimum connection speed and did not rule out a government contribution for network losses—a very different story from that which the minister has been telling. Also providing a challenge to the minister’s claims is OPEL, the consortium
which is providing the WiMAX network, which has stated delivery speeds up to six megabits per second, being scaled up to 12 megabits per second in 2009—a long way short of the claim made by the Howard government. After years of inaction, during which Australia slipped further and further behind other nations, and 17 previous attempts at a broadband plan, the government have come up with a substandard proposal—a second-class system. Labor believes this is simply not good enough. It is of fundamental importance that we get it right when it comes to broadband. Labor’s broadband plan uses superior technology to that of the government’s scheme; and crucially, it provides for the migration to the ultimate technology: fibre to the home.

Bringing Australian broadband into the 21st century is no easy or quick task, because our infrastructure is in such a deficient state. The Howard government’s indifference and neglect have come home to roost. They have been indecisive and painfully slow. Labor understands the importance of high-speed, accessible, affordable broadband internet for all Australians and is ready to roll up its metaphorical sleeves and get to work on this and other issues. A brighter, more competitive future when it comes to broadband is reliant on the building of better fibre networks. Labor’s plan for a national broadband network would deliver the future to all Australians.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (8.21 pm)—I listened to Senator Nash tonight and thought her contribution to the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007 was worth while. She does put a lot of effort into telecommunications in Australia. This bill seeks to lock up the $2 billion that the National Party won in exchange for the sale of Telstra. In the party room, or forums, we said that if Telstra is sold then we want to ensure that rural and regional Australia never gets left behind, as it was at the end of the Labor Party administration. I remember that, when Labor came to office, rural and regional Australia did not even get untimed local calls. There was no such thing as broadband or the internet—just one lonely telephone, and you were even charged if you rang your next-door neighbour. In fact, you were charged for a long-distance call if you rang the cottage from the main house. Even a call to your employer was called a long-distance call.

The previous speaker, Senator Wortley, said the government has been indifferent and has not moved. There is $4 billion worth of indifference: there are mobile telephones right across Australia, there are mobile telephones in the smallest village and there are mobile telephones up into the Torres Strait and out to the islands. Towers have been put up and subsidised by the government to ensure that everyone gets a mobile phone. You can now ring from Birdsville to Bedourie, from Birdsville to Boulia and it is classed as a local call. These are things which the coalition has done. This bill seeks to lock in that $2 billion under legislation, and it can never be removed unless Labor has a majority in the Senate. That $2 billion is there to keep rural and regional Australia up to speed when new technology comes through. I am sad to say that Labor will raid that $2 billion. It has said it wants that $2 billion to put forward its plan for the use of fibre-to-the-node technology.

Senator Nash said that fibre to the node will be implemented within 1.5 kilometres. I have a note here to the effect it will go four kilometres. But, whether it is 1.5 kilometres or four kilometres, it does not make a great deal of difference when your telephone is five kilometres from the front gate, let alone five kilometres from the nearest town. There
is no fibre to the node in rural and regional Australia, and 25 per cent of the people will be left out. There will be no plan under Labor to support them. It is bad enough to exclude 25 per cent of regional Australia, but they then want to rob the fund and say: ‘We’re going to use that $2 billion to push forward our fibre to the node. We’ll take that away from you and, if you fall behind in telecommunications, that is just too bad.’ Unfortunately, that is what the Labor Party have said they will do. They will take the $2 billion that the coalition has put in a trust fund which will produce $400 million every three years. Labor are going to use that money and then they will turn their backs on rural and regional Australia. I find that pretty hard to accept.

Only a couple of weeks ago we in the coalition put forward a program of, I think, $958 million to try to give people the latest technology, through a company called OPEL, which is a combination of Elders—a real Australian company—and another company. We actually reached 99 per cent of the people. We were not able to reach the other one per cent of the people, who are on radio digital concentrators and kilometres away from any town. But we have not ignored or forgotten them. We have not said, ‘Sorry, you’re just within the one per cent and that’s tough luck; you live out in the bush and you have to accept that.’ We have $400 million to fix that problem. We have appointed a very prominent eye doctor in Brisbane, Dr Glasson, who has taken on the duty of running around rural Queensland with the Mayor of Barcoo, ‘Barcoo Bruce Scott’. They will go out to those remote areas and ascertain what people are looking for.

We have provided $400 million to pick up that one per cent of the people, in contrast to Labor, which will raid our fund of $2 billion that will lock in the advanced telecommunications technology. Rural Australia will be left high and dry. Senator Conroy, you ought to be honest and say: ‘Fibre to the node just will not work in rural and regional Australia. If you are four kilometres from the node, you will be completely left out.’

This bill is needed. We need to lock it in. We want to ensure that that $2 billion can never be removed and that it picks up interest. There may be a time when $400 million is not sufficient to keep the telecommunications technology up to speed. That does not mean we will just say, ‘Well, here’s the $400 million and we’re just going to use that,’ as Senator Conroy has suggested. Senator Conroy will know that in the 12 years we have been in government we have spent $4 billion on telecommunications. What a disgrace it was when we came in: all people had was one lousy telephone and, even then, they could not use it to ring their neighbour up or even the house on their property. We have gone so far in telecommunications. No one can deny that the National Party and the Liberal Party have stood up for the bush. We have had so many programs, including $50 million for regional mobile phones, regional highway satellite phones, internet assisted programs, national communication funds, Indigenous communication scoping funds, Torres Strait community funds, the telecommunications action plan, local government funds and building rural networks—time after time we have come up and met the needs of rural Australians.

All we have in return is the Labor Party saying: ‘Let’s go to fibre-to-the-node technology. We’ll put it in the cities and the bush can’—I do not know what happens to the bush, they will just carry on the way they are and gradually fall behind the rest of Australia. I say to Senator Conroy: the market is prepared to put in this broadband in Australia. You do not have to go and spend $15 billion of taxpayers’ money to put in what the market will put in. Where the mar-
ket fails is where there are not enough people to make the market work, and that is in rural and regional Australia. That is where the government has to act. But you in the Labor Party just cannot help yourselves. You have $15 billion earmarked for a communications project to put in broadband that many companies in Australia are quite prepared to fund. However, those companies are not prepared to go out and fund telecommunications projects in the bush where there are not enough people to make the market work, so that is where we have come in with $400 million. We are looking after the people that have supported the National and Liberal parties. But Labor has walked away from them, Senator Conroy: you have not explained to us how you are going to get broadband out there. We have even supported mobile phones that are satellite phones when people get so far away from the CDMA that they cannot connect with it. Unfortunately, we need to pass this legislation otherwise the $2 billion will go up in smoke. Rural and regional Australia would then be left seeing telecommunications as they were before we came into government.

Senator CAROL BROWN (Tasmania) (8.33 pm)—I rise to speak on the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007, which seeks to amend the Telecommunications (Consumer Protection and Service Standards) Act 1999. From reading the title of the amendment bill one would be forgiven for assuming that the government is aiming, through this bill, to do something positive for the future of telecommunications services in rural and remote Australia. Indeed, one would be forgiven for assuming that this bill is aimed at doing the right thing by protecting the standard of telecommunications services in rural and regional Australia for the future.

If Senator Nash and Senator Boswell were serious about delivering broadband to the bush then they—the Nationals—would be supporting Labor’s national broadband plan. However, unfortunately for the people of rural, regional and remote Australia, the government’s intention through this bill is far from aimed at investing in and protecting the standard of telecommunications services; this bill is about preventing the ALP from using the Communications Fund to provide a national broadband network announced by Labor—should a Rudd Labor government be elected. The Howard government is not motivated by the long-term national interest; it is motivated by short-term political interests. The Labor Party are not the only ones to see that this government is all about stunts and does not stand for anything. I quote from yesterday’s Sunday Age:

After 11 years of being run by a policy contortionist, it’s difficult to see why the Liberals want to be in government.

They don’t stand for paying less tax, not for less regulation, not for smaller government, not for protecting civil liberties, not for investing in universities, not for the arts or sciences, not for a fair go in the workplace, not for states rights, not for an open economy, not for less welfare, not for caring for the planet and not for respecting international law.

The government recently released the draft guidelines for its 18th broadband plan. The guidelines are appalling and vague and leave the majority of Australians, particularly those in rural and regional Australia, in the dark, with it containing no firm guarantee that they will receive reliable, high-speed broadband access. The guidelines fail to specify who the network will reach and the minimum connection speed and to rule out government contribution to network losses.

So what is the point? The guidelines smell of another ad hoc political stunt by an out-of-touch, arrogant government, designed to
convince the voters that they are committed to delivering a broadband solution for all Australians. However, it is obvious from the vague nature of the government’s guidelines that their broadband plan is a bandaid, a poorly thought-out policy that has been slapped together on the run in the lead-up to the election. Their vague, poorly drafted policy, which is set to invest in obsolete technology and see the majority of Australians still without a fast, reliable broadband service, proves once and for all that this government just does not get it when it comes to investing in the future of this nation. Just as it does not get it when it comes to climate change, it does not get it when it comes to providing a genuine broadband solution for this country.

This is a government that is stuck in the past and is not willing to invest in the future. The measures contained in this bill prove it. Through this bill the government intends to lock up $2 billion of government money set aside to improve telecommunications services in rural and regional Australia and effectively deny people and businesses in such areas the chance to access metro-comparable telecommunications services.

It seems that this government is so hell-bent on political stunts that, rather than turning around the poor quality of telecommunications for all Australians, including those living in rural, regional and remote areas, it is willing to underinvest in essential infrastructure such as telecommunications. While the government plays games in the lead-up to this year’s elections, people and businesses in rural, regional and remote Australia are set to suffer. It is measures like those contained in this bill that leave no doubt that this government is old and out of touch with the people of Australia and that investment is needed now to ensure the health of the Australian economy in the future. It proves that this government is more concerned with holding on to government money in the lead-up to an election than investing in essential infrastructure for the future. It proves that this government, at this point in time, is so obsessed with serving its own political interests in terms of preserving its own power that it no longer has the best interests of the Australian people at heart.

This bill seeks to effectively lock up $2 billion in the Communications Fund, which was initially established in 2005 to improve telecommunications services in rural and regional Australia by implementing the recommendations given by the Regional Telecommunications Independent Review Committee. As a result of this measure only the interest earned by the fund will be available to implement the recommendations of the committee. This will equate to about $400 million over three years, about $133 million a year being available to be spent on telecommunications services in rural and regional Australia.

Labor is 100 per cent committed to improving the appalling standards of telecommunications services in rural, regional and remote Australia and does not believe that $400 million every three years is anywhere near enough to ensure this occurs. At present Australia is ranked only sixteenth out of 30 countries surveyed by the OECD when it comes to our broadband performance. Over the past 11 years the Howard government has failed to do anything to improve this situation, with 18 failed broadband plans under its belt to prove it. Labor believes that what is needed is a national broadband network that ensures 98 per cent of Australians, regardless of whether they live in metropolitan areas or rural and regional Australia, have access to quick, reliable broadband services that deliver a minimum speed of 40 megabytes per second and the remaining two per cent at the very least have access to stan-
standard service comparable to that provided by the new network.

Labor plans to deliver such services by rolling out superior state-of-the-art, more reliable fibre-to-the-node technology to 98 per cent of Australians. Labor believes that investment in telecommunications services now and in the future is of comparable importance to investment in rail infrastructure at the turn of the century. Labor’s plan will ensure that all Australians, regardless of where they choose to live, will be granted access to a global market and a catalogue of information which will be pivotal in guaranteeing economic prosperity in the future. It will ensure that no Australian is left behind or left needlessly to struggle with inferior telecommunications infrastructure.

For this to occur there needs to be an obvious investment in telecommunications infrastructure over the next couple of years. As an indication of just how important investment in such infrastructure will be, Labor is willing to invest $4.7 billion to improve the standard of telecommunications services in Australia, particularly in rural and regional areas. This initial investment is sure to pay off in the not-too-distant future, with the network set to open up businesses, particularly in rural and regional areas, to the global market ensuring flow-on investment in such areas. This is why the government’s plan to lock up $2 billion of the Communications Fund, some of which could be used to improve the standard of telecommunications services in Australia, is simply not warranted. It just does not make good economic sense. Four hundred million dollars over three years will do nothing to improve services, let alone maintain them in rural and regional Australia. For this obvious reason, Labor opposes the bill.

The government’s broader approach to telecommunications services in this country just does not add up. It announced earlier this year that it intended to provide a ‘complete and comprehensive broadband solution for Australia’, yet it plans to invest only in the fibre-to-the-node technology in major metropolitan areas, leaving people and businesses in rural and regional Australia out in the cold. How can neglecting the needs of people in rural and regional Australia and leaving them with an inferior, second-rate wireless service be considered as ‘providing a complete and comprehensive broadband solution for Australia’? It is not.

The government has proved with this bill and its broader botched broadband plan that it just does not get it when it comes to investing in essential services for the future. It has proved that it does not get how investing in essential telecommunications infrastructure and lifting the standard of service delivered to rural and regional areas will pay considerable economic dividends in the future. Why doesn’t the government get these things? Because its attention is fixed on retaining power at the next election, rather than coming up with a plan that genuinely invests in telecommunications infrastructure and the future of Australia. It is too busy playing politics. And that is what this bill is about: politics.

Labor has openly expressed its intention, if elected, to put to use the money from the Communications Fund to assist in the rollout of fibre-to-the-node services to 98 per cent of Australian households under its national broadband plan. Now, ironically, here we are debating a bill proposed by the government to lock up that money before the next election. Once again we bear witness to a government that are willing to use and abuse parliamentary processes to play politics and suit their own political agenda, rather than promoting the interests of the Australian people. We have seen it time and time again. Now, with the election looming, they have...
turned to childish tit for tat politics to ensure that, even if things do fall in their favour at the next election, they will still be left a lasting legacy. This is the work of a government that are scared of losing power, rather than using it in the interests of the people they serve.

Why shouldn’t the money in the Communications Fund be available to invest wisely in the services it was formed to improve? Why should people in rural, regional and remote Australia be left behind? Access to quick and reliable telecommunications services will have a significant bearing on the long-term prosperity of my home state of Tasmania in particular. Tasmania has in recent times enjoyed a period of growth, thanks to the state government’s commitment to investing in the long-term future of the state. Indeed, in recent years there has been an increasing number of people moving to the state as well as an increasing number of young people choosing to stay and invest their futures in Tasmania. This has resulted in a significant amount of development in many parts of the state. In the north-west, places such as Stanley, Ulverstone and Burnie have witnessed a significant amount of development and investment.

Likewise, so has the Kingborough region in the south, where I recently toured with some of my colleagues. This region, combined with the accompanying Channel-Huon region, is one of the fastest growing regions in Tasmania. However, at present many of the people and the small and medium businesses in the region are unable to access the government’s current wireless broadband service. Further, those few who can are constantly hampered by interference, delays and slow upload and download times. The geographic nature of Tasmania, in particular, is not conducive to the Howard government’s proposed second-rate wireless service because of its hilly geography—the very thing that makes the region so appealing.

Under the government’s proposed broadband plan, the people and businesses located in Tasmania will be left either without service or to struggle with the second-rate and highly unreliable wireless network. How can this be in the best interests of the small to medium businesses emerging in Tasmania? This gross underinvestment in essential telecommunications infrastructure by the government will mean more to the people of Tasmania than simply not being able to check the footy scores or to log on to YouTube. The standard of access to telecommunications services in such areas will have direct bearing on the health of the local economy, the success of local businesses and the degree of prosperity they can generate for the national economy.

Indeed, the Australian Local Government Association’s State of the regions report of last year found that inferior broadband services—that is, wireless—in 2006 resulted in the loss of $32.1 million in forgone gross domestic product and around 415 regional jobs in southern Tasmania alone. This is a tragedy. And the figures are similar for other regional areas across Australia. How can the government ignore such figures and continue to underinvest in essential telecommunications infrastructure in Australia? How can we expect people to continue to invest in regional and rural areas when the government is not willing to provide them with basic, reliable telecommunications services to facilitate the growth of their businesses? Why can’t the government see that an investment in essential telecommunications infrastructure in such regions will no doubt result in the generation of more wealth to be invested in the local economy, which will in turn boost the health of the national economy now and in the future?
Such an investment will open local businesses to national and global markets, attracting international interest and investment. This is the way of the future. If Australia is to prosper beyond the current mining boom, investment in this infrastructure is essential. It will not only open up the global market to local businesses; it will also open up a catalogue of ideas to bright young minds, hopefully stimulating creativity and innovation. This will also no doubt benefit the Australian economy in the future.

Gone are the days when people were forced to move away from their local communities, families and friends and give up their lifestyle in order to make ends meet. The information superhighway and ever-increasing mobile means of communication ensure that people now have the option of staying with their families and in their local communities while pursuing a meaningful and productive career. Such advances are welcome in Tasmania, in particular, with the attractiveness of our way of life luring interstate and overseas investors to the state. It may also represent the first small step towards facilitating a means of fusing work and childcare duties for young parents struggling to juggle both.

For this opportunity to eventuate, there first needs to be an investment in the infrastructure to make it all possible, yet the government’s proposed broadband plan will deny nearly all Tasmanians access to a fast, reliable broadband service. They will be left to struggle with the second-rate and unreliable wireless technology. This is simply not good enough. It is not good politics, it is not in the best interests of the Tasmanian people and it is certainly not going to contribute to the future prosperity of the state.

Why throw $54 million into marginal electorates like Braddon in the form of ad hoc, quick-fix, vote-grabbing policies like the one aimed at the Mersey hospital—which one of the government’s own senators thinks will be a disaster? Why open a technical college campus in the same area when enrolment rates well below target are doing nothing to aid the skills crisis in the area or help people retrain to fill the ever-increasing number of job vacancies opening up in this developing area? Why not invest in the long-term future of the state and ensure that every Tasmanian has access to a fast, reliable broadband service?

Labor is aware of the possibilities and the need for investment in essential telecommunications infrastructure. That is why it has allocated $4.7 billion to invest in a high-speed, fibre-to-the-node national broadband network which will be rolled out to 98 per cent of Australians and deliver a service which will be a minimum of 40 times faster than that which is currently provided. Meanwhile, unfortunately the government is more interested in using rural and regional Australians as infantry for its pre-election campaign rather than coming up with a genuine plan that will see an investment in essential telecommunications infrastructure in such areas.

As with an increasing number of bills that have passed through this chamber in recent times, this bill is an attempt by the government to enforce its own political agenda in the lead-up to the election. It is unfortunate that the government has chosen to pursue its own political agenda rather than to consider the needs of people in rural and regional Australia. This bill by no means, as the title suggests, promotes or secures the future of telecommunications services in rural and regional Australia. In fact, it does the opposite.

For this reason and because Labor is 100 per cent committed to improving the standard of telecommunications services in rural
and regional Australia, we oppose this bill. Locking up $2 billion and allocating only $400 million over three years is simply not enough, and the government knows it. The Howard government’s WiMAX solution will be badly affected by interruptions to line-of-sight vision. True broadband will bring enormous prosperity. We need to be prepared to take on the challenges so that we can compete in a competitive economy. More needs to be done than this government is prepared to do, and it appears that Labor is the only party with the vision, the plan and the will to do it.

Senator IAN MACDONALD (Queensland) (8.52 pm)—I am delighted to join this debate because I think I actually bring a reality check to the debate that we have had tonight. Unlike the Labor Party speakers who, with respect, have simply read speeches written by some Canberra based backroom clerk like the one who cleverly wrote Senator Conroy’s speech, I actually live in rural and regional Australia. I live a small country town. In July every year I drive throughout north-western and western Queensland. I am often in Far North Queensland, down in Rockhampton and out in Gladstone and Longreach, and, rather than reading these prepared speeches by some Canberra based adviser, I actually get out there and understand the work that Senator Coonan and other members of the government before her have done to assist telecommunications in rural and regional Australia.

I cannot forget the days when without any warning the Labor government shut off the analog telephone, which used to provide a service to rural and regional Australia, without any alternative strategy or system in mind. As is always the case with the Labor Party—and particularly with Senator Conroy—you do not listen to what they say or what they promise; you look at what they do when they are in government. They are criticising us now for interest rates hikes up to seven or eight per cent and say that it is terrible. They do not remember—they do remember but they choose not to remember—when I personally was paying on my own home loan mortgage interest rates of 17½ per cent. When you hear Mr Rudd saying that he is a fiscal conservative and that he will not let interest rates get up to that, do not listen to what he says; just look at what Labor do when they are in government.

The previous speaker had the temerity to mention the Australian Local Government Association. The Labor Party pretend that they are a party interested in rural and regional Australia. I would ask anyone sitting opposite me today to indicate if they happen to live in rural and regional Australia, and not one of them puts up their hand. Do any of them understand what the terminology ‘rural and regional Australia’ means? For Senator Conroy I think that means driving a truck. You were in the truckies union, weren’t you, Senator Conroy, and very involved in driving those big trucks? You were doing something in the Transport Workers Union. I am not quite sure whether you were actually driving trucks but it was probably driving trucks from the CBD of Melbourne to Mordialloc—and Senator Conroy probably thought that was regional Australia. Regional Australia is where I come from and where I drive every year. Senator Conroy, hopeless at policy but quite a nice fellow, should come out with me as I drive—

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! Senator MacDonald, I request you to address your remarks through the chair.

Senator IAN MACDONALD—I would make the invitation for him to come with me out to north-western and western and far northern Queensland to see what rural and regional Australia is about. He would be sur-
prised to know that just in July this year I drove around with my new Palm Treo, that device that gets emails, messages and the internet. It is not a bad device—it does not always do what I want it to do. Would you believe that as I drove through western Queensland the device, using the Next G—or whatever Telstra do and I do not particularly want to promote Telstra—was working when other people travelling with me in the car found their phones were not working? It is not a perfect system, I have to say, but it has been doing pretty well in rural and regional Australia—unlike when the Labor Party shut off the analog system and left rural and regional Australians without any form of mobile telecommunications.

Over the years in my travels in what is genuinely rural and regional Queensland and rural and regional Australia I have been able to see the improvements that this government—Senator Coonan and her predecessors—have made to telecommunications in rural and regional Australia. Several years ago I was in Birdsville, almost in the centre of Australia. People there were actually using the internet to sell organic cattle from Birdsville into Japan. It was a satellite service but it was a service sponsored by the Howard government, a government that understands the needs and interests of rural and regional Australia.

So it is not what Labor promises in their great taxpayer funded robbed telecommunications fund plan for broadband in rural Australia. Do not listen to their promises. Have a look at their record. Up in Rockhampton, where I am spending a bit of time these days, there is a bit of a debate going on about dental health for rural and regional Australians—in fact for all Australians. The Howard government has put in the Medicare funded scheme to spend up to $400 million, I think it is, on people’s dental health. The Labor Party had a proposal that would give everybody dental health at the Commonwealth’s expense. It is a state responsibility. The Howard federal government has come into it because the state Labor governments are absolutely hopeless when it comes to dental health. The Labor Party spokesman promised that every Australian could have this at a cost—and I just want to mention this figure, Mr Acting Deputy President, because it is relevant—of $5 billion per annum.

For those who might be listening to this, that was the surplus in the last budget. The Labor Party would have blown $5 billion on one initiative. I mention that figure because here today the Labor Party are saying that they will blow another $5 billion on their broadband scheme. They do not have to, because, as Senator Coonan has proved, the commercial operators will take that up and the market forces will drive it. But there we have the Labor Party in one year spending twice the surplus. You do not have to be Einstein to work out where this is leading. In just two initiatives the Labor Party have spent twice the surplus. When they promise things for ports, roads, universities or whatever, you can easily see why they ran up a debt of $96 billion before 1996.

It is simply the case that you cannot trust Labor with the chequebook because they just keep signing the cheques and have no idea where the money is coming from. They borrow it, which pushes up interest rates and pushes up inflation. That is what Labor are all about. Their plans for broadband are just more of the same. They are simply signing the cheques with no idea of where the money is coming from. They work through the focus groups that Mr Rudd seems to be so driven by and find out what is popular and then promise some money for it.

I mentioned the ALGA. Ask any local government council anywhere in Australia—but particularly in Queensland—what they
think about the Labor Party. The Labor Party are destroying local governments—and mainly the ones in rural and regional Queensland. By opposing this bill, they are destroying the people they are pretending to support. I cannot believe what the Australian media has picked up on. The Labor Party made it an offence to have a plebiscite on what form a local government should take. I cannot understand the Australian media. If Mr Howard blows his nose with the wrong handkerchief it is a front-page headline. But here a Labor Premier—sorry, ex-Premier, thank goodness; he has done the best thing by Queensland by resigning today—and a Labor government, supported by Kevin Rudd and all the other Queensland Labor Party people, although they are trying to distance themselves, brought in legislation that prevents free speech in the state of Queensland.

Senator Webber—That bill is listed for debate later this week. You might like to return to the topic.

Senator IAN MACDONALD—It was listed in the Queensland parliament, but—surprise, surprise—it is not coming on in the Queensland parliament. Would you believe that? Here we have a party that in the debate on this legislation is claiming to be the saviour of rural and regional Queensland and what do they do in Queensland? They destroy the government at the local level that gives local people a say. Councils might have said: ‘We don’t like Labor’s broadband policy,’ or ‘We didn’t like the way they shut off the analog network in our place,’ but the Labor Party know that they will not have to face those sorts of objections and criticism anymore, because they have taken the easy way out and abolished the councils in rural and regional Australia. For the Labor Party to quote the ALGA in support of their propositions regarding this bill is unbelievable. For the Queensland Labor government to stop people having a vote on their own local situation is beyond belief. Perhaps Senator Conroy in the committee stages could tell us why a Labor government destroyed the analog network back when it was important and why it has destroyed local government and free speech in Queensland.

I drive around Queensland a lot. I was amused to hear the previous speaker’s reference to climate change. Just last week, I was up in Nebo and Murrumba and Middlemount in the Bowen Basin coalfields. There it is well known that the ALP, with the support of their mates in the Greens, would shut down those coal mines because they want people to sign a bit of paper called the Kyoto agreement. What they are intending to do is to destroy the jobs of hardworking Australian families—people who labour in those mines but are well rewarded. The Labor Party, with their mates in the Greens, would shut them down. The reference to climate change and Labor’s approach to that is humorous. If you shut down every power station in Australia and turned off the engine in every motor vehicle, it would make less than 1½ per cent difference to the world’s greenhouse gas emissions.

What Mr Howard so cleverly and professionally did during the APEC meeting was to get the big emitters, China and the United States, to the table to talk about these things in a sensible way. That is not the way that the ALP would do it. They would shut down the mines and destroy the livelihoods of many hardworking families in rural and regional Australia—and particularly in the electorate of Capricornia, where the Liberal Party has a great candidate in Scott Kilpatrick, and in the electorate of Flynn, where the Liberal Party has a great candidate in Jason Rose. Those two gentlemen will be fighting to ensure that the jobs of the miners in the Bowen coalfields are saved from the ravages of the Labor Party and the Greens.
This is a very important bill because the interest from the Communications Fund, up to $400 million every three years, will be able to be used to provide telecommunications. On top of everything else that Senator Coonan and her predecessor Senator Alston have done for country Australia, there will be a permanent commitment of funds to providing real telecommunications support in rural and regional Australia.

I get to my conclusion on the same basis that I started. I do not read my speech from something that has been prepared by an adviser to Senator Conroy who lives in Canberra. Unlike Senator Conroy, I do not live in Melbourne and pontificate about telecommunications in the bush. I actually live in the bush and I travel widely in the bush. I know how telecommunications have improved under the Howard government. Anything and everything the Labor Party might say has to be judged against reality. The reality is—and I entered this debate to bring the reality check to it—that, when the Labor Party were in charge, they did nothing for the bush. You can understand that, because they hold no seats in rural and regional Australia. Even if we were to be defeated at this next election, which I think would be a sad and unlikely event, Labor would still not hold seats in rural and regional Australia.

Senator Webber—What’s Kirsten Livermore the member for if it is not a seat in rural and regional Australia?

Senator IAN MACDONALD—I am glad you mentioned that, Senator. You have mentioned Kirsten Livermore. Most of her constituents have not heard from her for the last 2½ years. I have to say they have heard from her in the last six months. Most of them come up to me when I am in Rockhampton supporting Scott Kilpatrick, the Liberal Party candidate, and say, ‘There must be an election on, because we’ve heard Kirsten is actually getting out and doing a few things these days.’ In the one media release that I have seen in recent times from Kirsten she criticised the Liberal candidate, Scott Kilpatrick, for being a wealthy person. Would you believe that, Senator? She criticised a Liberal candidate for being a wealthy person. The Liberal candidate happens to be a self-made builder who builds 200 affordable homes for the people of central Queensland every year. He is self-made. I do not know how wealthy he is but, whatever he has, good luck to him. For Kirsten Livermore to attack the Liberal candidate because he is ‘wealthy’ is beyond the pale to me. Think about your leader, Mr Rudd, and his wife, who are multimillionaires. We wonder how they got their money—they are multimillionaires—but, if they have earned it, good luck to them. In the Liberal Party we support people who get out and work. For a Labor candidate to criticise a Liberal candidate because he happens to be wealthy, when you have the most wealthy man in this parliament as your leader—

    Senator Webber interjecting—

Senator IAN MACDONALD—And don’t talk to me about Malcolm Turnbull. Mr Rudd could buy and sell Malcolm Turnbull twice over. And let me tell you something else. The Labor candidate in the electorate of Herbert, in Townsville, where I come from, is another multimillionaire on the back of the McDonalds franchise, of which he holds the monopoly in Townsville. Labor Party candidates who criticise Liberal candidates for being wealthy should have a look at their candidate in Herbert, who is a multimillionaire on the back of the McDonalds franchise, or their own leader and his wife, who are multimillionaires. That sort of thing we should not look at. My time unfortunately has drawn to a conclusion. I do urge the Senate to support the bill. (Time expired)
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.12 pm)—I will sum up on behalf of the government in respect of the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007. I have brought forward the bill to ensure that the Australian government’s $2 billion investment in the Communications Fund is preserved in perpetuity to provide an ongoing income stream for future telecommunications improvements in regional, rural and remote Australia.

The Communications Fund was established by the government in 2005 and provides a guaranteed income stream to fund services and infrastructure for regional communities such as additional mobile towers, broadband provision and even backhaul fibre capabilities. Interest earned from the Communications Fund is used to implement the government’s responses to recommendations made by triennial independent regional telecommunications reviews. The current review, chaired by Dr Glasson, is underway.

The bill protects in legislation the $2 billion principal of the Communications Fund so that only the interest earned from the fund’s investments, up to $400 million every three years, will be available for future upgrades and can be drawn upon. Importantly, the bill will ensure that the $2 billion Communications Fund cannot be pillaged by a future government for wasteful purposes. It will also ensure that it continues to support areas that need ongoing, targeted government assistance—that is, rural and regional areas where commercial solutions are not always viable.

Labor has committed to draining the entire $2 billion from the Communications Fund, to rob the bush of its ongoing funding and to squander it on a network that is otherwise commercially viable in built-up metropolitan areas where industry has said, in the clearest of terms and publicly, it is prepared to invest. Somewhat ironically, it is rural and regional Australians—whom the Communications Fund was established to protect—whom the Labor Party will, true to form, abandon. Taxpayer funds should be used to deliver equity in under-served areas, and to ensure that regional and rural Australians are not left behind in the ongoing telecommunications technology revolution. We know that the solutions of today will not be sufficient for tomorrow. That is why there needs to be an ongoing dedicated fund for people who otherwise will not be able to get the upgrades and services they deserve and want.

The government has the only plan that will deliver fast internet to 100 per cent of Australians by 2009. When you contrast it with Labor’s so-called plan, which leaves out thousands of the most needy Australians, it is clear that Labor’s plan is a substantially flawed proposal that will not even provide a service until 2013. It is a fair time to 2013. We do not know what technology will be the best solution by 2013, but we know that the Labor Party has very little understanding or grasp of the need to roll out a fast internet solution. In fact, Labor’s proposal is so underdeveloped and incomplete that it has been incapable of providing a map, costing or developed plan—not even an indicative map—to show where this mythical fibre-to-the-node plan will roll out. I think the cat has been well and truly belled in relation to Labor’s plan. It seems quite clear that the Labor Party not only has not thought through this plan but also has absolutely no way to develop a plan of a roll-out to 98 per cent of the population.

Anyone who knows anything about telecommunications knows that Labor’s plan is farcical. In fact, it is a fraud on the Australian people. The Australian people need an inter-
net service that will be available to all Australians—and that is what they are going to get from the Howard government. The bill that I have put forward will ensure that the Communications Fund cannot be pillaged for a plan that industry has said that it will develop. The bill protects the long-term interests of regional, rural and remote Australia, and it will protect regional Australia from the ineptitude and the gross economic irresponsibility of the Labor Party. It is important that these funds be locked away so that they will be available for the purpose for which they were established—that is, to look after the neediest Australians. I commend the bill to the Senate.

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

In Committee

Bill—by leave—taken as a whole.

Senator CONROY (Victoria) (9.19 pm)—I rise to seek some clarification of the comments made by the minister in her closing speech. She ranged widely in her contributions. I was hoping to gain some extra information. She talked about the government’s plan and how it was going to cover 100 per cent of Australians. I wonder if she might be able to help us. Minister, you recently announced that you had signed the OPEL deal. Is that correct?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.20 pm)—Yes.

Senator CONROY (Victoria) (9.20 pm)—Are the terms of the agreement public?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.20 pm)—No.

Senator CONROY (Victoria) (9.20 pm)—Will it be on the website soon?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.20 pm)—No.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.20 pm)—Are you indicating it will not be available on the website at all?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.20 pm)—No, I said it will not be available soon.

Senator CONROY (Victoria) (9.20 pm)—Is there a reason that a signed document that is a grant, as you describe it, is not available publicly so that we can judge the terms of it?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.20 pm)—It contains some confidential and commercial-in-confidence material.

Senator CONROY (Victoria) (9.20 pm)—It relates to a public grant. Other public grant documents are available from other departments on websites. What confidential information can there be about spending taxpayer money? When will it be available, Minister?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.21 pm)—It will be available at some stage in the future but there will be some confidential aspects that will not be available.

Senator CONROY (Victoria) (9.21 pm)—Could you give an indication of which areas fall into the confidential category and which will be available?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.21 pm)—No, not yet.
Senator CONROY (Victoria) (9.21 pm)—You have signed the document, haven’t you?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.21 pm)—Yes.

Senator CONROY (Victoria) (9.21 pm)—Where are the 312 OPEL exchanges located that will be enabled for ADSL2+? Is the list of 312 exchanges available?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.21 pm)—Yes, they are listed.

Senator CONROY (Victoria) (9.21 pm)—Where are they listed?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.21 pm)—On the web.

Senator CONROY (Victoria) (9.21 pm)—Thank you. Can you give me an indication of whether or not ADSL2+ is already available in those exchanges?

Senator Coonan—Was your question, ‘What is available on the web’?

Senator CONROY—Just to clarify for the minister, I was asking whether or not there was an indication about whether those exchanges that are listed are exchanges that already have ADSL2+ in them.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.22 pm)—A public report on the wholesale access arrangements to the network is being finalised. This report will be released shortly, but the ADSL enablement of the exchanges will be proceeded with in accordance with a certain order. I do not think it is yet publicly available.

Senator CONROY (Victoria) (9.22 pm)—So, the order that they are going to be—

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.23 pm)—Not yet available.

Senator CONROY (Victoria) (9.23 pm)—Thank you. Are the 1,361 OPEL WiMAX sites on the website?

Senator Coonan—Sorry, are they available?

Senator CONROY—Are they on the website?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.23 pm)—They are not on the website but they will be available, indicatively, shortly, because they have to be rolled out and placed.

Senator CONROY (Victoria) (9.23 pm)—Have OPEL had to identify where those are going to be?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.23 pm)—Senator Conroy, I can appreciate that you would not have quite the same level of detail on this as you would otherwise no doubt want. There is an implementation plan and in the implementation plan, in consultation with local councils and other stakeholders, the exact placement to get the best coverage will be ordered.

Senator CONROY (Victoria) (9.23 pm)—The maps that were previously circulated that are not available on the website actually had a tower and a 20 kilometre radius drawn onto them. They are not applicable anymore?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.24 pm)—Yes,
they are. They are indicative plans—that is what happens when you are rolling out a network. You start with a certain analysis and an indicative plan and then, when you actually do the physical rollout, obviously you consult as to the best way to locate a particular tower and precisely where you will locate it.

Senator CONROY (Victoria) (9.24 pm)—Thank you for that, Minister. In terms of the contribution by OPEL—$900 million. I think, has been indicated, roughly—could you detail what that consists of?

Senator Coonan—I am sorry. What is it?

Senator CONROY—Could you tell me what the OPEL contribution—the $900 million equip matching—consists of? Is it in kind? Is it cash? Could you just give us an indication?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.25 pm)—I cannot give you a break-up, but it is roughly $907 million in cash and kind.

Senator CONROY (Victoria) (9.25 pm)—Surely OPEL have indicated how much cash they are putting in.

Senator COONAN—I am just saying I am not going to give you any detail.

Senator CONROY (Victoria) (9.26 pm)—Some explanation of a contribution of $900 million—any explanation beyond cash and in kind would not seem to be unduly detailed—just for some indication of how much cash they are putting in. It does not seem to be a huge detail. I would have thought up-front in the contract it would say X dollars.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.26 pm)—I am not going to go into any further detail about the OPEL agreement other than complete generalities and I am not going to give you any breakdown. I did not mention OPEL once in my summing-up speech.

Senator CONROY (Victoria) (9.26 pm)—I appreciate you are embarrassed by it and you do not want to mention it by name. None of your other senators did. We had lengthy contributions from a whole bunch of government senators who could not bring themselves to talk up their own project. They could only talk and attack the Labor Party’s, but you did make reference—

Senator Coonan—You are just very easy to attack.
Senator CONROY—Maybe yours is so poor that you are embarrassed to talk about it.

Senator Coonan—No, ours is very sound.

Senator CONROY—I am offering you the opportunity to talk about it. Now you are saying, ‘I don’t want to talk about it.’

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.27 pm)—I am just saying that I am not giving you details.

Senator CONROY (Victoria) (9.27 pm)—I have a string of questions to ask you about your own project which you have talked about and you described in your closing remarks. So I am just following on from your own remarks.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.27 pm)—I realise you have not got much of an idea on it. I am not going to give you any more detail.

Senator CONROY (Victoria) (9.27 pm)—What is the time frame for the completion of the enablement of the exchanges that are having ADSL2+ put into them?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.27 pm)—That is a detail that I am not prepared to engage in.

Senator CONROY (Victoria) (9.28 pm)—Will it be part of the commercial-in-confidence information that will not be available publicly?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.28 pm)—I make the same response.

Senator CONROY (Victoria) (9.28 pm)—Are there conditions—

Senator Parry interjecting—

Senator CONROY—No, I do not think there are, Senator Parry. There might be in your world, but there are not any in mine.

Senator Coonan interjecting—

Senator CONROY—That is where you are building your base stations. They will be as useful on Mars as they will be—

Senator Coonan interjecting—

Senator CONROY—Well, they have more chance of getting fibre to the node than your WiMAX.

Senator Coonan interjecting—

The TEMPORARY CHAIRMAN—Senator Conroy has the call.

Senator CONROY—Thank you, Mr Temporary Chairman. I appreciate that we had three on one there while you were dozing, but I will manage.

Senator Coonan interjecting—

Senator CONROY—That would be unfair on you, because that would be three of us against three of you. I keep getting interrupted—if I could just get back to my questions.

The TEMPORARY CHAIRMAN—You have the call, Senator Conroy.

Senator CONROY (Victoria) (9.29 pm)—Thank you. Are there conditions that the OPEL consortium have to meet before the funds are made available to them? That is a general question rather than a specific one. I did not ask what they were; I simply asked: are there conditions?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.29 pm)—There are significant benchmarks that have to be met before funding flows.

Senator CONROY (Victoria) (9.30 pm)—Will they be made available to the public?
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.30 pm)—At some point, of course.

Senator CONROY (Victoria) (9.30 pm)—Is there a reason that they cannot be made available, given that you have signed the contract?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.30 pm)—The report is being prepared, as I thought I mentioned a little earlier. A public report on the access arrangements is being finalised and that will contain considerable detail.

Senator CONROY (Victoria) (9.30 pm)—It might save us all some time if you would indicate what was going to be in that—then I could stop playing ‘30 questions’. If you could give us just a general indication of what will be in that report that you have referred to I may not have to ask a lot of the questions I have.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.30 pm)—Please keep going because I am not in a position to indicate what is going to be in a report that has not been completed.

Senator CONROY (Victoria) (9.30 pm)—Presumably you know what is going to be in the report. I presume that you signed off on its preparation saying, ‘Give us a report about X, Y, and Z.’ But if you do not know what is in your own report that you have got coming then that would not shock me at all. I am sure it would not shock many in the chamber.

Senator Coonan—That’s because you’re so gullible.

Senator CONROY—Is there a contractual requirement on OPEL to provide WiMAX as its wireless solution or is it allowed to use other wireless broadband technologies?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.31 pm)—You will have to wait and see.

Senator CONROY (Victoria) (9.31 pm)—What spectrum will OPEL be utilising for its WiMAX wireless broadband network?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.31 pm)—As I said a little earlier, details of wholesale arrangements, pricing, rollout arrangements and technology will be included in a report due for publication shortly. I do not really see how this arises in relation to the debate on the Communications Fund.

Senator CONROY (Victoria) (9.32 pm)—OPEL do not have any spectrum, do they? They do not own any spectrum, do they?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.32 pm)—Of course they have spectrum. They cannot operate without spectrum.

Senator CONROY (Victoria) (9.32 pm)—But they do not own the spectrum that they are going to be operating in. That is not what I asked. I asked: do they own any spectrum?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.32 pm)—I am not going to engage in a discussion about spectrum when we are dealing with the Communications Fund. I have not raised any of these issues.

Senator CONROY (Victoria) (9.32 pm)—They do not own any spectrum, do they, Minister? That is the truth. They are going to be using shared spectrum. That is
publicly acknowledged by OPEL themselves. But I will move on.

Senator Coonan—Why ask then, Senator?

Senator CONROY—I was just wondering if you knew, given that you gave them $900 million when they do not even own any spectrum. I will move on. Is there a contractual requirement on OPEL to provide WiMAX as its wireless solution or is it allowed to use other wireless broadband technologies? Can they hang 3G on these towers as part of it?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.33 pm)—No.

Senator CONROY (Victoria) (9.33 pm)—Does that mean that they cannot or that there is no requirement?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.33 pm)—There is no requirement.

Senator CONROY (Victoria) (9.33 pm)—Preventing them from using the towers for any technology?

The TEMPORARY CHAIRMAN (Senator Kirk)—Senator Conroy, I remind you to address your remarks through the chair.

Senator CONROY—I will do my best. I am actually asking the minister questions.

Senator George Campbell—It is the committee stage.

Senator CONROY—It is the committee stage, and I am actually allowed to ask questions directly to the minister. That is what I thought. Minister, you seem confused by my question. Perhaps I can explain it again.

Senator Coonan—I am not at all confused.

Senator CONROY—I am just trying to work out what it was you said in answer—to be fair to you, because I do not want to misrepresent what you actually said.

Senator Coonan—You usually do; why should it be any different tonight?

Senator CONROY—Is there a contractual requirement on OPEL to provide WiMAX as its wireless solution or is it allowed to use other wireless broadband technologies?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.34 pm)—Of course they are using WiMAX.

Senator CONROY (Victoria) (9.34 pm)—I was not asking if they were; I was asking if they use something else on the same towers, or have you specifically said to them in the contract that they can only use the WiMAX?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.34 pm)—You will have to wait to get the detail of the contract, Senator Conroy, but there is a clear specification that there is certain technology that is to be used. That has always been part of the bid and part of all the public discussion. Nothing has changed.

Senator CONROY (Victoria) (9.34 pm)—Thank you. I appreciate that they are required to use fixed wireless. I guess the second part of my question is: are they only allowed to use that on the towers or can they use anything else and put it on the towers as well? I think that is what I am trying to ask you, perhaps inelegantly.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.35 pm)—I would agree with that. I think you will have
to see what the implementation plan is, and of course that has not yet been finalised.

**Senator CONROY** (Victoria) (9.35 pm)—I am a little confused. I am not sure why you are not able to specify whether or not they can put 3G on the same towers.

**Senator Parry**—Madam Temporary Chairman, I rise on a point of order. We have tolerated nearly 20 minutes of questions that have had absolutely no relevance to the committee stage of this particular bill. This bill is about the trust fund. We have had questions about all these technical details of telecommunications in Australia which are of no relevance. We can keep going all night. The minister has handled the questions exceptionally well, but we are really not getting to the core issue of what the committee stage is all about. So, unless there is anything of relevance, can we have the question put?

**The TEMPORARY CHAIRMAN**—In view of the legislation that we are considering, which is the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007, and given that generally debate on these matters is quite broad, I think it is appropriate that Senator Conroy can continue with the line of questioning that he is pursuing with the minister.

**Senator CONROY** (Victoria) (9.36 pm)—Minister, is OPEL required to make publicly available accurate coverage maps of its WiMAX network that take into account local topographical features? If so, when will these maps be available?

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (9.36 pm)—I have already said—three or four times now, I think—that details of the rollout arrangements, the wholesale prices, the location of towers and all of those arrangements are being prepared in a report for public consultation.

**Senator CONROY** (Victoria) (9.37 pm)—In the press release you talked about public consultation on the wholesale aspects of the OPEL proposal, but you are now indicating that public consultation will be broader on some of these other topics as well, like coverage. Is that what you just indicated? I thought that is what you indicated.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (9.37 pm)—I think it would be fair to say that all of the advantages and details of this particular proposal and the contract are not included in one press release.

**Senator CONROY** (Victoria) (9.38 pm)—I am sure the minister was not attempting to confuse me, but unfortunately she succeeded.

**Senator Parry**—It doesn’t take much!

**Senator CONROY**—I appreciate that may be the case, which is why I am asking for some clarification as to what will be subject to public consultation.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (9.38 pm)—You will see it very soon.

**Senator CONROY** (Victoria) (9.38 pm)—I did not ask for any in-depth technical considerations; I just asked what will be available. Your press release states one thing will be available. You indicated a little earlier that it will be broader than that. I am just seeking to get you to clarify what else will be part of a public consultation process on top of what you said in your press release. That is all I am trying to find out.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (9.39 pm)—I think
you are trying to dance on the head of a pin, Senator Conroy. It is all the same. The answer that I gave you a little earlier is correct.

Senator CONROY (Victoria) (9.39 pm)—I was not suggesting that it was incorrect. I am not attempting to dance on the head of a pin. Your press release is quite specific about what will be open for public consultation. It talks about the wholesale arrangements, which is a good, positive thing. But you indicated that there was a little bit more that would be available for public consultation, and I am just trying to clarify what those other aspects would be.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.39 pm)—I do not want to pre-empt it. I am still finalising what will be in it.

Senator CONROY (Victoria) (9.40 pm)—Are there minimum speeds that are required to be delivered by the OPEL network?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.40 pm)—Yes.

Senator CONROY (Victoria) (9.40 pm)—What are those minimum speeds?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.40 pm)—You will have to wait and see the document.

Senator CONROY (Victoria) (9.40 pm)—Could you clarify what the wholesaling obligations on OPEL are?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.40 pm)—That is in the report.

Senator CONROY (Victoria) (9.40 pm)—Can the government give a guarantee that no OPEL retail services will sell for more than $60 a month?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.40 pm)—You will have to wait for the report.

Senator CONROY (Victoria) (9.40 pm)—You have publicly stated in documents that have been circulated by your colleagues, as well as by you, that a $35 to $60 price will be charged for retail. What are the requirements on OPEL and/or its shareholders in terms of the retail prices that can be charged, given that you have said prices will be between $35 and $60, depending on speed and download limits?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.41 pm)—I adhere to that.

Senator CONROY (Victoria) (9.41 pm)—So there will be no products that will be more than $60?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.41 pm)—OPEL have given me an indication and I adhere to that.

Senator CONROY (Victoria) (9.41 pm)—So OPEL have indicated that the maximum price they will charge for any product is $60? Is that what you are saying?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.41 pm)—I adhere to my public statements about it. OPEL have given an indication of that order. They have committed to $35 to $60 per month, and the wholesale arrangements will be released shortly.

Senator CONROY (Victoria) (9.42 pm)—Minister, can you, on behalf of the government, give a guarantee that no OPEL retail services will sell for more than $60 a month?
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.42 pm)—What I have said is that OPEL has committed to prices between $35 and $60 per month and the wholesale arrangements will be released shortly.

Senator CONROY (Victoria) (9.42 pm)—Have the ACCC engaged in discussions about either the wholesale price or the retail prices that have been indicated? Have they ticked off on these or are they part of ongoing discussions?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.42 pm)—I am just not going to answer that. I do not see how it is relevant to the Communications Fund.

Senator CONROY (Victoria) (9.42 pm)—It is relevant to whether or not they have agreed to the $35 to $60 pricing that you have indicated. You have just proudly said you stand by it. I am asking now, given that you are standing by these prices: have the ACCC been involved in discussions around either the wholesaling aspects or those retail prices? Were they consulted over these prices?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.43 pm)—You are going to have to ask the ACCC.

Senator CONROY (Victoria) (9.43 pm)—You do not know?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.43 pm)—You are going to have to ask the ACCC.

Senator CONROY (Victoria) (9.43 pm)—How and when will the government independently test the OPEL network to see whether it is achieving its coverage requirements, and what will be the benchmarks for this independent testing?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.43 pm)—It will be done during implementation. It will be done by an independent lab.

Senator CONROY (Victoria) (9.43 pm)—Who will be conducting the tests, and what are their qualifications in wireless networks?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.43 pm)—There have been some details already, but the details of the reporting will be also part of the report that will be released shortly.

Senator CONROY (Victoria) (9.44 pm)—Under what network load conditions, either real or simulated, will the tests be conducted?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.44 pm)—You will have to wait for the detail, Senator Conroy.

Senator CONROY (Victoria) (9.44 pm)—Could I just clarify: I do not actually believe that Optus or Elders own any of the equipment at the moment, because they are not engaged in producing this product anywhere in the world, at all, at the moment. Is that the case? If that is the case, how have you tested the claims made by OPEL about their coverage, given that they do not actually have any equipment at the moment? How have you tested their coverage?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.45 pm)—The equipment has been tested and, obviously as part of the implementation plan, there is a
benchmarked and scheduled rollout and arrangements for testing.

Senator CONROY (Victoria) (9.45 pm)—What is the factual basis for the government’s claim that the OPEL network will extend high-speed broadband to 99 per cent of households and businesses, and will OPEL be required to ensure that this commitment is met?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.45 pm)—Yes.

Senator CONROY (Victoria) (9.46 pm)—What requirements are there on the OPEL shareholders to contribute their own financial resources to the network, and how will their delivery on these requirements be audited?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.46 pm)—It is part of the contract.

Senator CONROY (Victoria) (9.46 pm)—And they will be audited on their $900 million to ensure that it actually is spent?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.46 pm)—Absolutely.

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

Question agreed to.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.47 pm)—I move:

That this bill be now read a third time.

Senator CONROY (Victoria) (9.47 pm)—We have had a fascinating debate tonight, as the government have come in here and—speaker after speaker—done nothing but talk about Labor’s broadband proposal. Not one of the senators who spoke had the courage to talk about and advocate their own proposal. That was quite edifying, when you realise that three or four government members, including the minister in charge of this portfolio, were not prepared to advocate their own policy, having been given two or three hours of opportunity to talk about their own proposals.

Senator Coonan interjecting—

Senator CONROY—I am not surprised that this government is embarrassed to talk about its 17th and 18th broadband plans in 11 years. As Senator Boswell identified—and Senator Coonan has put out press releases to this effect—we have already spent over $4 billion. The OPEL deal takes us to $5 billion.

Senator Coonan—that’s not on broadband, you idiot!

Senator CONROY—that is what Senator Boswell said. If he is an idiot, Minister, then it is out of your own mouth. Senator Boswell identified that the government had already spent over $4 billion—the OPEL deal makes it $5 billion—and what have we got?

Senator Coonan—You’re very confused, Steve, very confused.

Senator CONROY—I am not confused; I am only relying on Senator Boswell, who presumably has the notes from your office. Let’s be clear. This is a government so embarrassed because it is delivering a two-tier system: one for the cities and one for regional-rural Australia. I invite the minister, Senator McGauran, Senator Boswell and Senator Barnett, if you are so confident about what you are going to give—
Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Ms Samantha McIntosh
Aged Care

Senator PATTERSON (Victoria) (9.50 pm)—I do not often speak on the adjournment, but I am moved to speak on the adjournment tonight. I had the opportunity to go to the Ballarat electorate in conjunction with Samantha McIntosh, who wanted to point out to me some issues that were occurring in that electorate. One of the main reasons for going was to look at disability services, but I went to look at aged care in Bacchus Marsh.

Before I talk about that, I want to talk about an absolutely outrageous campaign that has been waged against Samantha McIntosh in the electorate of Ballarat. There have been advertisements on the television which are totally inappropriate, appalling and misleading. They misrepresent a young woman who, with her family, has built up a business which has brought jobs and other benefits to Ballarat. This young family has bought houses, renovated them and moved; bought houses, renovated them and moved—and, as anyone who knows anything about renovating houses will know, it is not easy. They have finally bought an amazing old building in Ballarat that was owned by, I think, the hospital. They have renovated it, with the kids helping with painting, to its splendid Victorian original state, and they now use it for bed and breakfast accommodation to raise money for charities, and they have tourist events where people have high teas and are told about the history of the building and the history of Ballarat.

What do Labor do? They deride her by suggesting that she is living in some mansion. This is a home in which the children live while the business goes on around them. It is not an easy thing to do when there is a function in the kitchen and the kids are trying to study and do things. This family lives on the premises. They have worked their hearts out to build a successful business. What do Labor do? They portray them on the television as wealthy people. These are businesspeople who have worked their fingers to the bone to build up a small business.

What do Labor do? They put a shot of a building on the TV, on the pretext that it is this building, with a Mercedes-Benz outside so as to imply that the family drive a Mercedes-Benz. Nothing is further from the truth. I am advised the shot was not even of their building. And, anyway, people do go there in Jaguars and Mercedes-Benz to visit Ballarat and stay at their wonderful B&B. Labor pulled the ads but after the damage was done. I hope it backfires on them. Samantha McIntosh is a tremendous young woman who has gone through some challenging health issues with her young family. She and her husband have built a business up out of nothing. It is the old motto of former Senator Richardson: whatever it takes—denigrate, mislead, misrepresent, it does not matter, and never say ‘sorry,’ never apologise.

We went to Bacchus Marsh with Samantha. One of the things that was highlighted to me was that Bacchus Marsh needed more aged care, particularly more low-care and high-care places. We visited Grant Lodge, a facility administered by the Djerriwarrh Health Services. It passed what I call ‘my mum’ test: if my mother were still alive, would I like to have her live there? The care by the staff was outstanding—the facility is old and needs a lot of work done, if not rebuilding—and the love given to the residents
there was exemplary. But I do not want to talk about the staff of Djerrwarrh services or Grant Lodge; I want to talk about the Victorian Labor government.

The facility passed 44 out of the 44 care standards set by the Commonwealth, which indicates that the staff there are providing appropriate and very good care. But I thought to myself: why is the building so old and why have they not applied for more aged-care places in previous rounds? Then I discovered that Grant Lodge is one of the aged-care facilities which are run by the public sector, the Victorian government. There are about 195 or so public sector residential aged-care facilities run by about 85 agencies across Victoria. About 80 per cent of them are located in rural and regional areas. Something which has interested me, from when I first became interested in aged care in Victoria, is that aged care in Victoria is quite different from aged care in almost every other state, other than most probably South Australia, where a significant proportion of aged-care places are provided by the state government. The Australian government provides recurrent residential aged-care funding, based on residents’ care needs, from time to time providing funds for specific capital purposes. However, capital works funding for Victorian public sector aged-care facilities is primarily the responsibility of the state government, administered through the Department of Human Services. Victoria, as I have said, has the largest involvement in residential aged care of any of the Australian jurisdictions. About 6,500 older Victorians are accommodated in Victorian public sector facilities. In the majority of cases, the agencies which provide public sector residential aged care are health services. They are required to comply with the same certification and accreditation requirements which apply to other providers of residential aged care.

An edifying document on the Bracks and Brumby record on the provision of aged care in public sector facilities can be found in the Victorian Auditor-General’s August 2006 report: *Condition of public sector residential aged care facilities*. It highlights the failures of the Bracks and Brumby administration in this area—a lack of overall planning and a lack of oversight of the Commonwealth’s 2005 grant of $3,500 per resident place to improve building standards. In fact, the report suggests that 65 per cent, or $13 million, of the total grants may have been unspent, and they need to be spent in this area.

There was evidence that communities which raised funds to support their public sector aged-care facilities may be penalised by a reduction in funds available to them for capital improvement. The report also pointed out that facilities with a higher number of low-care beds and higher SES areas were benefiting disproportionately from the benefits of accommodation bonds and extra charges. In addition, it was found that there was a wide variation in the per cent of residents paying bonds at the maximum level, which was limited to ineffective local practices and policies. I recommend that people have a look at that report. It is a damning indictment of Labor’s appalling record. The Auditor-General’s report concluded that the Victorian Department of Human Services:

… does not adequately plan for managing the condition of public sector residential aged care facilities.

The report was about the condition of public sector residential aged-care facilities. They were not looking at planning for the future. I have no doubt that, if a review had been undertaken of the Victorian government’s plans to redevelop and increase the provision of aged care in Victoria, the same conclusion would have been drawn.
The people of Victoria deserve better; the people of Bacchus Marsh deserve better. The burgeoning population of Bacchus Marsh and the surrounding areas need to know that the Victorian government is planning for their future. Just keeping the status quo in Grant Lodge is insufficient. There are no low-care beds. People cannot age in place; there are only high-care beds. The people of Bacchus Marsh should be demanding that the Victorian government rebuild and extend the facility so the people of Bacchus Marsh can take advantage of the $1.6 billion federal government funding which has gone to the recently announced aged-care reform package Securing the Future of Aged Care for Australians. If the Victorian government got its act together, older people in Bacchus Marsh could benefit from some of the 32,000 new places planned for the next three years.

I hope I do not go back there when I am no longer in the Senate and find that they have not applied for places, because they have not planned for them. I am glad that Samantha McIntosh took me to Bacchus Marsh. She is a candidate who is already showing how she will stand up for the people of the Ballarat electorate. That is what they need—someone who will stand up, who will fight for the issues affecting people from Bacchus Marsh and the rest of Victoria where aged-care facilities are run, access to care they need and deserve.

Myall Creek Massacre: Book Launch
Senator FORSHAW (New South Wales) (10.00 pm)—A few years ago a very good friend of mine, Peter Stewart, gave me a manuscript to read. Peter is an old school friend and, I should note for the record, the nephew of two great former Labor ministers: Frank Stewart in the Whitlam government and Kevin Stewart in the Wran government. But that is not particularly germane to what I wanted to talk about tonight. Peter gave me this manuscript. It was one of many drafts of a book that he was endeavouring to write and to have published on the history of the Myall Creek massacre. Peter also told me at the time of his involvement as a member of the Sydney Friends of Myall Creek and of their efforts to have a memorial erected at the site of that massacre.

I read the manuscript and for the first time, I have to confess, I began to understand some of the tragic events that had occurred in that massacre of around 28 Aboriginal women, children and elderly men on the remote Myall Creek cattle station. Peter had been working on this book since the 1990s, when he was a history teacher in Cronulla, so it was a privilege for me and many others to attend the launch of Peter Stewart’s book *Demons at Dusk: Massacre at Myall Creek* on 26 August. I normally do not quote at length from articles but I wish to quote from a couple tonight because they have described in much better words than I could the achievement of Peter Stewart in writing this book. Firstly, I will read an article from a Sydney journalist John Mulcair:

Almost 30 years ago, Peter Stewart was researching an assignment for his students at Our Lady of Mercy College at Cronulla when he encountered a truly horrifying story—the Myall Creek massacre.

At dusk on June 10, 1838, a group of stockmen armed with rifles and cutlasses rode on to the remote Myall Creek cattle station in Bingara in the state’s north-west and rounded up 28 unarmed Weraerai Aboriginal children, women and elderly men. After tethering the adults, and with the children clapping their mothers, victims were led away over a ridge and slaughtered.

Their bodies were dismembered and an attempt made to burn the remains.
What followed was unique. For the first time in the colony of NSW, where killing Aboriginals to make way for pastoral expansion was perfectly acceptable, the perpetrators of the horror were pursued and tried. Seven of them hanged.

Peter Stewart, who lives at Heathcote, has written a truly terrible book, in the sense it showed how genocide was acceptable and encouraged.

But it also shows how courageous men, some with no power, and everything to lose, found it within themselves to speak out.

Mr Stewart originally envisaged a film about the atrocity, but his scripts and eventually a slightly fictionalised form of events, bumped around in many incarnations, drawing continuous rejections.

“I’d written about 14 versions and I thought I would self-publish it and send it to Peter FitzSimons to see whether he might write a few paragraphs for the back cover,” Mr Stewart said.

It bowled FitzSimons over. He wrote: “Every Australian should read this book ... reading it helped me understand my own country.”

At the book’s launch last weekend, two blokes having a drink together personified the power of reconciliation.

Their names were Lyall Monro, a member of the Kamilaroi tribe, one of whose ancestors escaped the Myall Creek massacre. The other was Des Blake, whose ancestor was a stockman against whom charges were eventually dropped.

There is a footnote to the article:

Two young Aboriginal boys hid in a nearby creek when the stockmen rode into Myall Creek station. A descendant of one of the boys became one of rugby league’s most exciting footballers—Nathan Blacklock.

The book was launched by well-known author and biographer Peter FitzSimons. He writes in his foreword:

Like many Australians, I had vaguely heard of the “Myall Creek Massacre” but knew nothing of the detail.

That changed, however, in February 2005 when Peter Stewart, a regular reader of my week-end newspaper columns, sent me a manuscript he had written. Peter asked if I could have a “quick look” at it, with a view to writing a sentence or two which he could use for promotional purposes on the back cover.

A quick look, huh? Once, when I asked Gough Whitlam if he had read a particular book on Paul Keating he replied, “Comrade, I have glanced at it extensively ...” and that is exactly what I intended to do on this book.

I wanted to be polite-ish, but had neither the time nor the interest to read the damn thing. That, however, is not how it worked out. In fact, my “quick look” turned into me being drawn in from the first page, and devouring the manuscript over the next two days and nights. I finished reading it at midnight on the second night, deeply moved, and awoke with a start four hours later. Myriad sentiments were swirling within, but the most powerful was: every Australian should read this book.

I know that sounds like the mealy-mouthed thing one often reads on the back of books, but that was genuinely what I felt in those wee hours and I have firm’d in my view since.

For if we are to celebrate Australia’s history in the courage and heroism Australians displayed at Gallipoli, Kokoda, Tobruk and Long Tan; if we are to glory in our achievements in so many fields from sport to agriculture to literature and the arts ... then we must also remember and acknowledge Myall Creek and other stains on our national soul as a crucial part of our past.

This, too, is a part of the Australian mosaic; this, too, was a part of our journey as a people through the good, the bad and the beyond ugly to bring us to where we are today, and we cannot pretend otherwise—as much as we might like to, and mostly have to this point.

Surely, as a nation, there can be no “reconciliation” if we do not all acknowledge just what horrors we are reconciling from? “Demons at Dusk” is an extremely powerful account of one of the most tragic and remarkable chapters of Australia’s history and makes truly gripping and valuable reading.

For me, reading it helped me to understand my own country ...
As I said, I was privileged to attend the launch of this book—a Herculean effort by Peter Stewart over 30 years through many drafts and many attempts to get it published, but he succeeded. It is truly a remarkable book, one that I have read and one that I would urge everybody to read. What comes through powerfully is not only the terrible details of the massacre, the hunt for the perpetrators, the details of their trial and their eventual conviction but also the courage of men like the convict hutkeeper George Anderson and the station superintendent William Hobbs, who stood up to death threats and intimidation to give evidence and to see that justice was done.

It also highlights, based upon the actual transcripts of the trials, the determination of the Governor of New South Wales, Sir George Gipps, who stood up to the leading members of the Sydney community, including the owners of the Sydney Herald, which was later to become the Sydney Morning Herald. The Herald, owned by some of the leading squatters and other people of Sydney, claimed in one comment that the evidence in the case was ‘entirely circumstantial’ and maintained its previous position wondering again how long the white settlers were to be ‘left to the mercy of lawless savages’.

At the hearing, Lyall Munro, one of the descendants of the Indigenous people at the scene of the massacre, made a statement in his speech when he said, ‘Truth is fact; it must be told.’ I am pleased tonight to put on the public record that this is a book that should be read by all Australians. I agree with Peter FitzSimons, and I congratulate Peter Stewart on his efforts to ensure that the story of the Myall Creek massacre is published and hopefully read by all Australians.

**Citizenship Test**

**Senator BARTLETT (Queensland)** (10.08 pm)—I would like to start by concurring with the comments in Senator Forshaw’s speech. They flow on to some of the points I want to make in my contribution tonight. We have spent today in the Senate debating and finalising the government’s legislation regarding the citizenship test. I will not revisit all the specifics of that legislation, but I think that, whatever your views about the necessity and desirability or otherwise of the citizenship test, one of the stated purposes of some of the material surrounding that of the information booklets is for people moving to Australia and seeking to become Australian citizens to get a better understanding of Australia’s history and of our values—what it is that actually makes up Australia.

One of the frustrations I have with that goal and that process—laudable though the goal may be—is how poor we in Australia still are at informing ourselves of, and acknowledging to ourselves, key parts of our own history. It is books like those that Senator Forshaw has talked about that provide a really important component of our getting a better understanding of the real, full history of our nation—how it is that we have got to where we are today and some of the real, very powerful, very traumatic experiences. The experience that that book deals with is one of only a number of similar instances throughout the country that are pivotal parts of groups in the community. They are key parts of a lot of Australians’ individual family stories and histories. The fact that those stories are not woven into our shared understanding does not mean that they are not real and that their consequences are not real. But because they are not woven into our shared understanding we are in many ways still walking forward in the dark. To me, it is not about just an intellectual exercise of knowing more about our history; it is very much about enabling our nation to reach its full potential. Until we have a proper understanding of the different factors, good and bad, that have
been knitted together to bring us to where we are now, we are not going to be able to properly move forward.

To me, one of the real problems is that, as a nation—and it is just as much, and in some cases more so, with Australian-born people and people whose ancestors have been here a few generations, such as me—we still do not have a full understanding of our history. I spoke earlier this afternoon in the Senate about a report released a week or two ago by Australians for Native Title and Reconciliation—ANTaR. The report was written by Dr Ros Kidd from Queensland, who has researched a significant part of the history, particularly in Queensland, of the extremely serious maltreatment of Indigenous people within Queensland, including the misappropriation and theft of their earnings, their lawfully entitled wages. Related to that, it included the policies of displacement, the appalling conditions people were kept in in government institutions and the knowledge of government officials and others who knew at the time what was happening—who knew, in some cases, of children starving and of reports of malnutrition—and who simply looked the other way. Those stories are part and parcel of the stories of people who are alive today, and they are part and parcel of our nation’s history. I urge people to read stories such as those outlined by Senator Forshaw or the report of Dr Kidd, which people can get through the ANTaR website at www.antar.org.au. It is part of that wider necessity of informing ourselves. I regularly have the experience of reading material such as that which Senator Forshaw has outlined and thinking: ‘People should read this. How can I not have known this? How can other people not know this?’ People should know this because it is powerful and important information that will give them a better understanding of our nation.

I make those points in building on the issue of how we spread that information. To me, one of the extra reasons we have difficulty in getting any information out is that people lack opportunities to access the information and to explore some of the issues it raises. That is important in the context of some of the issues talked about in the citizenship test debate. I note that in the citizenship test inquiry there is a submission from the ethnic community broadcasters. I note their plea for more support for that sector and for the community broadcasting sector in general so that they can do what is an incredibly valuable and very under-recognised job. The community broadcasting sector in general is often completely ignored. It does not come up in the radio ratings and the TV ratings because it is so diffuse, but nonetheless it is a medium that reaches millions of Australians. Assessments show that about four million Australians listen to community radio each week. That includes nearly three-quarters of a million people who listen exclusively to community broadcasting. A significant number of those are in Indigenous communities. A significant number of other people are those who speak a language other than English in their home. These are key ways of reaching people who would not otherwise get information that enables them to be a better part of the Australian community.

There are 480 licensed community services broadcasting over 44,000 program hours a week that reach out to Australians in all sorts of different ways. The fact is that the notional core funding per service for the community broadcasting sector has declined significantly over recent years. I draw attention to and express support for the recommendations of the recent inquiry by the House of Representatives Standing Committee on Communications, Information Technology and the Arts into community broadcasting and community media.
recommendations acknowledge the benefits of extra funding.

And we are not talking about huge amounts of money here. The suggested new funding to assist the community broadcasting sector is less than $20 million a year. That would provide significant extra amounts for content as well as for important areas of training and infrastructure. One of the positives of community broadcasting—and it is an area I have had involvement in myself in the past—is the significant engagement of people in the community in producing the material. It is not just the people who listen but also the people who produce it. Significant numbers of volunteers are part and parcel of giving that vibrancy and that local or specialist flavour and that direct experience.

One of the real values of the Indigenous community broadcasting sector, for example, is not just that it reaches out to Indigenous and non-Indigenous Australians but that it provides a mechanism for training and a mechanism for the voices and experiences of Indigenous peoples to be heard. It is the same for people from migrant backgrounds, non-English-speaking backgrounds or minority backgrounds. It provides an opportunity for their voices to be heard and for that to increase the understanding of people in the Australian community.

A very small extra investment of government funds can produce a significant extra boost. I do not think there is full appreciation of that, in whatever context you want to put the debate. When we are talking about a greater understanding of Australian history, values and citizenship, then the clear benefits of the community broadcasting sector, and particularly the ethnic community broadcasting sector, in improving integration, understanding, awareness and recognition of the diversity of the Australian community become evident. There are opportunities there that we are not making the most of. I contrast that $16 million or so per year benefit with the $120 million over five years being put up to cover the cost of the citizenship test. To me, that again emphasises the distorted priorities there. How much extra value would you get out of genuinely communicating real Australian history and real Australian values in all their diversity by the better investment of money rather than by the very narrow and I think quite timid and inward-looking approach that we are getting through the citizenship test?

I repeat my plea of support for the recommendations of the House of Representatives Standing Committee on Communications, Information Technology and the Arts looking at community media. I think it is a valuable area that would benefit all Australians with just a small extra investment of government funds. I hope all parties consider that in the context of the lead-up to the coming election and the debates that we will have and the debates that will happen through community media as well. *(Time expired)*

Federal Election

*Senator BARNETT (Tasmania) (10.18 pm)—* I rise at this late hour to warn Australians of the scenarios facing their representation in the Senate after the coming election. Put simply, there will be either a coalition majority or minor parties holding the balance of power with Labor. With only 28 seats in the Senate chamber of 76, I believe it is effectively impossible for Labor to win a majority in its own right in the Senate. I also expect that the Greens will eclipse the Democrats in the half Senate election as the minor party in the Senate with the most seats. In short, there is now a real possibility of a Labor-Green accord in the Australian Senate and the Australian parliament.
Given that scenario, I can place on record that Australians have a clear choice at this half Senate election: to elect a majority of coalition senators—and, in Tasmania, Liberal senators—and ensure that the Senate remains a vehicle for progress and careful reform in the parliament, or face a Senate controlled by a minor party, the Greens. Yes, a Labor-Green accord or coalition. The Tasmanian Labor-Green accord of 1989 to 1991 was a disaster, and any federal Labor-Green coalition or policy accord of any nature will also lead to peril for our community. Is this alarmist? I think not. Two of the four Greens in the current Australian parliament, Senator Bob Brown and Senator Christine Milne, figured prominently in minority Labor and Liberal Tasmanian governments, with both experiences beset by massive political instability and economic development paralysis. After the so-called Labor-Green accord years 1989 to 1991, interstate investors largely boycotted Tasmania as a place to invest.

To understand the disaster of the Labor-Green accord days, when both Senator Bob Brown and Senator Christine Milne negotiated these outcomes for the Greens in the state parliament, I will give an example: the Tasmanian government spent $3.4 million to halt a forestry development, Huon Forest Products south of Hobart, and to compensate the owners. They spent taxpayers’ money to axe jobs, not create them. Contracts were torn up by the government and sovereign risk concerns skyrocketed. The disastrous Labor-Green accord experience exposed the Greens as nothing more than the extreme socialist left of the Labor Party, always trying to control the Labor Party. The tail was wagging the dog, and that is why we on this side of the chamber think it such a farce when the Greens threaten Labor on preferences. Greens preferences usually flow 70 per cent or more to the Labor Party.

As a consequence, this period in Tasmanian politics was beset by instability and political turmoil, coming on top of the successful campaign by the Greens to have the Hawke Labor government destroy the $1.2 billion pulp mill near Wesley Vale in 1989. Likewise today, the aim of the Tasmanian Greens is to kill off the Gunns pulp mill at any cost, no matter what environmental conditions are attached. So investors abandoned Tasmania in droves, business confidence was sapped and so the Labor government gave up and went to the people in February 1992 and recorded its worst ever vote—29 per cent, including a loss of two seats—so that Labor was left with 11 seats in the 35-seat parliament.

The same happened again in 1996 when the Liberal government lost its majority and continued to serve as a minority government. The Rundle economic and social reforms were too much for the Greens. They did not bring down the Rundle government with a no-confidence motion; they simply created a climate of instability. They threatened the government often enough to make governing untenable. The Greens are very clever at running a covert campaign against community stability and good government. Conflict is their modus operandi, their main tool of trade. For them to do otherwise would be tantamount to coming a distant third as a mainstream political party. The Green definition of good government is the Greens getting their way no matter what the cost, and that is the scenario awaiting Australians if the Greens gain the balance of power in the Senate at the election. Both periods of minority government were a disaster, saturated with rampant political and economic instability even when the Greens said they were being cooperative. The Greens’ nirvana is a hung parliament where they use their clout to push their agenda while the hapless majority government suffers the public stigma of
chaos and instability. The Labor-Green majority in the Senate would spell disaster for our economy and our community.

Mathematically there is only one alternative to this mayhem: a strong, stable and economically effective government with sensible family and social policies and a strong track record on both the economy and national security. Contrast that with the Greens’ policy to legitimise the use of certain drugs, many anti family, anti jobs, anti development policies, harebrained schemes like their proposal to drain Lake Pedder in Tasmania, and making a spectacle of themselves by disrupting a speech to a joint sitting of parliament by the US President George Bush. The Greens’ version of free speech is when they speak. That the Greens may do preference deals with the ALP merely exposes the Greens’ extreme Left culture. It also confirms the Labor-Green alliance is alive and well. I am sure that if Labor were to win government this year we would face the worst-case scenario of a federal environment minister Peter Garrett, a former Greenpeace activist, running rampant against the interests of business and industry in Australia and emboldened by the extreme Greens holding the balance of power in the Senate. Forget about those strong economic statistics made possible by the Howard government showing more jobs—yes, 417,000 new jobs since March 2006—higher wages, record low unemployment, and very few strikes. As my colleague and Tasmanian Liberal Senate candidate Don Morris once quipped, you would have a Rudd Labor government resembling a set on the Universal Studios: you know, where all you have is the main street of facades propped up from behind by wooden scaffolding and no reality, no depth. This analogy is appropriate. Mr Rudd and federal Labor are superficial and inexperienced, with policies based on opinion polls.

My alert for Australians is to think carefully before voting to bestow such unbridled power on the Greens so that they may hold Australians to ransom on the floor of the Senate. In terms of investment and economic progress and prosperity, a Labor government with a Green controlled Senate would cost Australians dearly. In a balance of power relationship, the Greens would thrive on power for the sake of power, without responsibility.

In that context I want to talk up the reason why we need a return of the Howard government and a strong coalition majority in the Senate—we have the runs on the board. Why risk a change? Why risk all this for the sake of a major party, the Labor Party, controlled by the unions and ruled by the Greens in the Senate? The results would be instability, economic upheaval, conflict and social and family division for its very survival.

In my home state of Tasmania we have endeavoured to build a firewall against this scenario with a strong Senate team led by Parliamentary Secretary for Finance and Administration Senator Richard Colbeck, Senator David Bushby, and Senate candidate Don Morris. Senator Colbeck has run his own building company. He was President of the Chamber of Commerce in his home city of Devonport and held a directorship of the Tasmanian Chamber of Commerce and Industry, amongst many other achievements in the world of business, sport and the community, and of course in the Senate.

Senator David Bushby, who is in the Senate and with me in the chamber tonight, was appointed a senator on 30 August, very recently, and was sworn in today. Senator Bushby is a graduate in economics and law. He practised law in Sydney, Launceston and Hobart. He has worked both in senior positions in government and for a senior federal cabinet minister. He was a director of two
companies and Secretary of the Tasmanian Small Business Council. I have known David for many years. His father, Max, was state MP for Bass for 25 years and his mother is a stalwart of numerous community and church groups in Launceston. Senator Bushby will be a great asset to Tasmania, the Liberal Party and the Senate.

Don Morris has been senior private secretary to two Senate Presidents, Senator Margaret Reid and Senator Paul Calvert, and remains private secretary to the current President. He has been adviser to Senator Watson, worked for former Tasmanian Governor-General Sir Phillip Bennett, and worked as an adviser to the federal Minister for Regional Services, Territories and Local Government. He has also worked as a senior public servant on Norfolk Island. We attended the same school together in Launceston and our families have been friends for at least two generations. His experience and his knowledge of the Senate and how to get things done in this parliament are exceeded by only a few.

All three are outstanding candidates for the coming half Senate election and, with great respect to our political opponents, I say that these three are the best credentialed by a country mile in the Tasmanian Senate contest. May I say they will make an excellent acquisition by the Tasmanian people, given the chance, while providing a strong buttress against the worst-case scenario of the Greens having Senate control in accord with the Labor Party. (Time expired)

Harold Gibson Weir

Address by the Canadian Prime Minister

The PRESIDENT (10.28 pm)—It is with regret that I inform the Senate of the death in late August of Mr Harold Gibson Weir, Parliamentary Librarian from 1978 to 1982. Mr Weir first joined the Library in 1968 as one of the first appointees to the Legislative Research Service. He took a leading role in the formation of subject groups within the research service, a model which continues to enable the Library to effectively deliver its services. He also initiated the Bills Digest service, which has become a highly valued service to senators, members and their staff. Unfortunately, ill health caused Mr Weir to retire prematurely from the post of Parliamentary Librarian. On behalf of honourable senators, I extend condolences to Mrs Weir and to their family.

I also remind senators of the invitation to attend an address by the Prime Minister of Canada, Mr Stephen Harper, in the House of Representatives tomorrow. Senators should be seated by 10.25 am.

Senate adjourned at 10.30 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Australian Hearing Services Act—Declared Hearing Services Amendment Determination 2007 (No. 2) [F2007L03512]*.

Australian Meat and Live-stock Industry Act—Australian Meat and Live-stock In-
dustry (Meat Processor Marketing and Research Bodies) Declaration 2007 [F2007L02579]*.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 12 of 2007—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 (2005) [F2007L02633]*.


Civil Aviation Act—

Civil Aviation Regulations—

Civil Aviation Order 82.6 Amendment Order (No. 1) 2007 [F2007L02608]*.

Civil Aviation Order 100.66 Amendment Order (No. 1) 2007 [F2007L02592]*.

Instruments Nos—

CASA 288/07—Direction – use of night vision devices prohibited in private operations [F2007L02574]*.

CASA EX34/07—Exemption – carriage of passengers on training flight [F2007L02213]*.

CASA EX43/07—Exemption – from take-off minima inside Australian Territory [F2007L03490]*.

Civil Aviation Safety Regulations—

Airworthiness Directives—Part—

105—

AD/A320/172 Amdt 2—Main Landing Gear Support Rib 5 [F2007L02686]*.

AD/A320/174 Amdt 1—Air Data/Inertial Reference Unit [F2007L02667]*.

AD/A320/175 Amdt 1—103VU Panel Hinge Pin [F2007L02666]*.

AD/A320/192 Amdt 2—Main Fuel Pump System – Airworthiness Limitations and Modifications [F2007L02665]*.


AD/A330/77—Flap Down Drive Shaft [F2007L02663]*.

AD/ATR 42/18—Pitot Probe Current Sensors [F2007L02661]*.

AD/ATR 42/19—Fuel Tank Safety Fuel Airworthiness Limitations [F2007L02660]*.

AD/B737/237 Amdt 1—Passenger Cabin Conditioned Air Overhead Ducts [F2007L02685]*.

AD/B737/303 Amdt 1—Fuel Boost Pump Wiring [F2007L02719]*.

AD/B737/307—Main Slat Track Downstop Assembly [F2007L03458]*.

AD/B737/307 Amdt 1—Main Slat Track Downstop Assembly [F2007L03507]*.

AD/B747/261 Amdt 2—Fuselage Station 800 Frame [F2007L02684]*.

AD/B747/360—Fuselage Skin at Stringer 5 between BS 340 and 350 [F2007L02683]*.

AD/B747/361—Flight Station Windows No. 2 and No. 3 [F2007L02682]*.

AD/B747/362—Aft Tension Tie Channels [F2007L02659]*.
AD/BO 105/16—Tension-Torsion Strap [F2007L02681]*.
AD/BO 105/17—Main Rotorhead Parts [F2007L02680]*.
AD/BO 105/18—Tail Rotor Blade End Caps [F2007L02679]*.
AD/BO 105/19—Tail Rotor Blade Grips [F2007L02678]*.
AD/BO 105/20—Resue Hoist Cable [F2007L02677]*.
AD/BO 105/21—Tension-Torsion Strap – 2 [F2007L02655]*.
AD/BO 105/22—Main Rotor Mast Flange [F2007L02676]*.
AD/BO 105/23—Main Rotor Blade Secondary Bolt Locking [F2007L02675]*.
AD/BO 105/24—Main Rotor Pitch Link Rod Ends [F2007L02674]*.
AD/DA42/3 Amdt 1—Engine Control Unit Back-Up Batteries [F2007L03547]*.
AD/DAUPHIN/85 Amdt 1—CPT 609 Crash Position Transmitter Beacon Antenna [F2007L02613]*.
AD/DHC-1/25 Amdt 2—Wing Flaps [F2007L02668]*.
AD/ECUREUIL/128—Centre Windshield [F2007L02716]*.
AD/EMB-120/29 Amdt 4—Elevator Trim System [F2007L02658]*.
AD/ENST 28/40—Main Rotor Push Pull Rod [F2007L03531]*.
AD/ERJ-170/1 Amdt 1—Cargo Doors [F2007L02673]*.
AD/ROBIN/7 Amdt 3—Nose Landing Gear Bracket [F2007L02657]*.
AD/S-92/5—Tail Rotor Pitch Change Bearing Assembly [F2007L02722]*.
AD/S-PUMA/56 Amdt 2—Hoist Plate Front Attachment [F2007L02672]*.
AD/S-PUMA/68 Amdt 1—Jettisonable Window Panel Seal and Cabin Trimming [F2007L02671]*.
AD/S-PUMA/71—Hydraulic Power System [F2007L02720]*.
AD/TAYLORCRAFT/1—Wing Struts [F2007L02590]*.

106—
AD/ARRIEL/17 Amdt 3—Engine – Gas Generator Second Stage Turbine [F2007L03508]*.
AD/ARRIEL/25 Amdt 1—Fuel Filter Drain Screw [F2007L02662]*.
AD/CFM56/27—Low Pressure Turbine Rear Frame Life – 5 Series Engines [F2007L03509]*.
AD/CON/88—Kelly Aerospace Turbocharges [F2007L02723]*.

107—
AD/PR/37—Propeller Blades – Metallic Leading Edge Guard [F2007L02591]*.
AD/RAD/84—Honeywell RCZ-83( ) and RCZ-85( ) Communications Units [F2007L02656]*.

Instruments Nos—

CASA 316/07—Direction – Cessna 441 Conquest [F2007L02695]*.

CASA EX39/07—Exemption – ARFFS AFC Diploma [F2007L02419]*.

Classification (Publications, Films and Computer Games) Act—Select Legislative Instrument 2007 No. 244—Classification (Publications, Films and Computer Games) Amendment Regulations 2007 (No. 2) [F2007L02587]*.


Commonwealth Electoral Act and Referendum (Machinery Provisions) Act—Select Legislative Instrument 2007 No. 251—Electoral and Referendum Amendment Regulations 2007 (No. 2) [F2007L02598]*.

Corporations Act—

ASIC Class Orders—

[CO 07/183] [F2007L03538]*.
[CO 07/568] [F2007L02701]*.

Select Legislative Instrument 2007 No. 259—Corporations Amendment Regulations 2007 (No. 10) [F2007L02637]*.

Customs Act—

Select Legislative Instruments 2007 Nos—

245—Customs (Prohibited Imports) Amendment Regulations 2007 (No. 3) [F2007L02576]*.

246—Customs (Prohibited Imports) Amendment Regulations 2007 (No. 4) [F2007L02612]*.

Tariff Concession Orders—

0703793 [F2007L02605]*.
0705916 [F2007L03459]*.
0707051 [F2007L02594]*.
Monday, 10 September 2007

0708777 [F2007L03474]*.  
0708819 [F2007L03475]*.  
0708834 [F2007L03503]*.  
0708865 [F2007L03492]*.  
0708871 [F2007L03518]*.  
0708872 [F2007L03517]*.  
0709032 [F2007L03513]*.  
0709147 [F2007L03502]*.  
0709159 [F2007L03511]*.  
0709160 [F2007L03510]*.  
0709263 [F2007L03515]*.  
0709548 [F2007L03514]*.  

Tariff Concession Revocation Instruments—  
130/2007 [F2007L02606]*.  
131/2007 [F2007L02607]*.  
133/2007 [F2007L02610]*.  
134/2007 [F2007L02611]*.  
135/2007 [F2007L03469]*.  
136/2007 [F2007L03470]*.  

Tariff Concession Revocation Instruments and Explanatory Statement—  
HS2007/1A [F2007L02901]*.  
HS2007/2A [F2007L02909]*.  
HS2007/3A [F2007L02860]*.  
HS2007/5A [F2007L02903]*.  
HS2007/6A [F2007L02889]*.  
HS2007/7A [F2007L02920]*.  
HS2007/10A [F2007L02912]*.  
HS2007/12A [F2007L02875]*.  
HS2007/14A [F2007L02861]*.  
HS2007/16A [F2007L02870]*.  

HS2007/19A [F2007L02894]*.  
HS2007/31A [F2007L02868]*.  
HS2007/33A [F2007L02896]*.  
HS2007/43A [F2007L02897]*.  
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HS2007/615A [F2007L03449]*.
HS2007/617A [F2007L02766]*.
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HS2007/634A [F2007L03060]*.
HS2007/660A [F2007L03041]*.
HS2007/675A [F2007L03112]*.
HS2007/676A [F2007L03323]*.
Environment Protection and Biodiversity Conservation Act—
Amendments of Lists of Exempt Native Specimens, dated—
21 August 2007 [F2007L02700]*.
23 August 2007 [F2007L02699]*.
Listed Migratory Species—Approval of an international agreement [F2007L02641]*.
Repeal of the Wollemi Pine Recovery Plan NPWS (1998); and Adoption of State Plans as Recovery Plans [F2007L02708]*.
Extradition Act—Select Legislative Instruments 2007 Nos—
247—Extradition (Czech Republic) Regulations 2007 [F2007L02649]*.
248—Extradition (Slovakia) Regulations 2007 [F2007L02646]*.
Financial Management and Accountability Act—
Adjustment of Appropriations on Change of Agency Functions—
Direction No. 5 of 2007-2008 [F2007L02693]*.
Select Legislative Instrument 2007 No. 252—Financial Management and
Accountability Amendment Regulations 2007 (No. 5) [F2007L02561]*.


Future Fund Act—Future Fund (Credit of Additional Amounts) Determination 2007 (No. 3) [F2007L02698]*.

Goods and Services Tax Determinations—Addenda—
  GSTD 2004/3.

Goods and Services Tax Rulings—Addenda—
  GSTR 2002/2 and GSTR 2002/6.
  GSTR 2004/6.
  GSTR 2006/4 and GSTR 2006/10.

Health Insurance Act—Select Legislative Instruments 2007 Nos—
  254—Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 6) [F2007L02254]*.

Higher Education Support Act—
  Commonwealth Grant Scheme Guidelines—Amendment No. 1 [F2007L03523]*.
  FEE-HELP Guidelines [F2007L02710]*.

Immigration (Education) Act—
  IMMI 07/061—English Courses and Citizenship Courses held for Holders of Certain Temporary Visas [F2007L02653]*.
  Select Legislative Instrument 2007 No. 256—Immigration (Education) Amendment Regulations 2007 (No. 2) [F2007L02645]*.

Industry Research and Development Act—Commercial Ready Program Directions No. 1 of 2007 [F2007L03544]*.


Legislative Instruments Act—Select Legislative Instrument 2007 No. 249—Legislative Instruments Amendment Regulations 2007 (No. 2) [F2007L02582]*.

Migration Act—
  Instrument IMMI 07/030—Eligible Passports [F2007L02702]*.

Migration Agents Regulations—MARA Notices—
  MN 35-07b of 2007—Migration Agents (Continuing Professional Development – Private Study of Audio, Video or Written Material) [F2007L02704]*.
  MN 35-07c of 2007—Migration Agents (Continuing Professional Development – Attendance at a Seminar, Workshop, Conference or Lecture) [F2007L02705]*.
  MN 35-07f of 2007—Migration Agents (Continuing Professional De-
Development—Miscellaneous Activities) [F2007L02706]*.

Migration Regulations—Instruments—
IMMI 07/047—Arrangements for Work and Holiday Visa Applicants from Thailand, Iran, Chile and Turkey [F2007L02650]*.
IMMI 07/054—States and Territories with English Language Training Arrangements [F2007L02670]*.
IMMI 07/055—English Language Tests and Level of English Ability for General Skilled Migration [F2007L02688]*.
IMMI 07/056—Pass Marks and Pool Marks in relation to Applications for GSM Skilled Visas (Classes VE, VC, VF and VB) [F2007L02689]*.
IMMI 07/057—Post Office Box and Courier Addresses [F2007L02691]*.
IMMI 07/058—Skilled Occupations, Relevant Assessing Authorities and Points for General Skilled Migration [F2007L02690]*.
IMMI 07/060—Designated Areas [F2007L02654]*.
IMMI 07/062—Institutions and Disciplines [F2007L02652]*.
IMMI 07/065—Designated Securities [F2007L02651]*.

Migration (United Nations Security Council Resolutions) Regulations—

Select Legislative Instrument 2007 No. 257—Migration Amendment Regulations 2007 (No. 7) [F2007L02644]*.

Miscellaneous Taxation Ruling—
Addenda—MT 2024.

Motor Vehicle Standards Act—
Vehicle Standard (Australian Design Rule 13/00 – Installation of Lighting and Light Signalling Devices on other than L-Group Vehicles) 2005 Amendment 1 [F2007L02588]*.
Vehicle Standard (Australian Design Rule 13/00 – Installation of Lighting and Light Signalling Devices on other than L-Group Vehicles) 2005 Amendment 2 [F2007L02589]*.
Vehicle Standard (Australian Design Rule 33/00 – Brake Systems for Motorcycles and Mopeds) 2007 [F2007L02707]*.

Mutual Recognition Act—Declaration under section 32—Motor Vehicle Repairers [F2007L02692]*.

National Health Act—

Instruments Nos—
PB 61 of 2007—Amendment declaration—drugs and medicinal preparations [F2007L02626]*.
PB 62 of 2007—Amendment determination—pharmaceutical benefits [F2007L02628]*.
PB 63 of 2007—Amendment determination—responsible persons [F2007L02631]*.
PB 64 of 2007—Amendment–price determinations and special patient contributions [F2007L02634]*.
PB 65 of 2007—Amendment Special Arrangements – Chemotherapy Pharmaceuticals Access Program [F2007L02635]*.
PB 66 of 2007—Determination—drugs on F1 [F2007L02636]*.
PB 67 of 2007—Amendment determination—exempt items [F2007L02638]*.

Native Title Act—Select Legislative Instrument 2007 No. 250—Native Title (Federal Court) Amendment Regulations 2007 (No. 1) [F2007L02586]*.

Primary Industries and Energy Research and Development Act—Forest and Wood Products Research and Development Corporation (Repeal) Regulations 2007 [F2007L02632]*.

Private Health Insurance Act—
  Private Health Insurance (Complying Product) Rules 2007 (No. 2) [F2007L03540]*.
  Private Health Insurance (Health Benefits Fund Policy) Rules 2007 (No. 2) [F2007L03539]*.

Product Rulings—
  Notices of Withdrawal—
     PR 2006/2 and PR 2006/117.
     PR 2007/75.

Radiocommunications Act—
  Radiocommunications Devices (Compliance Labelling) Amendment Notice 2007 (No. 1) [F2007L03473]*.

Remuneration Tribunal Act—
  Determinations—
     2007/14: Remuneration and Allowances for Holders of Public Office [F2007L03493]*.
     2007/16: Official Travel by Office Holders [F2007L03506]*.

Research Involving Human Embryos Act—Select Legislative Instrument 2007 No. 255—Research Involving Human Embryos Amendment Regulations 2007 (No. 1) [F2007L02261]*.

Superannuation Act 1990—Twenty-Ninth Amending Deed to the Public Sector Superannuation Scheme Trust Deed [F2007L03519]*.

Sydney Airport Curfew Act—Dispensation Report 09/07 [2 dispensations].

Taxation Administration Act—
  Variation to the rate of withholding for certain foreign resident staff that provide support to those engaged in entertainment activities [F2007L03532]*.
  Variation to the rate of withholding for certain superannuation income stream beneficiaries who turn 60 during the financial year — No. 2 [F2007L02643]*.

Taxation Determination—
  Addendum—TD 97/23.
  Notice of Withdrawal—TD 95/32.

Taxation Ruling—Notices of Withdrawal—
  Old series—IT 2360 and IT 2497.
  TR 93/26.

Telecommunications Act—
  Telecommunications (Approving Bodies) Determination 2007 [F2007L02578]*.
  Telecommunications Labelling (Customer Equipment and Customer Chabling) Amendment Notice 2007 (No. 1) [F2007L03465]*.

Telecommunications (Interception and Access) Act—
  Telecommunications (Interception and Access) (Staff Members of Northern Territory Police) Declaration 2007 [F2007L03550]*.
  Telecommunications (Interception and Access) (Staff Members of NSW Police Force) Declaration 2007 [F2007L03549]*.
Trade Practices Act—
Declaration No. 91 [F2007L03489]*.
Governor-General's Proclamations—
Corporations Legislation Amendment (Simpler Regulatory System) Act 2007—Items 198 to 215, 221 and 222 of Part 3 of Schedule 1—1 September 2007 [F2007L02627]*.
Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Act 2007—Schedule 2—1 September 2007 [F2007L02629]*.
Explanatory statement tabled with legislative instrument.
Indexed Lists of Files
The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:
Indexed lists of departmental and agency files for the period 1 January to 30 June 2007—Statements of compliance—
Agriculture, Fisheries and Forestry portfolio agencies.
Commonwealth Ombudsman.
Families, Community Services and Indigenous Affairs portfolio agencies.
Finance and Administration portfolio agencies.
Treasury portfolio agencies.

Departmental and Agency Contracts
The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:
Departmental and agency contracts for—
2006—Letter of advice—Treasury portfolio agencies.
2006-07—Letters of advice—
Australian Institute of Family Studies.
Communications, Information Technology and the Arts portfolio agencies.
Education, Science and Training portfolio agencies.
Environment and Water Resources portfolio agencies.
Families, Community Services and Indigenous Affairs portfolio agencies.
Foreign Affairs and Trade portfolio agencies.
Human Services portfolio agencies.
Industry, Tourism and Resources portfolio agencies.
Prime Minister and Cabinet portfolio agencies.
Transport and Regional Services portfolio agencies.
Treasury portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Exclusive Brethren
(Question No. 2541)

Senator Bob Brown asked the Minister for the Arts and Sport, upon notice, on 4 October 2006:

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 Brandis—The answer to the honourable senator’s question is as follows:

No.

Macquarie Island
(Question No. 2615)

Senator Milne asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 7 November 2006:

(1) With reference to government assistance provided to the Tasmanian Department of Tourism, Arts and the Environment to prepare a draft eradication plan for rabbits and rodents on Macquarie Island and to the Tasmanian Government’s appointment, with Commonwealth assistance (through National Heritage Trust (NHT) funding), of a project officer to further develop this plan: (a) what steps has the Minister taken to allocate funds, from the NHT or other sources, for the implementation of the plan in conjunction with the Tasmanian Government; and (b) if no such steps have been taken, when will the Minister allocate funds.

(2) Given that Commonwealth funding has been provided for various phases of the vertebrate pests program for the Macquarie Island World Heritage Area as stated in the answer to question on notice no. 1915 (Senate Hansard, 6 September 2006, p. 153), will the Government make a commitment to provide sufficient funds to complete the program.

(3) What has been the effect so far on the nesting habitat and breeding success of the Macquarie Island grey-headed albatross population, listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999, given that the location of the only colony, with 80 breeding pairs only, has been severely damaged by rabbits.

(4) What has been the effect of rabbit grazing on the breeding success of Macquarie Island populations of: (a) wandering albatross, with approximately 19 breeding pairs only; (b) blue petrels; and (c) fairy prions, all listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999.

(5) How many king penguins and their chicks were killed as a result of the recent rabbit-induced landslip at Lusitania Bay.

(6) How will the recent landslip at the Sandy Bay tourist boardwalk affect the experience of the tourists landing on Macquarie Island in 2006.

(7) What steps has the Minister taken to review the conservation status of endemic species and subantarctic vegetation communities on Macquarie Island in light of the observed increase in rabbit damage and its associated impacts on Macquarie Island biodiversity and landscape.
(8) Given the accelerating degradation of the environment of Macquarie Island, with increasing risks of landslips due to vegetation loss as a result of rabbit grazing, what are the increased occupational health and safety risks to personnel of the Australian Government Antarctic Division and Bureau of Meteorology working on the island, many of whom travel along the coasts and slopes as part of their professional duties.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) (a) and (b), (2) The Australian Government is providing $12.3 million, half of the estimated cost, towards implementation of the eradication plan.

(3) My department has advised me that there were several confirmed grey-headed albatross nest and chick failures in 2005-2006 which may have been affected by rabbit damage.

(4) (a & b & c) I am advised that no specific effects can be traced back to rabbit grazing at this time. However rabbit grazing has reduced vegetation cover, increasing predation by skua gulls.

(5) The number of king penguin adults and chicks killed in the Lusitania Bay slip cannot be accurately quantified.

(6) The Tasmanian Government is responsible for tourism to Macquarie Island.

(7) Tasmania is responsible for management of wildlife on Macquarie Island. However, the Australian Government has provided funding for research into seabirds; and the Threatened Species Scientific Committee is to consider a nomination to lift the conservation status of the grey-headed albatross to endangered.

(8) A risk assessment is undertaken prior to field work commencing on the Island. Tracks and susceptible areas are routinely monitored, assessing their stability and suitability for travel.

Health and Ageing
(Question No. 2637)

Senator O’Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 9 November 2006:

(1) Has the department instituted an internal costing or cost recovery system; if so: (a) what was the reason for instituting this system; and (b) can details be provided of the costs associated with instituting this system.

(2) As at 30 September 2006: (a) how many staff are there at each Australian Public Service (APS) level (including executive and senior executive level staff) by business unit, division or branch; and (b) what is the average salary of staff at each APS level (including executive and senior executive level staff) by business unit, division or branch.

Senator Ellison—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes, TRACR for IT costs and LEX for legal costs.
   (a) To ensure that appropriate costs are attributed to line areas.
   (b) The cost of instituting TRACR was $126,674 and for LEX $91,025.

(2) (a) At the closest reporting period, 5 October 2006, details of staff by nominal APS classification level and by business unit are listed at Attachment A. This includes ongoing, non-ongoing and casual staff.
   (b) The Department’s salary ranges are detailed in Attachment B with a median salary for staff at each classification.
## Attachment A

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QUESTIONS ON NOTICE
## APS Levels Salary Structure

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## Professional 1 Salary Structure

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# Salary on commencement for a 3 year degree
### Salary on commencement for a 4 year degree (or higher)
### Medical Officer Salary Structure

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* This level is generally reserved for staff with less than two years experience.
### Research Scientist Salary Structure

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### Graduate APS Salary Structure – Commencement Salary*

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### Cadet APS Salary Structure

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### Senior Executive Service

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<tr>
<td>Medical Officer 6</td>
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Ranges are detailed in Attachment B with a median salary for staff at each classification.
Transair
(Question No. 2707)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 November 2006:

(1) Is it the case that section 28(2) of the Civil Aviation Act 1988 provides that the Civil Aviation Safety Authority (CASA) may take into account the financial position of an applicant when determining whether to issue an air operator’s certificate (AOC).

(2) What action, if any, has CASA taken to examine the financial position of Transair when issuing AOCs to this operator.

(3) Has CASA established whether Transair has maintained a satisfactory credit rating with providers of material and services, such as spare parts suppliers and external maintenance providers.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) to (3) The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 2710)

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 R20060002, issued on 24 January 2006 during the course of the investigation into the Lockhart River air tragedy in May 2005:

(1) Is it the case that the co-pilot of the Transair flight had not been trained in global positioning system navigation or area navigation global navigation satellite system approaches.

(2) Has the Government acted to ensure that co-pilots are required to hold an endorsement for any navigation aids being used to navigate an aircraft during flight.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 2719)

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 CASA 19 asked at additional estimates in February 2006, concerning the Civil Aviation Safety Authority’s (CASA) investigation of allegations about Transair operations: Is the claim that ‘the company had an open culture and responses to the CASA investigation were cooperative and taken with a view to improving things if required’ supported by the company’s continuing non-compliance with aviation safety regulations evidenced by, the admission of fourteen breaches of safety rules in the company’s Enforceable Voluntary Undertaking dated 4 May 2006, the necessity to issue show cause notices on 14 August 2006 and 26 September 2006, and the decision to cancel the company’s air operators certificate on 24 October 2006.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA's oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

**Airservices Australia: Solomon Islands**

**(Question No. 2810)**

Senator O’Brien asked the Minister representing the Minister for Foreign Affairs, upon notice, on 17 November 2006:

Can the complete list of recipients of the June 2001 cablegram briefing from the Australian High Commission in Honiara to Australian Ministers and officials concerning allegations published in the *Solomon Star* about the misuse of air navigation fees collected by Airservices Australia on behalf of the Solomon Islands Government be provided.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

I refer Senator O’Brien to Senate questions on notice 2806 to 2809 which were answered by Mr Vaile, Minister for Transport and Regional Services, on 18 June 2007.

**Transair**

**(Question No. 2815)**

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 November 2006:

(1) Can details be provided of each air operators certificate (AOC) issued to Transair since 1 July 2001, including (a) number (b) date of issue (c) period of validity (d) listed aircraft permitted to conduct regular public transport; and (e) listed aircraft permitted to conduct charter operations.

(2) In each case, if the AOC is not effective, can the Minister advise whether the AOC is not effective due to expiry, suspension, cancellation or any other specific reason.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.
The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 2893)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 29 November 2006:

With reference to the decision by the Civil Aviation Safety Authority (CASA) on 25 November 2006 to suspend Transair’s air operator’s certificate under section 30DC of the Civil Aviation Act 1988 on the grounds 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 the Minister aware that a CASA spokesperson, Mr Peter Gibson, told the Australian Broadcasting Corporation’s PM program on 27 November 2006, that the information that prompted the suspension was ‘new information, information which literally only came to light in the last few days. So in no way does it relate to the accident at Lockhart River’.

(2) Is this statement accurate.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Osteoporosis  
(Question No. 2960)

Senator Allison asked the Minister representing the Minister for Ageing, upon notice, on 15 January 2007:

(1) Why did the Prime Minister’s recent announcement of rebates for bone mineral density scans exclude rebates for people under the age of 70 when osteoporosis typically occurs in women much earlier, at about the time of menopause.

(2) What preventive measures has the Government adopted for osteoporosis, given that it is largely preventable through weight bearing exercise and calcium supplements.

(3) (a) Why did the Government take calcium off the Pharmaceutical Benefits Scheme for osteoporosis; and (b) was this against the advice of the Pharmaceutical Benefits Advisory Committee.

(4) Has the Government considered providing blood vitamin D testing given the evidence that the high rate of hip fractures in old people is due to deficiencies in calcium and vitamin D.

(5) Does the Government accept that people in wheelchairs are unable to do weight bearing exercise and warrant earlier access to bone mineral density scans; if so, will rebates be provided.

(6) What was the rationale for limiting the Medicare rebate on bone mineral density scans at minimum intervals of 2 years.

Senator Ellison—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) The Prime Minister announced on 18 December 2006 that bone mineral density tests for all patients aged 70 years and over would be covered by Medicare from 1 April 2007. This is expected to cost $135 million from 1 April 2007 to 30 June 2011.

This coincided with the announcement on the same day by the Minister for Health and Ageing, that the PBS listing for alendronate (in the form of Fosamax Once Weekly, Fosamax Plus and Alendro Once Weekly) would be extended from 1 April 2007 to include patients with osteoporosis aged 70 years and over who are at high risk of fracture, as measured by a bone mineral density test. This extension resulted from a recommendation by the Pharmaceutical Benefits Advisory Committee (PBAC) at its July 2006 meeting to list alendronate as an authority required listing for initial and continuing treatment of patients with a Bone Mineral Density T-score of -3.0 or less in a patient aged 70 years or older. Access to the drug was extended in this way because the PBAC’s assessment of the available evidence was that this medication is cost effective for this group of people.

Medical Services Advisory Committee (MSAC) subsequently endorsed the expansion of the bone mineral density testing to cover this group of people. Should further clinical and economic data become available for the evaluation related to the cost-effectiveness of osteoporosis management, then there may be grounds in the future to extend access to the (PBS) and Medicare for other patient groups.

(2) The Better Arthritis and Osteoporosis Care measure provides $14.8 million over 4 years from 2006-07 for initiatives to support improved clinical management of arthritis and osteoporosis, and prevention, awareness and self management activities.

The Commonwealth Government is providing $2.02m to the International Diabetes Institute to expand its Lift For Life program across Australia. While this strength building program primarily aims to prevent or delay the onset of complications caused by type 2 diabetes in older Australians, it will also contribute to osteoporosis prevention.

In 2004-05 the Commonwealth Government committed a further $9.6 million to the National Falls Initiative to 2008.
In addition, a wide range of Commonwealth Government programs supporting healthy lifestyles and cessation of smoking, contribute to osteoporosis prevention.

(3) (a) The removal of calcium tablets from the PBS was announced in the Federal Government’s 2005-06 Budget. It was a measure that supported PBS affordability as it improves value for money from the scheme. The estimated savings to the PBS and Repatriation Pharmaceutical Benefits Scheme (RPBS) over 4 years to 2008-09 were around $36 million. Calcium supplements are relatively inexpensive at normal doses required to treat osteoporosis and other conditions and are widely available as over-the-counter products. Calcium tablets, such as Caltrate® and Citracal®, are available for around $13 to $15 for two months’ supply of 120 tablets or around $7 per month.

In general, the PBS does not subsidise vitamin and mineral compounds which can be purchased readily over-the-counter without the need for a doctor’s prescription. The scheme would not be affordable if the Government were to subsidise a wide range of such supplements. These products are normally required in low doses to obtain health outcomes and for some patients, dietary modification would be sufficient to meet medical needs.

Medicines listed on the PBS for use in the treatment of osteoporosis with a related fracture continue to be subsidised. These medicines need to be prescribed by a doctor, and at between $50-$60 for one month of treatment are much more expensive than calcium tablets. PBS subsidies for these drugs cost over $130 million per year.

From 1 April 2007, alendronate (Fosamax® Once Weekly) and alendronate sodium with colecaciferol (Fosamax® Plus) will be made available for use in the treatment of osteoporosis in patients with high risk of fracture.

(b) No, this was not against the advice of the PBAC. The Government announced as part of the Federal Budget 2005-06, that calcium tablets would be deleted from the Schedule of Pharmaceutical Benefits. When proposing to delete a product from the PBS, the Minister must seek advice from the PBAC in relation to the matter. As required by the National Health Act 1953, that advice was tabled in both Houses of the Parliament. The PBAC advised that patients with chronic renal failure may require 12 or more calcium tablets a day to control their phosphate levels. Because of the large number of tablets these patients are required to take, and the cost that they would otherwise incur, the Minister accepted the advice from PBAC that there was a strong case for retaining PBS listing of calcium tablets for patients with chronic renal failure.

(4) There is a rebate for a pathology test for Vitamin D on the Pathology Services Table of the Medicare Benefits Schedule (66608), which can be requested at the discretion of the treating clinician.

(5) Medicare benefits are available for the assessment of bone mineral density in patients (including those in wheelchairs) for whom the referring clinician has made a presumptive diagnosis of low bone mineral density on the basis of one or more fractures occurring after minimal trauma. Any extension of bone mineral density testing to this or any other group would be considered on the basis of an application to the MSAC.

(6) The limits on how frequently a bone mineral density test will be reimbursed through Medicare are in place because bone density loss is a relatively slow process for most medical conditions where repeat testing within 24 months is unlikely to assist in clinical decision making. However, a specialist or consultant physician can request the measurement of bone density once in a 12 month period, following a significant change in therapy.

QUESTIONS ON NOTICE
Australian Political Parties for Democracy Program

(Question No. 3148)

Senator Bob Brown asked the Minister for Finance and Administration, upon notice, on 19 April 2007:

With reference to the Australian Political Parties for Democracy program, can a copy be provided of:

(a) all grant applications made under the program to date;

(b) reports or other documentation generated in assessing each of these grant applications and any related correspondence with the applicant, including e-mails and records of phone conversations.

(c) a list of grant applications which have been funded, including the amount and duration of the funding; and

(d) all reports received to date under clause 5.2 of the Grant Deed.

Senator Minchin—The answer to the honourable senator’s question is as follows:

The Australian Political Parties for Democracy Programme (APPDP) provides funding to the major Australian political parties to assist in the promotion of democracy in the Asia Pacific and around the world.

The following grant applications have been funded to date:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Grant Period</th>
<th>Amount</th>
<th>Recipient</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>1 January to 30 June 2006</td>
<td>$200,000</td>
<td>Liberal Party of Australia</td>
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<tr>
<td>2005-06</td>
<td>1 January to 30 June 2006</td>
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<tr>
<td>2006-07</td>
<td>1 July 2006 to 30 June 2007</td>
<td>$1,000,000</td>
<td>Australian Labor Party</td>
</tr>
</tbody>
</table>

Attached are the four grant applications to date under the Programme:

Attachment A1 – Liberal Party of Australia application for 2005-06; a copy of the attachment can be obtained from the Senate Table Office.

Attachment A2 – Australian Labor Party application for 2005-06; a copy of the attachment can be obtained from the Senate Table Office.

Attachment A3 – Liberal Party of Australia application for 2006-07; a copy of the attachment can be obtained from the Senate Table Office.

Attachment A4 – Australian Labor Party application for 2006-07; a copy of the attachment can be obtained from the Senate Table Office.

Solar Technology

(Question No. 3172)

Senator Milne asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 26 April 2007:

With reference to the statement by Origin Energy spokesperson, Mr Tony Wood, in the article ‘Eureka moment puts sliced solar cells on track’ (Science Magazine, vol. 315, 9 February 2007, p. 785) that the company plans to announce a commercial plant to manufacture SLIVER cells that will ‘likely be in Europe or North America to be closer to markets and to take advantage of government incentives for alternative energy’:

(1) Has the Minister, the department, or its officers, discussed SLIVER cells and the future of their development with Origin Energy; if so, can a list be provided of correspondence and meetings with Origin Energy, including the dates, participants and a summary of issues discussed.
(2) Can a list be provided of solar technologies which were invented, since 1996, in Australia but have been commercialised overseas.

(3) (a) What analysis has been made of the potential for SLIVER cells and other solar technologies to generate sustainable cost competitive power; and (b) can a list be provided of reports or papers where this analysis is documented, including the title, author, date and a description of the analysis.

(4) What action will, or has, the Minister taken to ensure that SLIVERs are developed to their full potential.

(5) Should Australian inventions, such as SLIVERs, be commercialised in Australia.

(6) (a) What government incentives are available in Europe and North America for alternative energy that are not available in Australia; and (b) will the Australian Government introduce comparable alternative energy incentives.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) Both the Minister and the Department have discussed the development of SLIVER cell technology with Origin Energy. Origin Energy received a $1 million grant under the Australian Government’s Renewable Energy Commercialisation Programme in 2001 to support its pilot SLIVER cell fabrication plant in Adelaide. All reporting associated with the grant was completed in 2005. During this period officers from the Department communicated often with Origin Energy, and the then Minister visited the pilot plant in June 2004. Officers from the Department also visited the plant in February 2006.

(2) The Department does not have such a list. It would be difficult to compile a comprehensive list with accurate data on relevant technologies, including the date of invention and commercialisation activities overseas.

(3) (a) A large number of analyses of the potential for solar technologies to generate sustainable, cost-competitive power have been undertaken by many bodies around the world. For example, in 2006 the Department of Industry, Tourism and Resources commissioned ACIL Tasman to identify, consider and assess the projected technology cost curves for the production of electricity from wind, photovoltaic and solar thermal technologies over the next 15 years (to 2020). Other examples of analyses include the International Energy Agency report, Projected Costs of Generating Electricity (2005), available at www.iea.org, and the report prepared for the Cooperative Research Centre for Coal in Sustainable Development, Options for Electricity Generation in Australia (2005), which is available at www.ccsd.biz/publications. (b) The Department is unable to provide a comprehensive list of analyses due to the large number of these available.

(4) The Australian Government has already awarded $6 million in grants to Origin Energy to support its SLIVER cell technology under the Renewable Energy Commercialisation Programme and the Renewable Energy Development Initiative. Origin Energy received a further grant of $2 million from the Structural Adjustment Fund for South Australia, a programme created jointly by the Australian Government and South Australia to encourage investment in South Australia. The Australian Research Council also provided grant funding to support the development of SLIVER technology by the Australian National University.

Other Australian Government programmes that may assist in further deployment and commercialisation of SLIVER technology include the Photovoltaic Rebate Programme, which provides cash rebates for the installation of photovoltaic power systems; the Renewable Remote Power Generation Programme, which provides financial support to increase the use of renewable energy technologies in remote parts of Australia that presently rely on fossil fuel for electricity generation; and the Renewable Energy Equity Fund, which offers venture capital for technology development.
(5) While the commercialisation of Australian inventions in Australia may be preferable, the issue of where it occurs is a commercial matter for private companies to decide. Origin Energy is commercialising the technology in Australia though the pilot plant in Adelaide, which we understand will produce commercial product later this year. Further, we understand that Origin Energy is considering building a larger SLIVER plant overseas in order to more readily access the larger overseas market.

(6) (a) Various incentives are available to alternative energy in Europe and North America, the particulars differing from one country and state to another. Incentives include grants and tax incentives for technology development, grants and rebates for renewable energy generators, renewable energy obligations, feed-in tariffs for renewable energy and financial penalties on greenhouse emissions. With the exception of the final two, these incentives are available in the Australian Government's policies and programmes, including renewable energy obligations under the Mandatory Renewable Energy Target; a range of grant programmes addressing low emissions technology research, development, demonstration, and deployment; the provision of venture capital through the Renewable Energy Equity Fund; and tax incentives through the Research and Development Tax Concession.

(b) The Government frequently reviews its policies and adopts new approaches where they are in Australia’s best interest.

United States Air Force

(Question No. 3194)

Senator Bartlett asked the Minister representing the Minister for Defence, upon notice, on 9 May 2007:

(1) Have any flyovers and/or bombing runs been conducted over the Northern Territory by planes taking off from the United States of America base in Guam; if so, how many.

(2) Of the bombs that have been dropped over the Northern Territory:
   (a) are any of the bombs ‘bunker busting’ bombs; and
   (b) is tungsten or uranium a component of the bombs.

(3) Are cluster bombs a part of the Australian Defence Force inventory.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Yes. The Australian/United States agreement signed on 19 July 2005 allows up to twelve practices per year taking off from Guam, with up to three aircraft per practice. To date there have been three practices, with two aircraft taking part in each practice.

(2) (a) No.
   (b) All bombs used have been standard iron bombs identical to approved Royal Australian Air Force bombs containing no tungsten or uranium.

(3) Cluster munitions do not form part of the Australian Defence Force’s operational weapons inventory. As advised in the response to question 2616 tabled on 20 March 2007, Defence holds some inert cluster bombs and inert cluster munitions, as well as a small number of cluster munitions collected from Afghanistan in 2001. These items, which are held separately from Defence’s operational munitions, were obtained for use in training explosive ordnance disposal specialists in identification and disposal of cluster munitions, and in the development of countermeasures to cluster munitions.
Braddon Electorate: Programs and Grants
(Question No. 3197)

Senator Sherry asked the Minister for the Arts and Sport, upon notice, on 10 May 2007:
With reference to funding for the federal electorate of Braddon committed during the 2004 election funding and, in particular, for aquatic centres in Burnie and Devonport, with $1 million committed to each centre:

1. Which programs or funding sources were these commitments drawn from.
2. What process was followed by the department to allocate funding to these projects.
3. How much of the funding has been spent on these projects.
4. If these funds have not been spent on the original projects, what has happened to these funds.
5. (a) If these funds have not been spent on the original projects in Braddon, what programs do they fall under and what projects have they been spent on; and (b) for each of these projects, what amount of the funding has been spent.
6. In relation to the alternative projects referred to in paragraph (5): (a) how was the project determined; and (b) what process was followed to ensure transparency and accountability in the redirection of funding to the project.
7. How much of the funding remains unallocated.

Senator Brandis—The answer to the honourable senator’s question is as follows:

1. In the 2004-05 Additional Estimates process, new funding was provided under the Department’s Outcome 2 for these commitments. (see “Strengthening Tasmania – Devonport/Burnie facilities”, page 25).
2. The Department is administering the funding to put into effect the Australian Government’s 2004 election policy.
3. None of the funding has been spent to date due to the State Government’s refusal to contribute to the outstanding amounts required to construct the aquatic centres.
4. The funding has been re-phased by the Department for expenditure under Outcome 2 in 2007-08.
5. (a) The funding remains allocated for expenditure under Outcome 2 with the total funding remaining unspent. (b) Not applicable.
6. Not applicable.
7. The total amount of the funding remains unallocated.

Transair
(Question No. 3222)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:
With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

1. Did the Civil Aviation Safety Authority (CASA) publish a statement on its website on 4 April 2007, ‘Response to the Lockhart River investigation report - statement by chief executive officer Bruce Byron’.
2. Did the statement include the sentence ‘I am unable to accept the conclusion in the Australian Transport Safety Bureau report that Civil Aviation Safety Authority contributed to factors that caused the accident’.

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

(3) Was the statement later revised through the amendment or omission of this sentence; if so: (a) on what date and at what time; (b) why; (c) on whose authority; and (d) if the sentence was amended, how.

(4) Was this statement later removed from the CASA website; if so: (a) on what date and time; (b) why; and (c) on whose authority was it removed.

(5) Why did Mr Byron deny the publication of this statement in evidence to the Rural and Regional Affairs and Transport Committee on 21 May 2007.

(6) How will the Minister monitor CASA’s consideration and implementation of ATSB recommendations in its report on the Lockhart River crash.

(7) Does the Minister accept the conclusion of the ATSB that ‘the investigation also identified contributing safety factors relating to the regulatory oversight of Transair by the Civil Aviation Safety Authority’ (ATSB Transport Safety Investigation Report, Collision with Terrain 11 km NW Lockhart River Aerodrome—7 May 2005—VH-TFU—SA227-DC (Metro 23), p. xv).

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3223)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) (a) Can the Minister confirm that the Civil Aviation Safety Authority (CASA) in 2000 undertook to address the issue of guidance for inspectors in assessing airline management and safety system issues; and (b) can details be provided of CASA’s intended course of action and the date on which it proposed to take the action.
(2) Can the Minister confirm that the ATSB made a recommendation, Output No. R20000238, to CASA in 2001 concerning the need for CASA to ‘consider widening its existing skill base within the compliance Branch to ensure that CASA audit teams have expertise in all relevant areas, including human factors and management processes’.

(3) What specific actions did CASA take to meet this recommendation, and on what date were those actions taken.

(4) On what dates did the ATSB accept CASA’s response and close the recommendation file.

(5) (a) Was CASA’s employment of safety system specialists part of its response to this recommendation; (b) what purpose was to be served by their employment; and (c) when were they employed.

(6) (a) Does the Minister agree that there was insufficient guidance provided to CASA inspectors in assessing Transair’s management and safety systems; and (b) does the Minister agree that if this matter had been addressed then one of the contributing safety factors may not have occurred.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Transair)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is the Minister aware that the Chief Executive Officer of the Civil Aviation Safety Authority, Mr Bruce Byron, told a media conference on 4 April 2007 that CASA’s surveillance of Transair was conducted in accordance with CASA procedures.

(2) (a) Did ATSB find that CASA’s oversight of Transair, in relation to the approval of Air Operator’s Certificate variations and the conduct of surveillance, was sometimes inconsistent with CASA’s
QUESTIONS ON NOTICE

policies, procedures and guidelines; and (b) is the Minister aware that Mr Byron told a media conference on 4 April 2007 that the finding was ‘not considered a safety factor’ by ATSB.

(3) Does the Minister endorse Mr Byron’s comment.

(4) Is the Minister aware that the ATSB report lists CASA’s failure to observe its policies, procedures and guidelines as a safety factor.

(5) On what basis did Mr Byron make the claim that CASA’s failure to observe its policies, procedures and guidelines was not identified as a safety factor by the ATSB.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

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Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3225)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

(1) Is the Minister aware that the failure of the Chief Executive Officer of the Civil Aviation Safety Authority, Mr Bruce Byron, to accept responsibility for the contributing safety factors and other safety factors attributed to CASA by the ATSB and related to the causes of the crash has offended and upset family members of the victims.

(2) Is the Minister aware that some family members of the victims have sought an apology for Mr Byron’s rejection of the ATSB’s findings; if so, how has the Minister and/or Mr Byron responded to these calls.

(3) Is the Minister aware that some family members of the victims have called for Mr Byron’s removal as Chief Executive Officer of CASA; if so, how has the Minister and/or Mr Byron responded to these calls.

(4) Has the Minister or the Prime Minister ever written or spoken personally to any of the victims’ families to express their condolences for the loss of the 15 lives in the Lockhart River crash; if so, can details be provided of these occasions.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA's oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA's oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3226)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) With reference to the ‘Chart showing audit dates, audit scope, requests for corrective action observations’ attached to the answer to question on notice CASA 18, provided to the Rural and Regional Affairs and Transport Committee on 1 February 2007, were critical observations made about Transair by the Civil Aviation Safety Authority (CASA) as early as 18 May 1998 and not 20 December 1999 as shown in the chart.

(2) With reference to the ‘Summary of CASA oversight of Transair from 1998 to 7 May 2005’, Appendix H of the ATSB’s final report: (a) did CASA, on 18 May 1998, issue three non-conformance notices against Transair; and (b) is it stated that ‘the number of recurring NCNs gives CASA cause for concern’ (p. H-1).

(3) Does the Minister agree that some entries in Appendix H indicate that not only was Transair not complying with regulations, it was deliberately and systematically flouting regulations, for example the entries dated 31 July 1998, 3 September 1998, 6 December 1999, 17 September 2001 and 2 October 2001, 21 July 2004 and 23 July 2004, 28 August 2004, 28 September 2004 and 4 February 2005.

(4) Given that Appendix H states that Transair advised CASA on 24 September 1999 that it would be fitting predictive ground proximity warning systems to its Metroliner aircraft: (a) how was CASA advised of the decision; (b) did Transair fulfil its undertaking to CASA; and (c) did CASA follow up to ensure that the fitting of the warning systems had occurred.
(5) Similarly, given that Transair stated that it would be giving video based training to its crew on flight into terrain awareness and that the company operations manual would be amended to reflect that training: (a) how was CASA advised of the decision; (b) did Transair fulfil its undertaking to CASA; and (c) did CASA follow up to ensure that the training had occurred.

(6) Is it the case that neither the pilot in command nor the co-pilot of VH-TFU had received ‘controlled flight into terrain’ training.

**Senator Johnston**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

**Transair**

(Question No. 3227)

**Senator McLucas** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) With reference to the ‘Chart showing audit dates, audit scope, requests for corrective action observations’ attached to the answer to question on notice CASA 18, provided to the Rural and Regional Affairs and Transport Committee on 1 February 2007, were critical observations made about Transair by the Civil Aviation Safety Authority (CASA) as early as 18 May 1998 and not 20 December 1999 as shown in the chart.

(2) With reference to the ‘Summary of CASA oversight of Transair from 1998 to 7 May 2005’, Appendix H of the ATSB’s final report: (a) did CASA, on 18 May 1998, issue three non-conformance notices against Transair; and (b) is it stated that ‘the number of recurring NCNs gives CASA cause for concern’ (p. H-1).

(3) Does the Minister agree that some entries in Appendix H indicate that not only was Transair not complying with regulations, it was deliberately and systematically flouting regulations, for example the entries dated 31 July 1998, 3 September 1998, 6 December 1999, 17 September 2001 and 2

(4) Given that Appendix H states that Transair advised CASA on 24 September 1999 that it would be fitting predictive ground proximity warning systems to its Metroliner aircraft: (a) how was CASA advised of the decision; (b) did Transair fulfil its undertaking to CASA; and (c) did CASA follow up to ensure that the fitting of the warning systems had occurred.

(5) Similarly, given that Transair stated that it would be giving video based training to its crew on flight into terrain awareness and that the company operations manual would be amended to reflect that training: (a) how was CASA advised of the decision; (b) did Transair fulfil its undertaking to CASA; and (c) did CASA follow up to ensure that the training had occurred.

(6) Is it the case that neither the pilot in command nor the co-pilot of VH-TFU had received ‘controlled flight into terrain’ training.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3228)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Why did the Minister, on 14 December 1999, remove international Regular Public Transport operations from Transair’s Air Operator’s Certificate.

(2) Given that Transair stated on 7 January 2000 that it intended to introduce a quality assurance system and that the system would incorporate a safety system: (a) did this occur; and (b) did the Civil Aviation Safety Authority (CASA) follow up to ensure that it had.

QUESTIONS ON NOTICE
(3) At the time of the crash, did Transair have a quality assurance system in place, including a safety system; if so, can details be provided of the system that was in place at the time.

(4) Given that Transair, on 14 January 2000, made various undertakings following the drafting of a show cause notice against its chief pilot: (a) did Transair fulfilled any of these undertakings; and (b) did CASA follow up to ensure that it had.

(5) Does the ATSB consider that the events outlined in the chart attached to the answer to question on notice CASA 18, provided to the Rural and Regional Affairs and Transport Committee on 1 February 2007, and Appendix H of the ATSB’s final report on the crash constitute a consistent pattern through the period of issues not being fixed or corrected.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3229)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) (a) What was the purpose and the methodology used for Safety Trend Indicator (STI) assessments when they were instituted by the Civil Aviation Safety Authority (CASA); (b) why were the assessments instituted; (c) what sort of information did they provide; and (d) how was information obtained in the assessments used by CASA.

(2) For each STI assessment conducted on Transair, can details be provided of the specific areas assessed, the qualifications and expertise of the officers involved in the assessment, the duration of the assessment, the details of the findings of each assessment and any subsequent action that was taken by CASA.
(3) (a) Is it the case that of the five STI assessments conducted on Transair that in four of the assessments Transair was listed as a high risk; (b) was a score of 17 registered in April 2000; and (c) is this the highest STI risk score that has been recorded by an Australian airline; if not what is the highest recorded score.

(4) Is it the case that in October 2002 Transair still recorded an STI score of 12 and that any score over 7 is defined by CASA as being high risk.

(5) Is it the case that no special audit or spot check was carried out on Transair after December 1999 because CASA inspectors from the Brisbane airline office did not consider Transair to be a high-risk operator.

(6) (a) Is the Minister aware that in a matter of six months, from October 2002 to May 2003, Transair’s weighted STI score fell from 12 to 3, that is from a high-risk operator to a low-risk operator; and (b) what actions taken during in that period, by CASA and/or Transair, led to this change.

(7) After the abandonment of STI assessments in 2003, why was no replacement made available to CASA, particularly as audits were reduced from being undertaken twice yearly to once yearly.

(8) Has CASA developed a replacement risk assessment model; if not, does it intend to.

(9) Does the Minister consider a risk assessment model to be a critical part of CASA’s capacity to ensure the safety of the travelling public.

(10) Is it correct that in 2003 an audit of CASA recommended development of a risk assessment model, and a number of suggestions were provided on how it should work.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in the future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice. On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Transair
(Question No. 3230)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) examine its files on Lessbrook prior to the grant of necessary approvals in relation to setting up the Big Sky operation in New South Wales, including the ports of Grafton, Gunnedah, Taree, Inverell, Cooma and Sydney; if not, why not.

(2) (a) Did the CASA audit of Transair in September/October 2002 result in 7 requests for corrective action (RCAs) and two observations being issued; (b) did the subsequent 3 CASA audits of Transair, in February and August 2003 and February 2004, result in 1 RCA and 4 observations being issued; and (c) did the CASA audit in August 2004 resulted in 13 RCAs and 16 observations being issued.

(3) Were there any differences in approach, the number of inspection personnel, the skills and expertise of inspection personnel, the duration of the audits, supervisory rigor, audit scope and content between the three audits of Transair in February and August 2003 and February 2004 and those preceding and after them.

(4) Can a chart be provided that details all audits of Big Sky Express, including the date and scope of the audit and the number of RCAs and observations issued.

(5) Can details be provided of any correspondence, written or verbal, contact or meeting between Transair and/or Lessbrook and the Minister and/or members of his staff, the department and CASA in relation to the setting up of Big Sky operations in New South Wales.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Were any directions, show causes or conditions issued, at any time in relation to any of the items raised either in the chart attached to the answer to question on notice CASA 18, provided to the Rural and Regional Affairs Committee on 1 February 2007, or to Appendix H of the ATSB’s final report; if so, can details be provided.

(2) Were any of the directions, show causes or conditions referred to in paragraph (1) recommended, for example by the relevant Area Manager, at any time in relation to any of the items raised; if so: (a) was each direction, show cause or condition complied with; (b) how long was taken to comply; and (c) what action was taken by the operator.

(3) (a) Was consideration given, at any time, to suspend or cancel Transair’s Air Operator’s Certificate (AOC) on the basis of the issues identified; and (b) were penalties imposed for any of these items; if so what were the penalties.

(4) (a) Was consideration given, at any time, to the cumulative impact of the items identified between May 1998 and March 2005 with a view to show cause, cancellation or suspension; and (b) can the Minister provide all correspondence between the Civil Aviation Safety Authority and the operator concerning the items raised.

(5) (a) How many of the problems of a like kind that were raised in the chart or in the summary re-ocurred between May 1998 and the withdrawal of Transair’s AOC; and (b) for each problem, what was its nature.

(6) Given that a number of maintenance issues were raised: (a) who carried out unauthorised maintenance; (b) on whose instructions was it carried out; and (c) in each instance of unauthorised maintenance, what type was undertaken.

(7) (a) Who were the unauthorised and/or unqualified persons who acted as instructors or conducted pilot checks and training mentioned in the chart and the summary; (b) on how many separate occasions were incidents of this nature identified; and (c) for each occasion, can details be provided.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.
The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3232)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Have all of Transair’s approved routes, areas and airports been examined to establish whether all flight and turn times are realistic and fall within prudent limits.

(2) Given that the ATSB’s final report on the crash indicates that VH-TFU was scheduled to depart each terminal on the route no more than 20 minutes after arrival, do the ATSB and CASA consider those turn times were prudent.

(3) (a) Is it the case that the chart attached to the answer to question on notice CASA 18, provided to the Rural and Regional Affairs and Transport Committee on 1 February 2007, made the observation in relation to an audit of Transair on 16 to 24 August 2004 that the turn times were unrealistic; (b) which routes and aircraft types did this observation apply to; and (c) in each instance, how long after arrival at each terminal the aircraft was scheduled to depart.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
QUESTIONS ON NOTICE

**Transair**

**(Question No. 3233)**

_Senator McLucas_ asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Does the Minister accept that a pilot can undergo both a ground school and flying conversion course for Metroliner aircraft in one day and be proficient on the type and able to conduct Regular Public Transport flights safely.

(2) Is it the case that a ground school can consist of reading a training manual and that no formal training is required.

(3) (a) Who conducted the ground school and flying conversion courses for the two pilots of VH-TFU; (b) was that person qualified; if so, what are those qualifications; and (c) what was the duration and location of each course.

(4) Are the statements of fact in the ATSB’s final report on the crash relating to ground school training consistent with the answer to question on notice CASA 11 from the 2006 additional estimates hearings of the Rural and Regional Affairs and Transport Committee.

(5) Did the ‘fairly fulsome’ audit undertaken by the Civil Aviation Safety Authority of Transair in early 2005 identify any of the problems, failures and regulatory breaches identified in the ATSB report.

_Senator JOHNSTON_—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005 and in light of the release of the final report into the Lockhart River aviation tragedy by the Australian Transport Safety Bureau, will the Minister now provide the information sought in questions on notice nos 2756 (Senate Hansard, 21 March 2007, p. 146) and 2833 (Senate Hansard, 22 March 2007, p. 183).

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is the Minister aware that the Civil Aviation Safety Authority (CASA) Chief Executive Officer, Mr Bruce Byron, told a media conference on 4 April 2007 that ‘there were no significant safety breaches [at Transair] that CASA was aware of, that would have led to taking regulatory action against the operator prior to the accident’.

(2) (a) Can a schedule be provided that lists the regulatory breaches and breaches of the company’s operations manual prior to the crash that are identified in the ATSB’s final report on the crash; and (b) is the Minister satisfied that none of these breaches constituted significant safety breaches that warranted action prior to the crash.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3236)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005, do Civil Aviation Safety Authority records on the assessment of VH-TFU in regard to the issue of an Australian certificate of airworthiness record the installation of the aircraft’s Global Positioning System; 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 Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice. On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.
The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3237)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Does Civil Aviation Order (CAO) 108.36 require visual warnings for Ground Proximity Warning System (GPWS) modes 1 through 4 to be within the field of view of both pilots.

(2) Were the GPWS annunciators and switches in the cockpit of VH-TFU an estimated 41 degrees to the left of the co-pilot’s field of view.

(3) Was the placement of the visual warnings in the cockpit of VH-TFU consistent with the requirements laid down in CAO 108.36; if so, how were they placed.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) authorise Transair to conduct Regular Public Transport (RPT) cargo-only services between Australia and Papua New Guinea in October 1999.

(2) Did CASA withdraw authorisation in December 1999 because Transair operated the aircraft VH-TFQ on the RPT service despite not being authorised for RPT operations.

(3) On how many occasions did Transair operate VH-TFQ on the RPT service without authorisation; if so, what action.

(4) Did CASA take any other action against Transair for operating VH-TFQ on the RPT service without authorisation; if so, what action.

(5) Was Transair’s unauthorised operation of VH-TFQ on the RPT service taken into account when Transair sought authorisation to conduct RPT passenger operations between Christmas Island and Jakarta in September 2001 consistent with CASA’s obligation to satisfy itself that all applicants for the issue of, or variation to, an Air Operator’s Certificate have complied with, or are capable of complying with, the provisions of the Civil Aviation Act 1988, the regulations and the Civil Aviation Orders that relate to safety; if so, how.

(6) Similarly, was Transair’s unauthorised operation of VH-TFQ on the RPT service taken into account when Transair sought authorisation to conduct RPT passenger operations within Australia consistent with CASA’s obligations as stated in paragraph (5).

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

1. Can the Minister confirm that Transair operated the aircraft VH-TFQ on Big Sky Express Regular Public Transport (RPT) passenger services in New South Wales when the aircraft was not authorised for RPT operations.

2. On how many occasions did Transair operate VH-TFQ on Big Sky Express RPT services without authorisation.

3. Was this the same aircraft that Transair operated on RPT cargo operations between Australia and Papua New Guinea without authorisation.

4. Did the Civil Aviation Safety Authority (CASA) conduct en route inspections of Transair’s Big Sky Express RPT operations on VH-TFQ without establishing whether VH-TFQ was authorised for RPT operations; if so: (a) why; and (b) can details be provided of each inspection, including the date and route flown.

5. (a) On what date did CASA become aware that Transair operated VH-TFQ on Big Sky Express RPT services without authorisation; and (b) what action, if any, did CASA take against Transair for operating the aircraft without authorisation.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
QUESTIONS ON NOTICE

Transair
(Question No. 3240)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Can the Minister confirm that Transair operated the aircraft VH-IAW on Big Sky Express Regular Public Transport (RPT) passenger services in New South Wales when the aircraft was not authorised for RPT operations.

(2) On how many occasions did Transair operate VH-IAW on Big Sky Express RPT services without authorisation.

(3) (a) On what date did CASA become aware that Transair operated VH-IAW on Big Sky Express RPT services without authorisation; and (b) what action, if any, did CASA take against Transair for operating the aircraft without authorisation.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3241)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) advise Transair in 1998, while the chief pilot was away on other duties, that another pilot should be nominated and approved to act as chief pilot; if so, on what date and in what form did CASA provide that advice.

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

(2) (a) On what date was a pilot approved by CASA to act as chief pilot in the chief pilot’s absence; (b) had that pilot previously been found by CASA to be unsuitable for the role; if so, on what basis was the pilot found to be unsuitable.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Hexachlorobenzene

(Question No. 3242)

Senator Bob Brown asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 13 June 2007:

Can the hexachlorobenzene currently stockpiled at the Botany site of Orica Pty Ltd be safely disposed of within Australia; if not: (a) what obstacles exist for its safe disposal in Australia; and (b) how best might these obstacles be overcome.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

I am advised that Australia currently does not have the capacity to dispose of the stockpile of hexachlorobenzene (HCB) waste currently stored at Botany Bay in Sydney in an environmentally sound manner.

(1) One of the significant obstacles that exist for the safe disposal of this waste is the establishment of new waste treatment infrastructure within Australia, or an expansion and modification of existing facilities to a standard sufficient to treat this stockpile of HCB waste.

(2) This is largely an issue for Orica and the waste industry and requires the cooperation of industry participants in conjunction with the Australian Government, State, and Territory governments and local governments.
Transair
(Question No. 3243)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Has CASA investigated the discrepancies between Transair’s Flight Proficiency Line Check Form and the supervisory pilot’s logbook, the pilot in command’s logbook and company rosters in relation to a purported proficiency check flight on 26 July 2004.

(2) Given that the ATSB’s final report on the crash lists other similar discrepancies, can details be provided of any investigation in relation to these issues and any subsequent action that has arisen.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3244)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Given that Transair pilots have expressed concerns to the chief pilot about regulatory breaches relating to en-route area navigation (global navigation satellite system) approaches to Bamaga airstrip and the pilot in command’s compliance with procedures: (a) were these expressions required to be reported to the Civil Aviation Safety Authority (CASA); and (b) were they reported to CASA.

(2) (a) Is CASA investigating the issue raised in paragraph (1); and (b) has action been taken subsequent to any reported concerns.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3245)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) first authorise Transair to conduct Regular Public Transport (RPT) operations between Cairns and Bamaga on 5 October 2001.

(2) Did Transair operate an RPT service between Cairns and Bamaga without authorisation between 17 September and 4 October 2001.

(3) (a) On what date did CASA become aware that Transair operated the service without authorisation; and (b) subsequently, what action, if any, did CASA take against Transair.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.
On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA's surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3246)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2006:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) first authorise Transair to conduct Regular Public Transport (RPT) operations to Lockhart River on 5 October 2004.

(2) Did Transair operate the service without authorisation between 28 August and 1 October 2004.

(3) Was the commencement of this unauthorised RPT service reported in the Cairns Post on 20 August 2004.

(4) (a) On what date did CASA become aware that Transair operated the service without authorisation; and (b) subsequently, what action, if any, did CASA take against Transair.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
QUESTIONS ON NOTICE

Transair

(Question No. 3247)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that after September 2003 Transair pilots received a CD-ROM version of the company’s operations manual and not a paper version.

(2) Is it the case that the CD-ROM version of the operations manual was not useable and, as a result, some Transair pilots were not familiar with its contents.

(3) Is it the case that, when a new version of the manual was issued on CD-ROM, Transair did not indicate to its pilots which sections had changed.

(4) Did the Civil Aviation Safety Authority (CASA) advise Transair to change the format of its operations manual from paper to CD-ROM; if so, on what date and in what form did CASA advise Transair to do so; if not, how does the Minister explain the chief pilot’s claim that the change was driven by feedback from CASA.

(5) (a) Is it the case that Transair was required to keep an up-to-date paper copy of its operations manual in the pilot’s briefing room at its Cairns base; and (b) did Transair comply with this requirement; if not: (i) on what date did CASA become aware that Transair had not complied, and (ii) what action, if any, did CASA take against Transair for non-compliance.

(6) (a) Was CASA required to approve the new operations manual; and (b) did CASA approve the new operation manual; if so, when.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Transair
(Question No. 3248)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that Transair’s operations manual did not contain information about the concept of a stabilised approach, including stabilised approach criteria.

(2) Is the inclusion of stabilised approach criteria in operations manuals desirable.

(3) (a) Does the ATSB’s final report on the crash state that some Civil Aviation Safety Authority (CASA) inspectors believed it was important to have stabilised approach criteria in operations manuals; and (b) is this consistent with the written answer to estimates question on notice CASA 22, provided subsequent to the 2006 additional estimates hearings of the Rural and Regional Affairs and Transport Committee.

(4) Did CASA discuss, with Transair, the absence of stabilised approach criteria from its operations manual; if so, can details be provided of these discussions.

(5) (a) Is it the case that Transair’s operations manual did not include any information on en-route navigation (global navigation satellite system) approaches; and (b) was CASA aware that this was the case; if so, was any action undertaken to include such information.

(6) Can details be provided of any action taken by CASA to ensure that the revised CD-ROM version of the manual was suitable and met regulatory requirements

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Transair
(Question No. 3249)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did Transair’s operations manual state that the number of Transair check pilots would be ascertained by the conduct of a task analysis by the chief pilot.

(2) Did the chief pilot undertake a task analysis; if not: (a) on what date did the Civil Aviation Safety Authority (CASA) become aware that the task analysis had not been undertaken; and (b) what action, if any, did CASA take in response.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3250)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) flight crew licensing database erroneously record that the Transair chief pilot’s check pilot approval had expired or been cancelled in November 1997.

(2) Did the error remain undetected until March 2007; if so, why.

(3) What systems are in place to ensure information recorded in CASA’s flight crew licensing database is accurate.

QUESTIONS ON NOTICE
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronal processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3251)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

1. Was the chief pilot of Transair issued a delegation under Civil Aviation Regulation (CAR) 5.19 with a condition, from May 1994 to April 2003, requiring him to hold a grade one flight instructor (aeroplane) rating.

2. How many flight tests for the renewal of an instrument rating did the chief pilot conduct between May 1994 and April 2003.

3. Did the chief pilot hold a grade one flight instructor (aeroplane) rating: (a) when he was issued the delegation; and (b) at any time between May 1994 and April 2003.

4. When and how did the Civil Aviation Safety Authority become aware that the chief pilot did not hold a grade one flight instructor (aeroplane) rating.

5. Why was the delegation removed in April 2003.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.
This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

**Transair**

*Question No. 3252*

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

1. Did Transair’s operations manual state that the deputy chief pilot was the only supervisory pilot for Transair’s Metroliner fleet; and (b) were pilots other than the deputy chief pilot approved by the chief pilot to act as supervisory pilots.

2. When and how did the Civil Aviation Safety Authority (CASA) become aware that pilots other than the deputy chief pilot had been approved as supervisory pilots.

3. Does CASA’s Air Operator Certification Manual state that supervisory pilots should have training in the principles and methods of instruction; and (b) did all Transair supervisory pilots have this training.

4. Was the pilot in command of VH-TFU approved as a supervisory pilot; if so, did the pilot in command have any previous training or supervisory experience.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed
findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3253)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that there is no regulatory requirement in Australia for flight crew undertaking a type rating on a multi-crew aircraft to be trained in procedures for crew incapacitation and crew coordination, including allocation of pilot tasks, crew coordination and use of checklists.

(2) Is it the case that this training is required under the International Civil Aviation Organization (ICAO) Annex 1 (Personnel Licensing, 8th ed), but that Australia has notified ICAO of a difference with respect to paragraph 2.1.5.2a of this standard; if so, why.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
QUESTIONS ON NOTICE

Transair
(Question No. 3254)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005 and, specifically, to the claim on the Civil Aviation Safety Authority website that Australia is moving to harmonise with requirements in the Standards and Recommended Practices laid down by the International Civil Aviation Organization (ICAO): (a) can a schedule be provided of all current differences notified to ICAO, including the reason for the difference and the date of notification; and (b) can details be provided of progress made towards harmonising Australian requirements with ICAO standards.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3255)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the chief pilot of Transair follow, on all occasions, the training syllabus detailed in Transair’s operations manual; if not, when and how did the Civil Aviation Safety Authority (CASA) become aware that the training syllabus was not always observed.

(2) Is it the case that, despite the statement in Annex 4 of Part D2 of Transair’s operations manual that initial training on a company turbine aircraft would consist of a 4 day ground school on the aircraft,
its operating systems and the company operations manual, some Transair pilots who underwent ground school training with the Transair chief pilot were not given any formal classroom training.

(3) Is it the case that some of the Transair pilots who received no formal classroom training had no previous turbine aircraft endorsements or multicrew experience; if so, when and how did CASA become aware this was the case.

(4) Did the pilot in command and the co-pilot of VH-TFU complete the Transair Metroliner ground school; if so: (a) when; and (b) did both receive formal classroom training.

(5) What steps is the Civil Aviation Safety Authority (CASA) required to take to ensure that ground schools and other forms on pilot training are adequate.

(6) What steps did CASA take to ensure that Transair’s pilot training was adequate

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future. This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating. Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice. On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair. Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3256)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that no special design feature endorsement for the pressurisation system was entered into the logbooks of the pilot in command and co-pilot of VH-TFU, when they were issued with their Metroliner endorsements.

(2) Did the pilot in command and the co-pilot of VH-TFU receive training on the pressurisation system during their endorsement training for the Metroliner aircraft; if so, when.
(3) (a) When and how did the Civil Aviation Safety Authority become aware that no special design feature endorsement for the pressurisation system was entered into the logbooks of the pilot in command and co-pilot of VH-TFU; and (b) subsequently, what action did it take.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3257)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did Transair’s operations manual state that, before being cleared to line, company pilots in command and co-pilots were required to undertake a proficiency check over at least two sectors with a check pilot.

(2) Is it the case that neither the pilot in command nor the co-pilot of VH-TFU were not cleared to line by a check pilot; if so: (a) when and how did the Civil Aviation Safety Authority become aware that the pilot in command and co-pilot were not cleared to line by a check pilot; and (b) what action, if any, did it take.

(3) Are the statements in the ATSB’s final report on the crash in relation to paragraphs (1) and (2) consistent with the answer to estimate’s question on notice CASA 38, provided subsequent to the 2006 additional estimates hearings of the Rural and Regional Affairs and Transport Committee.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.
This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3258)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did Transair’s operations manual state that all personnel associated with flight operations would ‘as soon as practicable’ undergo instruction on the company, its operations manual, its dangerous goods manual, and its safety program.

(2) Did the operations manual also state: (a) that company pilots, within six months of joining the company, would be required to undertake additional training, including ‘GPS under the IFR’, prior to being cleared to line and human factors management training; and (b) that company pilots would be required to undertake a recurrent human factors management course.

(3) Is it the case that the pilot in command of VH-TFU had not completed either the human factors management induction course or the recurrent human factors management course mandated by the company’s operations manual; if so, for each course: (a) when and how did the Civil Aviation Safety Authority (CASA) become aware that the pilot in command had not completed the courses; and (b) subsequently, what action, if any, did CASA take.

(4) Is it the case that the co-pilot of VH-TFU had not completed the human factors management induction course mandated by the company’s operations manual; if so: (a) when and how did the Civil Aviation Safety Authority (CASA) become aware that the co-pilot had not completed the human factors management induction course; and (b) subsequently, what action, if any, did CASA take.

(5) Did the chief pilot of Transair advise the ATSB that he stopped human factors management training in August 2002; if so, when and how did CASA become aware that Transair pilots were no longer undergoing the induction and recurrent human factors management training mandated in the company’s operations manual.

(6) Did CASA have any discussions with the chief pilot as to whether the requirements referred to in paragraph (2) should remain in the operations manual.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3259)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that paragraph 13.3.4 of Civil Aviation Order (CAO) 40.2.1 states that the holder of an instrument rating must only use the types of navigation aids or procedures endorsed in the holder’s personal log book when exercising the authority given by the rating.

(2) Does the CAO require both crew on a multi-crew aircraft to be endorsed on a particular instrument approach in order to conduct that instrument approach.

(3) Did Transair provide en-route navigation (global navigation satellite system) (RNAV (GNSS)) endorsement training for its pilots.

(4) (a) Did all Transair pilots based in Cairns have an RNAV (GNSS) approach endorsement; and (b) was it necessary or desirable for Transair’s Cairns-based pilots to hold an endorsement.

(5) Is it the case that the only available instrument approach for Bamaga was an RNAV (GNSS) approach.

(6) Did any Transair pilots conduct RNAV (GNSS) approaches without endorsement.

(7) What steps, if any, did CASA take to ascertain whether the relevant Transair pilots had endorsements.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3260)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Does Civil Aviation Regulation (CAR) 218 require that, before a pilot is qualified to act as pilot in command of an aircraft engaged in a Regular Public Transport (RPT) service on a particular route, the pilot shall have been certified as competent for the particular route by a pilot who is qualified for the route.

(2) Was the pilot in command of the VH-TFU route checked for the Cairns-Bamaga-Lockhart-Cairns RPT service; if not: (a) when and how did the Civil Aviation Safety Authority (CASA) become aware that the pilot in command was not route checked; and (b) did this constitute a breach of CAR 218.

(3) Were all pilots in command of Transair aircraft engaged in RPT services route checked; if not: (a) when and how did CASA become aware that Transair pilots were not route checked; if not, why not; and (b) what action did CASA take to enforce compliance with CAR 218.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.
This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA's oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA's surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA's oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3261)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005, did competency and proficiency checks of Transair pilots meet the requirements of Civil Aviation Regulation 217(2) and Civil Aviation Order 40.1.5; if not: (a) when and how did the Civil Aviation Safety Authority become aware that the checks did not meet the required regulatory standards; and (b) subsequently, what action did it take.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA's oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA's surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA's oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully ad-
dressed. At this time, the completion of the coronial processes is the priority for determining the facts of
the fatal Transair crash at Lockhart River.

Transair
(Question No. 3262)

Senator McLucas asked the Minister representing the Minister for Transport and Regional
Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the
aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that, in 2004, Transair’s contractor check pilot conducted line flights with pilots from
Transair’s Big Sky Express operation based in Inverell, New South Wales and, in September 2004,
advised the chief pilot that: (a) the service was not up to regular public transport standard; (b) pilots
in command were not consistently following standard operating procedures; and (c) pilots had ‘a
bare bones endorsement’, received ‘no follow up training’ and that their systems knowledge was
‘poor’.

(2) Is it the case that on 13 January 2004 the Civil Aviation Safety Authority (CASA) announced that it
had ‘given the official go-ahead’ for Big Sky Express operations following ‘a close review of the
operation by CASA’s technical experts and a trial flight on the new [Gunnedah-Inverell-Sydney]
route’.

(3) (a) Did the Civil Aviation Safety Authority (CASA) make a statement on 13 January 2004 that
CASA’s review of Transair’s proposed New South Wales operations ‘was completed in less than
seven weeks, a period which included the Christmas-New Year holiday break’; (b) did the length of
the assessment period compromise the standard of the review; if not, how can the findings by the
company’s contractor check pilot 8 months after the commencement of operations be explained.

(4) Did CASA make a statement on 13 January 2004 that ‘the Big Sky Express operation meets the
appropriate safety standards and CASA will continue to monitor the service to make sure safety is
maintained’.

(5) (a) How did CASA monitor Transair’s Big Sky Express operation to ensure safety was maintained;
and (b) did the monitoring reveal that any of the statements made by Transair’s contractor check pi-
lot in paragraph (1) were correct.

(6) Can a schedule be provided that details all identified regulatory breaches by Transair’s Big Sky
Express operation and CASA’s response to those identified regulatory breaches.

(7) Is the Minister satisfied with the quality of CASA’s oversight of Transair’s Big Sky Express opera-
tion.

Senator Johnston—The Minister for Transport and Regional Services has provided the
following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the
safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to
actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the
Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed
at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of
extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the
accident. The report is the product of nearly two years of exhaustive investigation and contains detailed

QUESTIONS ON NOTICE
findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Transair (Question No. 3263))

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that aviation safety regulations do not require Air Operator’s Certificate holders to establish and maintain a safety management system.

(2) Can the Minister outline the progress of the implementation of proposed Civil Aviation Safety Rule Part 119 which would mandate the establishment and maintenance of safety management, accident prevention and flight safety systems.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSBI) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Did the Civil Aviation Safety Authority (CASA) inspect minutes of the Transair safety management committee of meetings held before the crash; if so, when.

(2) Did CASA inspect minutes of the Transair safety management committee of meetings held after the crash; if so, when.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau (ATSB) of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005 and, specifically, to each of the 24 reports from line pilots received by Transair management between 8 May 2002 and 7 May 2005 that were required to be reported to the ATSB: (a) when and how did the Civil Aviation Safety Authority (CASA) become aware of each report; and (b) subsequently, what action did it take.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3266)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Is it the case that Transair’s Aviation Safety Manual did not provide for a risk assessment to be conducted either for changes to existing operations or for the introduction of new operations.

(2) Is it the case that there was no risk assessment for the introduction of Regular Public Transport services into Lockhart River.

(3) Were risk assessments conducted of all routes for Big Sky Express operations in New South Wales; if so, when.

(4) Did Civil Aviation Safety Authority (CASA) audits assess the adequacy of the Transair safety program, including the Transair Aviation Safety Manual.

(5) (a) In 2001, did an audit find that the Transair Aviation Safety Manual was in draft form; (b) in 2002, did an audit find that the manual was still in draft form; and (c) subsequently, what steps, if any, did CASA take to ensure Transair had a satisfactory safety manual.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.
This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3267)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) (a) For each Transair application for an Air Operator’s Certificate (AOC) or variation to an AOC, were all assessment procedures contained in the Civil Aviation Safety Authority (CASA) Air Operator Certification Manual followed; (b) specifically, did CASA evaluate the Transair Operations Manual each time its AOC was varied; and (c) what other documents required by legislation were examined.

(2) Did CASA also inspect: (a) the operator’s organisational structure and staffing, and the proposed operations, facilities, aircraft and aerodromes, including the conduct of proving flights; and (b) the certification of various personnel and the approval of the training and checking organisation.

(3) Can details be provided of each case of inspection referred to in paragraph (2), including the date of each inspection, the make-up of the inspection team, the location of each inspection, the documents inspected, and the personnel examined.

(4) Can a copy be provided of all completed checklists placed on Transair’s certification file.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3268)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) (a) When have Civil Aviation Safety Authority (CASA) Regulatory Oversight System checks of Transair been conducted; and (b) for each of these checks: (i) what elements of the system were examined, and (ii) what was the result of the check.

(2) (a) Can copies be provided of the formal report of all Transair audits, including the index of findings, and the actions to be taken by the operator; (b) have all actions been undertaken; and (c) what steps has CASA taken to ensure that they were.

(3) Why were no special audits or spot checks conducted on Transair between 20 December 1999 and the date of the crash.

(4) Is it normal for airlines of the size, scope and expansion pattern of Transair to not undergo special audits or spot checks for a period of 5 years.

(5) Over a 5 year period, on how many occasions would a similar airline normally undergo: (a) spot checks; and (b) special audits.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.
The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3269)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005 and, specifically given that in September 2004 a former Transair pilot made a series of serious safety allegations against Transair to the Civil Aviation Safety Authority (CASA) the chief pilot of Transair was interviewed and informed that a follow-up investigation to collect documentary evidence was to be conducted:

(1) Why did CASA not seek documentary evidence on the day the chief pilot was interviewed.
(2) Why did CASA wait for 5 weeks after the interview to seek documentary evidence.
(3) Can the preliminary answers given by the chief pilot be provided.
(4) Can details be provided of the ‘higher priority of other matters in this office’.
(4) What evidence supports the statement by the CASA inspector that ‘the person who made the allegations appeared to have problems and had a chip on his shoulder’.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.
QUESTIONS ON NOTICE

Transair
(Question No. 3270)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005, why did the Civil Aviation Safety Authority amend its surveillance procedures in 2005 to reduce the number of scheduled airline operator surveillance from two audits to one audit per year.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3271)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005 and in relation to the granting of permission from the Civil Aviation Safety Authority (CASA) to TransAir to operate Regular Public Transport flights on the Cairns-Bamaga-Lockhart River-Cairns route:

(1) On what dates was the application lodged; and (b) on what date was the applicant granted.

(2) In relation to the amount of time that has elapsed between the submission of a like application to CASA and its grant, over the past 5 years, what is the: (a) average time that has elapsed; and (b) what is the longest time that has elapsed.
Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair. Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair
(Question No. 3272)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Does the Minister agree with the statement that ‘given the significance of the problems within Transair, and the amount of interaction the Civil Aviation Safety Authority had with the operator, it is reasonable to conclude that some of these problems should have been detected by CASA’.

(2) Does the Minister agree that Transair’s application, in 1999, for approval to conduct Regular Public Transport cargo operations should have been subject to a full evaluation process consistent with CASA’s Air Operator’s Certificate Manual and that proving flights and port inspections should have been completed.

(3) (a) Does the Minister agree that there should have been explicit monitoring of Transair’s implementation of agreed improvements following the first systems-based audit of the airline in December 1999; and (b) why did CASA apparently not complete the activities it proposed to do, such as ensuring that Transair submitted weekly progress reports and conducting a special audit within 90 days.

(4) Why were three of the seven CASA audits of Transair conducted after September 2001 undertaken by only one inspector rather than multi-disciplinary teams, as recommended under the systems-based audit approach.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

Considerable details of CASA’s oversight of Transair have already been made public in the course of extensive testimony at Senate Committees and in response to previous Questions on Notice.

On 4 April 2007 the Australian Transport Safety Bureau (ATSB) released its extensive report into the accident. The report is the product of nearly two years of exhaustive investigation and contains detailed findings concerning CASA’s surveillance of Transair. The Government has asked CASA to act upon those findings as a priority.

The accident is also currently being examined in an inquest by the Queensland Coroner’s Office. Both CASA and the ATSB are assisting the Coroner. The coronial inquest provides the most appropriate forum for detailed and objective consideration of CASA’s oversight of Transair.

Together, the ATSB report, the coronial proceedings, and the evidence CASA has provided to the Senate on several occasions, ensure that the public interest in the issues raised by the accident is fully addressed. At this time, the completion of the coronial processes is the priority for determining the facts of the fatal Transair crash at Lockhart River.

Transair

(Question No. 3273)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 June 2007:

With reference to the investigation by the Australian Transport Safety Bureau of the fatal crash of the aircraft VH-TFU at Lockhart River in May 2005:

(1) Can details be provided of the employment record of Mr Rob Collins at the Civil Aviation Safety Authority (CASA), including the date and location of his employment, the position he was first employed in, any subsequent positions he has held and where he was located, the date of the cessation of his employment and the reasons for the cessation.

(2) (a) Did Mr Collins cease employment with CASA in 2006; (b) was he subsequently appointed CASA’s acting Industry Complaints Commissioner; if so, can details be provided of that appointment, including the date of the appointment and its cessation, the process under which it was made, and its terms and conditions.

Senator Johnston—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Government understands and appreciates the Senate’s strong interest in learning the safety lessons from the tragic accident at Lockhart River in May 2005. The Government is committed to actions that will reduce the likelihood of similar accidents in future.

This is one of more than 100 questions placed on the notice paper since October 2006 in relation to the Civil Aviation Safety Authority’s (CASA) oversight of Transair, the operator of the aircraft that crashed at Lockhart River. Transair is no longer operating.

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Budget 2007-08
(Question No. 3277)

Senator Sherry asked the Minister for Finance and Administration, upon notice, on 15 June 2007:

(1) (a) In regard to estimates for departmental expenses for the 2007-08 financial year, what are the reasons for the downward revision of $4.5 billion from $54.369 billion (2006-07 Budget Paper No. 1, p. 10-23) to $49.043 (2007-08 Budget Paper No. 1, p. 10-22); and (b) has there been change in administered expenses to this revision.


(3) (a) In relation to comparisons between the 2007-08 budget papers and previous budget papers, what adjustments should be made to ensure that figures are based on the same methodology and/or classifications; and (b) there have been changes in methodology and/or classification, can historical profile be provided of departmental expenses based on the new methodology and/or classification for each financial year in the period from 2000-01 to 2005-06.

Senator Minchin—the answer to the honourable senator’s question is as follows:

(1) (a) The downward revision of $5.3 billion in the 2007-08 financial year between the 2006-07 Budget Paper No. 1 and the 2007-08 Budget Paper No. 1, is due to a change resulting from the inclusion of inter-agency eliminations of $9.8 billion offset by a $4.5 billion increase in departmental expenses. Previously the inter-agency eliminations have been treated as administered.

(b) In past Budget Papers, the inter-agency eliminations have been treated as administered. Due to an enhancement in the government’s budget reporting, inter-agency transactions are eliminated, where appropriate, against the relevant agency’s departmental expenses.

(2) The $9.9 billion revision is due to the first time inclusion of inter-agency eliminations. In previous budgets, the eliminations had not been disclosed in the Expenses by Agency table, but were included in the General Government Expense by Agency table. This does not impact on the amount of expenses recorded by individual agencies.

(3) (a) The adjustment that should be made is the inclusion of inter-agency eliminations as described in (1) (b).

(b) The following table shows the published total departmental expense by agency figure using the method disclosed in the 2007-08 Budget for each financial year in the period from 2000-01 to 2005-06. (Note the increase in the published figure between 2004-05 and 2005-06 was due to the demerger of the Defence Materiel Organisation from Department of Defence, which led to an increase in inter-agency eliminations).
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**Foreign Affairs and Trade: Appropriations**  
(Question Nos 3342 and 3344)

**Senator Sherry** asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 15 June 2007:

1. Was there any appropriation receivable included as an asset in the balance sheet at 30 June 2006.
2. Is there an appropriation receivable included as an asset in the estimated balance sheet at 30 June 2007.
4. With reference to the estimated actual results and financial position for the 2006-07 financial year, what amounts have been identified, for the 2007-08 financial years and for future years, for funding employee entitlements or asset replacements from the appropriation receivable balance.
5. For the 2007-08 financial year and future years, what other items have been identified for funding from the appropriation receivable balance.
6. What tests are applied by the Department of Finance and Administration over access to the appropriation receivable.

**Senator Coonan**—The Minister for Foreign Affairs and the Minister for Trade have provided the following answer to the honourable senator’s question:

1. Yes. The appropriation receivable amount was $350.908 million as at 30 June 2006 and is published on page 366 in the Department’s 2005-06 Annual Report.
2. to (5) The accounts for 2006-07 are not yet finalised.
3. The Minister for Finance and Administration will respond to this part of the question.

**HMAS Westralia**  
(Question No. 3382)

**Senator Faulkner** asked the Minister representing the Minister for Defence, upon notice, on 20 June 2007:

1. With respect to the aftermath of the tragic fire on HMAS Westralia in May 1998, can the Minister confirm that legal action has been taken against the Commonwealth by some, or all, of the families of the deceased; if so: (a) what is the nature of that action; (b) is Mr Bernard Collaery representing the families; and (c) is Mr Collaery the lawyer to whom the then Minister Assisting the Minister for Defence, Ms Kelly, responded on 1 November 2005, affirming the existence of the joint Australian Federal Police and Inspector-General of Defence report of the interview with Bailey’s Diesel Services, now claimed at the estimates hearing of the Foreign Affairs, Defence and Trade Committee on 30 May 2007 to have been incorrect advice.
(2) Has the department now advised Mr Collaery that the previous advice given to him confirming the existence of the 6 February 1998 document is incorrect, as advised at the estimates hearing on 30 May 2007; if not, why not.
(3) (a) What has it cost so far to defend the action taken by the families; and (b) what part of that cost has been incurred, and by which, if any, outsourced legal firms.
(4) Have the affected families at any stage sought an act of grace or ex gratia payment from the Commonwealth; if so, with what result.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) Eight members of the families of the deceased made claims in negligence against the Commonwealth, contractor and suppliers responsible for the installation of the fuel hoses, alleging that they had suffered post traumatic injury as the result of the death of their family members. All these claims have been settled. A separate claim for loss of financial support was made by the partner and child of one of those who died in the fire. This claim has not been settled. (b) Yes. (c) Mr Bernard Collaery is the person to whom the Minister Assisting wrote on 1 November 2005.

(2) No. The substance of the reply given to Mr Collaery on 1 November 2005 was that Defence had previously examined these issues and did not consider they were germane to the cause of the fire aboard HMAS Westralia. That remains the Defence position. While it is likely in the circumstances that Mr Collaery is well aware of the true position, given media and other comments on points of detail about the timing of that earlier examination, Defence is writing to Mr Collaery to ensure that the matter is clarified.

(3) (a) As at 13 July 2007, Defence has paid $71,016 for defending the actions taken by the families. (b) The amount in (a) has been paid to the Australian Government Solicitor, who represents the Commonwealth.

(4) No.

Cluster Munitions
(Question No. 3385)

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 21 June 2007:

With reference to submissions by the department to the Foreign Affairs, Defence and Trade Committee’s inquiry into cluster munitions and the impending acquisition of an advanced sub-munition capability:

(1) Which model or models of advanced sub-munition capability is the department proposing to acquire.

(2) What is the name of the manufacturer of these cluster munitions.

(3) From which country or countries will the munitions be sourced.

(4) How many of each model are proposed to be acquired.

(5) What is the total cost and the unit cost for the purchase.

(6) How many sub-munitions does each of the proposed cluster munitions contain.

(7) (a) Which of these sub-munitions, if any, is precision guided and; and (b) for each of these sub-munitions, how are they precision guided.

(8) What is the estimated failure rate of the proposed sub-munitions.

(9) Were the sub-munitions tested for reliability; if so: (a) under what conditions were they tested; (b) by whom; (c) were the results of the tests independently verified; (d) was the test conducted by the
(10) For each model of cluster munitions, what mechanisms, if any, help to reduce the likelihood that sub-munitions will be dispersed in areas beyond the designated target.

(11) Does the sub-munition contain safety features designed to minimise its humanitarian impact; if so: (a) what are these features; (b) do the features have mechanical or electrical triggers; and (c) can the features be deactivated; if so, under what conditions or circumstances.

(12) What measures will the department take to minimise the humanitarian impact of the acquired sub-munition.

(13) What position was adopted by the Australian Government in the recent international meeting on cluster bombs held in Lima, Peru.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) to (11) Defence is in the process of acquiring an advanced, sensor-fused anti-tank explosive ordnance capability. Details of this acquisition cannot currently be released because the contract is yet to be finalised, so information about its manufacturer, characteristics and costs are “Commercial-in-Confidence”. Further information will be released after contract signature, expected in the near future.

Further information about “advanced sub-munitions” was provided by Defence in its Submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry into the Cluster Munitions (Prohibition) Bill (2006), and in the Defence responses to the follow-up questions posed by the Committee.

(12) Information about measures taken to minimise the humanitarian impact of munitions is included in the Defence Submission to the Senate Standing Committee on Foreign Affairs, Defence and Trade inquiry into the Cluster Munitions (Prohibition) Bill (2006), and in the Defence responses to the follow-up questions posed by the Committee.

(13) The Australian delegation at the meeting held in Lima (23-25 May 2007) supported international efforts arising from both the ‘Oslo process’ and the Certain Conventional Weapons Convention to ban those inaccurate and unreliable munitions which are of humanitarian concern. Australia is supportive of a convention that bans the types of inaccurate and unreliable munitions that inflict significant humanitarian costs. The Australian delegation in Lima did not support a blanket ban on cluster munitions as such a ban would include sensor-fused anti-tank explosive ordnance with sophisticated targeting and self-destruct mechanisms, and these mechanisms have the effect of reducing the humanitarian impact of the explosive ordnance.