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RADIO BROADCASTS

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- **GOSFORD** 98.1 FM
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- **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

Nationals Whip—Senator Fiona Joy Nash

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

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Family First Party Whip—Senator Steve Fielding

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

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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Santo Santoro, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Hon. Santo Santoro, 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 Hon. Amanda Eloise Vanstone, resigned.
(7) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Hon. Ian Gordon Campbell, resigned.
(8) 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)
HOWARD MINISTRY—continued

Minister for Fisheries, Forestry and Conservation and Manager of Government Business in the Senate
Senator the Hon. Eric Abetz

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP

Minister for Workforce Participation
The Hon. Dr Sharman Nancy Stone MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP

Special Minister of State
The Hon. Gary Roy Nairn MP

Minister for Ageing
The Hon. Christopher Maurice Pyne MP

Minister for Vocational and Further Education
The Hon. Andrew John Robb MP

Minister for the Arts and Sport
Senator the Hon. George Henry Brandis SC

Minister for Community Services
Senator the Hon. Nigel Gregory Scullion

Minister for Justice and Customs
Senator the Hon. David Albert Lloyd Johnston

Assistant Minister for Immigration and Citizenship
The Hon. Teresa Gambaro MP

Assistant Minister for the Environment and Water Resources
The Hon. John Kenneth Cobb MP

Parliamentary Secretary to the Prime Minister
The Hon. Anthony David Hawthorn Smith MP

Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for Finance and Administration
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Minister for Defence
The Hon. Peter John Lindsay MP

Parliamentary Secretary to the Minister for Health and Ageing
Senator the Hon. Brett John Mason
SHADOW MINISTRY

Leader of the Opposition

Kevin Michael Rudd MP

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

Julia Eileen Gillard MP

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

Senator Christopher Vaughan Evans

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

Senator Stephen Michael Conroy

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

Anthony Norman Albanese MP

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

The Hon. Archibald Ronald Bevis MP

Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy

Christopher Eyles Bowen MP

Shadow Minister for Immigration, Integration and Citizenship

Anthony Stephen Burke MP

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

Senator Kim John Carr

Shadow Minister for Trade and Shadow Minister for Regional Development

The Hon. Simon Findlay Crean MP

Shadow Minister for Service Economy, Small Business and Independent Contractors

Craig Anthony Emerson MP

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

Laurence Donald Thomas Ferguson MP

Shadow Minister for Transport, Roads and Tourism

Martin John Ferguson MP

Shadow Minister for Defence

Joel Andrew Fitzgibbon MP

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

Peter Robert Garrett MP

Shadow Minister for Veterans’ Affairs, Shadow Minister for Defence Science and Personnel and Shadow Special Minister of State

Alan Peter Griffin MP

Shadow Attorney-General and Manager of Opposition Business in the Senate

Senator Joseph William Ludwig

Shadow Minister for Sport and Recreation, Shadow Minister for Health Promotion and Shadow Minister for Local Government

Senator Kate Alexandra Lundy

Shadow Minister for Families and Community Services and Shadow Minister for Indigenous Affairs and Reconciliation

Jennifer Louise Macklin MP

Shadow Minister for Foreign Affairs

Robert Bruce McClelland MP

Shadow Minister for Ageing, Disabilities and Carers

Senator Jan Elizabeth McLucas
Shadow Minister for Federal/State Relations, 
Shadow Minister for International Development 
Assistance and Deputy Manager of Opposition 
Business in the House
Robert Francis McMullan MP

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

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

Shadow Minister for Health
Nicola Louise Roxon MP

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

Shadow Minister for Education and Training
Stephen Francis Smith MP

Shadow Minister for Finance
Wayne Maxwell Swan MP

Shadow Minister for Public Administration and 
Accountability, Shadow Minister for Corporate 
Governance and Responsibility and Shadow 
Minister for Workforce Participation
Lindsay James Tanner MP

Shadow Parliamentary Secretary for Foreign Af-
airs
Senator Penelope Ying Yen Wong

Shadow Parliamentary Secretary for Defence and 
Veterans’ Affairs
Anthony Michael Byrne MP

Shadow Parliamentary Secretary for Environment 
and Heritage
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Treasury
Jennie George MP

Shadow Parliamentary Secretary for Education
Catherine Fiona King MP

Shadow Parliamentary Secretary to the Leader of 
the Opposition
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Industrial 
Relations
John Paul Murphy MP

Shadow Parliamentary Secretary for Industry and 
Innovation
Brendan Patrick John O’Connor MP

Shadow Parliamentary Secretary for Northern 
Australia and Indigenous Affairs
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary to the Leader of 
the Opposition (Social and Community Affairs)
The Hon. Warren Edward Snowdon MP

Shadow Parliamentary Secretary to the Leader of 
the Opposition (Social and Community Affairs)
Senator Ursula Mary Stephens
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The PRESIDENT (Senator the Hon. Alan Ferguson) took the chair at 9.30 am and read prayers.

BUSINESS

Consideration of Legislation

Senator SCULLION (Northern Territory—Minister for Community Services) (9.31 am)—At the request of the Minister for Fisheries, Forestry and Conservation, Senator Abetz, I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Quarantine Amendment (Commission of Inquiry) Bill 2007, allowing it to be considered during this period of sittings.

Question agreed to.

COMMONWEALTH ELECTORAL AMENDMENT (DEMOCRATIC PLEBISCITES) BILL 2007

First Reading

Bill received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Community Services) (9.31 am)—At the request of the Minister for Fisheries, Forestry and Conservation, Senator Abetz, I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Community Services) (9.32 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Bill gives effect to the Prime Minister’s announcement on 7 August 2007 to allow the Australian Electoral Commission to undertake any plebiscite on the amalgamation of any local governing body in any part of Australia.

The Bill does this by amending the Commonwealth Electoral Act 1918 to authorise the Australian Electoral Commission’s use and disclosure of any information held by it, including information contained in an electoral roll, for the purpose of conducting an activity, such as a plebiscite.

Section 7A of the Commonwealth Electoral Act 1918 already allows the Australian Electoral Commission to enter into an arrangement for the provision of goods and services. Section 7B of the Commonwealth Electoral Act 1918 also allows the Australian Electoral Commission to charge reasonable fees for the goods or services supplied under section 7A.

The Australian Electoral Commission has the necessary skills and expertise to undertake arrangements to conduct a plebiscite. It presently conducts these arrangements for trade unions and employer organisations under the Workplace Relations Act 1996 and for other organisations and some foreign countries.

The Bill introduces new subsections 7A(1C) and (1D) to clarify that the use by the Australian Electoral Commission of any information held by it, including information contained in an electoral roll, is authorised for the purpose of conducting an activity, such as a plebiscite.

The Bill also provides that a law of a State or Territory has no effect if it prohibits anyone from, or penalises or discriminates against anyone for, entering or proposing to enter into an arrangement with the Australian Electoral Commission. This also applies where a person or body takes part in or assists with, or proposes to take part in or assist with, the conduct of an activity to which an arrangement relates.

The imperative for a provision such as this arises from a law passed by the Queensland Parliament on 10 August 2007 that, unless overridden by this Commonwealth law, would prevent councillors in that State having any involvement with these plebiscites.
The Bill also refers to Article 19 and paragraph (a) of Article 25 of the International Covenant on Civil and Political Rights. Article 19 provides that people should have the right to hold opinions without interference and the right to freedom of expression. Paragraph (a) of Article 25 provides that every citizen shall have the right and opportunity, without unreasonable restrictions, to take part in the conduct of public affairs, directly or through freely chosen representatives.

Finally, I note that the Bill is not intended to be an avenue for citizen initiated referenda. The Bill is intended to give effect to the policy announcement of the Prime Minister.

I commend the Bill.

Senator Ian Macdonald—Madam Acting Deputy President, I raise a point of order. My red shows that order of the day No. 1 is the Trade Practices Legislation Amendment Bill (No. 1) 2007. I understand the first two speakers on the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007 are not yet in the chamber. I cannot seem to find out who makes these arrangements—it is certainly an arrangement which has changed since last night. I appreciate you have no responsibility for this, Madam Acting Deputy President, but could someone explain to me why we are dealing with the Commonwealth electoral amendment bill, which has no number, is above No. 1 and because of that it will proceed.

Senator Bob Brown—Madam Acting Deputy President, the unusual situation is the proposal that this debate proceed immediately with the minister not reading the second reading speech.

The ACTING DEPUTY PRESIDENT—Are you taking a point of order, Senator Brown?

Senator Bob Brown—A point of order or otherwise I request a recommittal of the leave to have the second reading speech incorporated in Hansard. I ask that the minister read the second reading speech. Otherwise, the chamber is not informed of the government’s proposed matters which are in the second reading speech.

The ACTING DEPUTY PRESIDENT—Senator Brown, the minister has already been given leave to incorporate the second reading speech and it is not possible to recommit that leave motion.

Senator Bob Brown—On a point of order: it is possible. I ask leave of the Senate that the minister, having already been given leave to incorporate the second reading
speech in *Hansard*, now read the second reading speech.

**The ACTING DEPUTY PRESIDENT**—
Is leave granted?

Leave not granted.

(Quorum formed)

**Senator LUNDY** (Australian Capital Territory) (9.39 am)—The federal Labor Party supports the passage of the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007 because it supports the principle that the people of Queensland should be consulted before decisions are made about the amalgamation of local councils. Federal Labor believes in the importance of communities and the importance of local government in representing communities.

But let us be very clear about the government’s motivation in progressing this bill. The bill was introduced as a response to provisions in the Queensland Local Government Act 1993 that would provide for the dissolution of a council if it undertook action for the purpose of holding a poll about local government area abolition. The bill seeks to override that act by providing that any law prohibiting the holding of a plebiscite would be invalid and by offering Commonwealth assistance for plebiscites on local council amalgamations. The Prime Minister pretends to be the saviour of democracy, but the Australian Electoral Commission already has the power to conduct plebiscites. This bill does not give the AEC power to conduct plebiscites; the AEC has been doing that for years. The Special Minister of State admitted as much in his second reading speech when he said in the other place that the AEC presently conducts plebiscites for trade unions, for employer organisations, for other organisations and, indeed, for some other countries. The Queensland government has introduced amendments in the Queensland parliament to repeal its provisions banning the holding of plebiscites. On 31 August, the Queensland government gazetted a regulation expiring regulations that imposed penalties on councils arranging plebiscites, so the conditions that the minister and those on the other side say prompted this bill no longer exist.

The minister yesterday accused Labor of a stunt for proposing that the AEC be allowed to conduct plebiscites on the location of nuclear facilities because the AEC already has the power to conduct plebiscites. The minister gave his game away. This bill is a transparent stunt by the Howard government. The conditions that gave rise to this bill no longer exist and all expert evidence supports the view that any plebiscites conducted by the AEC are not binding on the Queensland government. The AEC already has the power to conduct plebiscites on behalf of local councils, and the minister has admitted that this bill is unnecessary. But the Howard government perseveres because it wants to grandstand on an issue where it thinks it can gain some kind of short-term political advantage.

In contrast, Labor has consistently argued that local communities should be consulted. Mr Rudd and the federal Labor Party have been consistent in our support for local democracy. As early as 17 May in Townsville, Mr Rudd said:

My view ... is that local voice and local choice is critical when it comes to the future of local government across Australia, as well as here in Queensland.

My other view is this. If we’re going to come up with any amalgamation proposals, the important way forward is then to test them through the democratic process of a local referendum.

You cannot have a stronger commitment or demonstration of leadership than that, and that has been our position all along. That is why we indicated that we would be supporting this bill when it was introduced. We believe that local communities should be con-
resulted before the whole structure of local government in Queensland is changed.

Federal Labor has a policy on local government, and this stands in contrast to the Howard government, which is stale and has run out of ideas on the issue of local government. Mr Howard's interest in local government is belated and opportunistic. Mr Howard was not out there with statements of support for Queensland local councils back in May when Mr Rudd was arguing for plebiscites, and we do not recall Mr Howard as a member of the then opposition taking a stand against Jeff Kennett's forced amalgamations of councils in Victoria. Mr Howard only entered the debate in Queensland when he thought he saw a political advantage in dividing communities, and Mr Howard in this sense is holding out false hopes. He knows that plebiscites are not binding on the Queensland state government and he knows that the state government has withdrawn the legislation that the government says made this bill necessary in the first place.

If Mr Howard believed in local democracy, he would support constitutional recognition for local government, but in 1998 Mr Howard, as the Leader of the Opposition, campaigned against a referendum put forward by the Australian Labor Party to recognise local government in our Constitution. In a speech to the National Press Club on 23 June 1998, Mr Howard said his opposition to constitutional recognition was based on 'a strongly held view that it will distort the natural order and constitutional balance of our federal structure'. He still believes that local government is somehow outside the natural order and balance of our federal structure. By contrast, Labor sees local government as a true partner in providing services for the Australian people and a vital part of local communities, and one of the three spheres of government that form part of our Federation.

In debate on this bill in the other place yesterday, the Special Minister of State accused Labor of insincerity. He said that we had had 11½ years to argue for constitutional recognition for local government and had waited for this bill to introduce the idea. That shows just how much interest this government has had in local government and how little interest the minister takes in what happens in the parliament and, indeed, the portfolio of local government. In October last year, Labor moved an amendment to a motion in the parliament to recognise local government in the Constitution. Mr Howard opposed it. His Minister for Local Government, Territories and Roads, Mr Jim Lloyd, opposed it. Now we hear that he has an open mind on the question, yet Mr Lloyd voted against Labor's amendment. He might like to talk to a previous Howard government minister for local government, Mr Tuckey, who said that he thought constitutional recognition was meaningless. The Special Minister of State voted against the amendment, though he, too, now seems to forget that the question was ever put. I should add that Labor has a very long and proud history of supporting constitutional recognition. That goes back to previous referenda held in 1974 and 1988 which, not least, form a substantial and consistent part of both our national and state platforms.

Senator Joyce has said that he supports constitutional recognition for local government. He voted against it last year, but he says that he supports it now. We welcome his change of heart, and we wish that more of his colleagues would also express that view. But what really matters with this government, as we all know, is not what Senator Joyce thinks but what the Prime Minister thinks. The Prime Minister does not believe in local government. His intervention in this dispute simply reflects the advice that he has received from his pollsters, which is that his
best bet for staying in power is to capitalise on voter discontent with state governments. This approach is hypocritical and lacks principle.

The Prime Minister is running a giant con job on the people of Queensland. He is not interested in the results of any polls on local council amalgamations. The AEC have already told him and the Senate Standing Committee on Finance and Public Administration that they will not be able to conduct plebiscites in conjunction with the election. But he seems to have switched off. There is only one poll that counts for this Prime Minister, and that is the next opinion poll. He focuses on the next opinion polls and what he must do to get himself out of the mess that he has got himself into. He will not be listening to the people of Queensland and he will not be developing new policies or approaches toward dealing with the chronic financial situation in which local government finds itself after 11 long years of his government. No doubt the Prime Minister will be listening to his pollsters, particularly Mark Textor who gives him his lines. An article by Sid Marris from 7 August says:

Mr Howard’s latest confrontation with the States follows the revelation this week of a warning from the Liberals’ pollster Mark Textor that the Coalition was unpopular and needed to capitalise on voter discontent with State governments.

It is plain to see that that is why he picked a fight with the Queensland government on this issue when he was so conspicuously silent when his friends in the Victorian Liberal Party restructured local government in that state in the 1990s. That is clearly why he grabbed at this bill. He was looking for an issue to distract the people of Queensland from the fact that he had run out of policy ideas and had no plan for working with local government to improve the services provided to the people of Queensland.

By contrast, Labor’s position on this issue has always been principled and clear. We have a proud history, as I mentioned, of supporting local government. It was in 1974 and 1988 that federal Labor sought formal constitutional recognition of local government at national referenda. On both occasions the coalition refused to provide bipartisan support and, not surprisingly, the referenda failed. Two weeks ago, I confirmed that an incoming Rudd Labor government would move to recognise local government in the Constitution. Constitutional recognition will redefine the relationship between Commonwealth, state and local governments and guarantee that communities have an effective local voice in decision making on the issues that affect their lives. We followed up on that announcement by indicating at the Local Government Association of Queensland annual conference that an incoming Labor government would in its first term of office establish a Council of Australian Local Governments. The Council of Australian Local Governments will provide a forum that will allow local and federal government to meet and discuss issues of national importance and will ensure that local government representatives have a more effective voice at the Council of Australian Governments, COAG.

Our support for constitutional recognition and the establishment of a Council of Australian Local Governments shows the strength of our commitment to local government and to the idea of cooperative federalism. The Howard government, by contrast, has been caught being tricky and opportunistic in seeking to exploit the difficulties that local government is facing. These difficulties have been partly created through 11 long years of neglect by the Howard government. We will be moving a second reading amendment to this bill to give effect to constitutional recognition of local government, and I call on the government to support it and, failing that,
for Senator Joyce and those of his colleagues who declared their support for constitutional recognition to make good on their public statements this week by crossing the floor to support this important motion.

I also want to mention some practical issues and problems with the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. The bill shows every sign of having been drafted in haste and without the sort of consultation that we would expect of a responsible government. This was confirmed at the hearings in Cairns when officials confirmed that the drafting instructions were given to the Department of Finance and Administration only on the Thursday before the bill was introduced to the parliament. Officials were unable to point to any consultation with state or local government bodies or, indeed, with the federal department responsible for local government. In foreshadowing this bill, the Prime Minister said:

The Australian Government’s offer to fund the conduct of the ballots remains on the table. In hearings in Queensland two weeks ago, the committee searched in vain for details of this funding. The AEC has apparently been given a wink and nod that funding for the plebiscites will be provided by the Department of Transport and Regional Services, but the government has given the Senate no conclusive advice on this question. This is not the kind of serious and thoughtful preparation that we would expect from a government that was serious about local democracy. It is further proof that this government has no strategy and no policy; it just makes it up as it goes along. Witnesses at the committee hearings in Queensland expressed puzzlement at the mechanics of how the plebiscites will be constructed and put to the people of Queensland. For example, we have not yet heard the minister explain whether plebiscites will cover the existing local government boundaries, the proposed new bounda-

ries or communities with an interest in the outcome of the local government changes.

Senators will be aware that, in its submission to the Queensland Local Government Grants Commission, Noosa Shire expressed a preference for remaining independent but expanding its boundaries to include adjacent communities of Eumundi, Doonan, Verrierdale, Weyba Downs and Peregian Springs. The commission recommended that Noosa Council be amalgamated with Maroochy and Caloundra councils.

We are interested to know how it is intended that plebiscites will be conducted in these circumstances. If the Noosa Council seeks a plebiscite on the question of the amalgamation, will the people of Maroochydore and Caloundra also have the opportunity to express a view on the plebiscite? These are legitimate questions. Will the people in the other areas have the opportunity to express a view about whether they would like to be part of an expanded Noosa shire? Will the people of Coolum also be involved in this process? These are two more critical questions, and there is another: will the councils be left to somehow sort out this jigsaw puzzle in conjunction with the AEC at the time? And if not, if these communities do not have the opportunity to express a view on the new council boundaries just because they happen to sit outside the boundaries of the existing council, how will decision makers be able to assess the views of the community as a whole?

And so we go on with outstanding questions such as these. Who will write the questions and decide that they have been framed clearly and in an even-handed way, and who will write up the yes and no cases for the plebiscites? Or does the Howard government propose to leave this to be decided by the AEC? In evidence to the committee in Cairns last week, witnesses from the AEC were not
able to offer much clarity on these questions or to point to a process by which they would be resolved. So in addressing the question of how plebiscites would be conducted, an AEC witness said:

... there are all sorts of other issues of confusion—boundary differences, voting differences, different ballot papers, higher informality possibilities—

in holding an attendance ballot in conjunction with a federal election. He pointed out that even the simpler option of postal ballots would require perhaps 2½ million envelopes that the AEC does not currently have. The AEC was able to say, however, that with all the uncertainties still to be sorted out, the possibility of an early plebiscite was effectively out of the question.

The Howard government has attempted a gigantic trick on the people of Queensland. The Howard government does not have a clear idea about how to make this bill work because it is not serious about local democracy. This is, as I said, evidence that the Howard government has run out of steam and run out of ideas. It no longer governs but concocts stunts that divide our communities. Federal Labor has consistently called for the people to have a voice on the Queensland council amalgamations, and we support this bill because we support local democracy, notwithstanding our reservations about the lack of detail in the bill and the government’s motivation in putting it forward.

If the Howard government wants to call plebiscites, let us have a plebiscite on another issue that will shape communities and on which the Howard government has failed to provide community consultation. Federal Labor believes that communities are entitled to express a view on the location of 25 nuclear power plants and the nuclear waste facilities that the Howard government wants to impose on the Australian community. To this end I move:

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

(a) expresses its support for a referendum to extend constitutional recognition to local government in recognition of the essential role it plays in the governance of Australia; and

(b) notes that the Australian Labor Party believes communities are entitled to express a view on the location of 25 nuclear power plants and the nuclear waste facilities that the Howard government wants to impose on the Australian community”.

This presents an opportunity for senators opposite, who claim to support constitutional recognition for local government, to vote in favour of Labor’s second reading amendment.

This is an issue that goes to the character of the Howard government and the Labor opposition. Our steadfast support for constitutional recognition for local government underpins our support for their right to have a say and express a view about the proposed amalgamations in Queensland. We know the mechanics of this bill are no longer technically necessary for those plebiscites to occur with the support of the AEC, but we will support this bill on the basis that it is an expression of that principle and that right. Further, I think the ultimate test for the Howard government will be how they will respond to this second reading amendment. If they support the second reading amendment they are acknowledging indeed that constitutional recognition is not only essential but the right thing to do to formally recognise that we have three functioning spheres of government in this country—not two, with one on the side, but three fully functioning and essential spheres of government that need to work more effectively together.
The way this motion is worded allows coalition senators to support it, because the second part acknowledges the Labor Party’s view but it does not necessarily force coalition senators to subscribe to that view also. The motion notes the Labor Party’s view with respect to plebiscites for the location of 25 nuclear power plants and nuclear waste facilities that the Howard government wants to impose on the Australian community, and we think that is a profound enough issue to warrant mention in the context of this bill and in facilitating local democracy. I commend our second reading amendment to the Senate and I look forward to hearing what government senators have to say. (Quorum formed)

Senator MURRAY (Western Australia) (10.02 am)—The Australian Democrats support the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. This bill is a remarkable bill in two respects: it promotes direct democracy and it makes explicit inalienable civil and political rights in Australian law. The bill will therefore represent a milestone for Australia. The people of Australia regularly express their democratic will through elections and on rarer occasions through constitutional referenda, but, for the first time in its 106-year history, the federal government is supporting direct democracy initiated by the people in its legislation. The bill allows for plebiscites—the direct vote of qualified electors to some important public question—to occur under the aegis of the Australian Electoral Commission, and no state or territory law can gainsay it. The purpose of the bill is to allow the AEC: … to undertake any plebiscite on the amalgamation of any local government body in any part of Australia.

That is in the explanatory memorandum. But the bill appears to be open-ended in that it is for:

… the purposes of conducting an activity (such as a plebiscite) under an arrangement …

That is at item 1. Who knows what that could imply for future questions considered important by groups of citizens? After all, direct democracy means that it is initiated by the people, and their initiatives could surprise many.

That the conservative Howard government should be so democratically innovative is a surprise to most. Long term, it matters not a jot that the coalition’s motive is immediate and self-interested. They seek to make mischief between Labor leaders Beattie and Rudd over the Queensland Premier’s poorly timed desire to force through large-scale local council amalgamations. The resistance to this state Labor move is believed to threaten federal Labor’s campaign to win coalition seats in that state. What matters long term is that the precedent and process for the formal direct expression of popular will have arrived in Australia.

The second area of welcome democratic innovation is with respect to the International Covenant on Civil and Political Rights, otherwise known as the ICCPR. The ICCPR was ratified by Australia and came into force for Australia in 1980. The ICCPR was actually initiated and passed on 16 December 1966 but generally came into force on 23 March 1976. It is gratifying that the bill refers to the inalienable rights enshrined in the ICCPR in respect of article 19 and article 25(a). Article 19 provides:

... that people should have the right to hold opinions without interference and the right to freedom of expression.

Paragraph (a) of article 25 provides:

... that every citizen shall have the right and opportunity, without unreasonable restrictions, to take part in the conduct of public affairs, directly or through freely chosen representatives.
This explicit reliance on rights comes from a coalition government whose resistance to a bill or charter of rights is legendary. Although there has been many a campaign for a bill of rights in Australia, there is stronger support for a legislated charter of political rights and freedoms. The Australian Capital Territory is the only Australian legislature so far to act on this front. It would be better if there were one Australian standard in this vital area.

Unlike citizens of a number of other countries, Australians do not have their rights and responsibilities reflected in the Constitution, nor mostly in legislation, which is why we have seen minorities such as Indigenous Australians, Australian women and homosexual Australians compelled to seek international help in addressing unjust treatment and discrimination. Antiterrorism security concerns in the United States resulted in the PATRIOT Act, which restricts a number of rights and liberties; however, that legislation sits amongst the United States constitutional guarantees of the Bill of Rights. These guarantees ensure that all citizens shall be secure in their persons and protect them against unreasonable search and seizure. The United States constitution provides Americans with the right to due process and the right to a fair and speedy public trial, among other things. These constitutional guarantees known as the United States Bill of Rights provide the background against which legislation like the PATRIOT Act is interpreted. In the United Kingdom, the Human Rights Act 1998 acts as a control measure against which the courts can interpret legislation. Australia has no human rights act to provide an equivalent safeguard.

If Australia is going to enact legislation which impacts stringently on its citizens' human rights, as it presently does, it is essential that it makes it either constitutionally or legislatively clear that there is an overriding safeguard and respect for those human rights. The Australian Democrats have attempted to establish a comprehensive human rights standard for Australia and introduced the Parliamentary Charter of Rights and Freedoms Bill 2001.

Senator Boswell interjecting—

Senator MURRAY—The Democrats' proposed charter of rights was an implementation of the ICCPR, which Senator Boswell does not seem to understand is an integral part of this bill. It sets out certain fundamental rights and freedoms, including the right to equal protection under the law, the right to a free trial, freedom of expression and freedom of religion. From my perspective, five issues arising from the bill deserve further discussion: whether the ICCPR articles in the bill suffice for the purpose, whether the bill needs supplementing by appeal measures, the timing of plebiscites, a matter arising from the ICCPR, and how to further advance direct democracy.

I turn to the first of my concerns. The committee hearings in Queensland made something very clear to me. Although Australia prides itself on a larrikin culture, where there is a tendency to thumb your nose at authority and not to take things lying down, most Australians are very trusting. Most truly believe that their government would not do anything to impinge on what they regard as their basic rights. There was genuine astonishment from people of all political persuasions that the Queensland Labor government would have the audacity to remove their basic right to have a say on whether their local council should be amalgamated and to forbid them to conduct a local plebiscite on the issue. Trish and Nick Radge, in their submission to the Senate Finance and Public Administration Committee, captured that feeling well:
As a democratic society we have a right to vote for whoever we want, to protest against things we disagree with and to speak out without fear of reprisal.

It came as a surprise to me that Australians have such a trusting approach to their governments, state and federal. The executives of all governments of all stripes have been steadily increasing the powers of the state over the people for decades. Those who were surprised by the actions of the present Queensland Labor government have obviously not been following the trend of the coalition federal government as it rides roughshod over civil liberties. For instance, its antiterrorism and immigration laws enable the authorities to search premises on suspicion, to hold some people indefinitely without charge and to generally discard other basic rights which Australians have always believed were part of being Australian.

It is clear that until a law impacts directly on a significant proportion of middle Australia, people in this part of the constituency do not believe they will ever be caught by the provisions of antiterrorism laws or by the extensive federal police and customs powers now enshrined in federal legislation. Their belief that their rights will be protected and promoted remains. It was clear from the evidence at the hearings that the Queensland legislation had shaken this belief but not unhinged it completely, because the federal government was riding to the rescue of their rights. In this instance, they were correct; in so many other laws passed in the last couple of years, that could not be further from the truth.

The bill makes provision for local and other plebiscites to be conducted by the AEC, but is that right sufficiently buttressed by articles 19 and 25(a) of the ICCPR? Proposed new subsection 7A(IE), intended to be inserted into the Commonwealth Electoral Act by item 1 of the schedule of the bill, provides, in effect, that a state or territory law is nullified if it interferes with the conduct of a plebiscite by the AEC under an agreement with the commission. Proposed new subsection 7A(1F) provides that, if subsection 7A(IE) is beyond the legislative powers of the Commonwealth, articles 19 and 25 of the ICCPR are to be called on to support the validity of the subsection.

There is doubt about whether the Commonwealth can validly legislate by adopting a particular interpretation of a particular provision of the covenant and then selectively apply that interpretation to override particular state laws. These doubts rest on passages in the leading High Court judgement in the Tasmanian dams case, particularly the warning by Justice Deane in that judgement that a law cannot be regarded as a law under the external affairs power if it fails to carry into effect the provisions of a treaty, or the treaty itself is simply a device to attract domestic legislative power.

These doubts about the validity of such legislation were raised by eminent authorities on the other occasion on which the Commonwealth selectively invoked a provision of the covenant to override a particular state law. The Commonwealth law in question was the Human Rights (Sexual Conduct) Act 1994, which employed article 17 of the covenant, relating to the right of privacy, to override Tasmanian laws about homosexual conduct. It was then pointed out that the then Commonwealth government was adopting a particular interpretation of the article, which might not prove to be the correct interpretation, and applying it to override particular state laws which might not be caught by the article on its proper construction. Partly on that basis, as expressed in a dissent by coalition senators to the report of the Legal and Constitutional Affairs Committee, several members of the coalition parties voted against the bill. The doubts about the validity
of the legislation were not resolved, because it was not litigated. In my opinion, the doubts of the coalition party senators were valid.

As with all questions of constitutional law, there is a corresponding question of constitutional propriety, and, regardless of how the High Court would ultimately resolve the question of law, that question remains. If the power to enter into treaties is a source of Commonwealth legislative power, and the Commonwealth is to rely on a treaty to override state laws, the constitutionally appropriate course, consistent with the principles of federalism, is for the Commonwealth to put into legislative force the whole of the treaty, and let it fall on state laws where it will, according to its nature.

It appears contrary to constitutional principle for the Commonwealth to selectively apply particular interpretations of selected provisions of a treaty to nullify state laws which the Commonwealth government of the day happens to dislike, while ignoring other laws which may well be contrary to the treaty. This principle gains added force when the treaty in question—in this case the ICCPR—is intended to safeguard what I and many others regard as inalienable individual rights, against the power of government, whether state or federal.

If the treaty is to have force in Australia, surely all of the human rights it encapsulates should have force against all of the laws of all governments, and selected bits of rights as interpreted by one of those governments should not be selectively applied only to state governments in particular circumstances. It is my belief, and the belief of my party, that the International Covenant on Civil and Political Rights should be introduced in full into Commonwealth law, since Australia has ratified it.

I want to deal now with whether the bill needs supplementing by including appeal measures. During the committee hearings I had a useful interchange with the Hon. Bruce Scott MP, member for Maranoa, who is a particularly pleasant individual and seems very capable in carrying out his functions as a representative for that area. Subsection 92(1) of the Local Government Act 1993 Queensland used to provide for referendum plebiscites to occur but, with respect to these council amalgamations, the Queensland government expressly removed any right to appeal any decisions by the government or the Local Government Reform Commission on reform matters. In evidence, Mr Scott said on the Hansard:

I would be very happy for the Senate committee to review the right of appeal … Because of the parliamentary unicameral system in Queensland, I would think it would be beneficial in relation to the Queensland laws as are enacted by the state government. That does not mean everything they do is wrong.

The repeal of the right to conduct referendum plebiscites in the Local Government Act of Queensland is a blatant denial of procedural and natural justice. The Local Government Reform Commission makes a decision, which may be in error but on which the Queensland government relies in good faith, and the people and the entities affected by that decision have no right of appeal. If a commission recommendation for amalgamation is not relevantly evidence based, it should surely be open to appeal. One of the real problems that were identified in evidence was that the amalgamations were consistently not evidence based. They were based on general propositions, not specific propositions relevant to the councils concerned.

The question is whether there is any constitutional basis for the Commonwealth enacting a right of appeal or process of review.
to be available where an error of judgement has been made and where no possibility of appeal exists in state law. The advice I have had is that this is difficult but not impossible. The question of the Commonwealth making such a catch-all provision involves various constitutional areas of law, including section 51 powers, the separation of powers, the complexity of federal and state court/tribunal cross-vesting laws, intergovernmental immunities and chapter 3 considerations with respect to the judicature. There is also the jurisprudence on administrative law involving judicial review on merits and questions of law. One point of note probably worth bearing in mind is that much of administrative review and appeal law goes to the review or appeal of a decision of a decision maker made under an act. A recommendation to a decision maker becomes relevant when review is being sought of a decision as to whether relevant considerations, irrelevant considerations and errors of questions of fact were taken into account.

The incidental power under section 51(xxxix) of the Constitution permits laws incidental to judicial matters and is the power behind legislation such as the Judiciary Act 1903. Chapter 3 of the Constitution governs the High Court and other federal courts which the parliament creates. The Commonwealth has created bodies such as the Administrative Appeals Tribunal and others which exercise federal jurisdiction and which must abide by the principles of Brandy v Human Rights and Equal Opportunity Commission 1995, namely the difference between judicial and administrative functions.

Matters of state and territory law are interpreted by state courts and tribunals. States and territories can refer matters to the Commonwealth under section 52(xxxvii) of the Constitution but usually, if there is a high level of cooperation, other forms of legislative schemes are preferred. Cross-vesting laws were struck down in the case of Re Wakim ex parte McNally 1999.

There is no clear and easy way for the Commonwealth to have a role in or legislative power over matters that are the jurisdiction of state and territory courts and tribunals. The states and territories—and the Commonwealth, for that matter—can legislate as to the vesting of jurisdiction, appeal and review rights, and also the curtailment and limitation of appeals and review rights. The privative clause provisions are a good example of this.

My view is that the federal government should report to the parliament prior to 31 December 2008 on ways in which review processes can be guaranteed throughout Australia where they are lacking in state or territory legislation in defined circumstances such as these. Where the Senate inquiry, I think, failed was in not making that recommendation. It is outrageous that a plebiscite could be conducted—it is non-binding—and an opinion against the local council amalgamation could be registered, and yet the amalgamation could still go ahead where it might be based on an error of judgement or fact and where there is no appeal process. And that is a fundamental weakness which is still apparent in these circumstances.

Finally, I want to deal with the timing of plebiscites. The question of timing has been discussed. Should it be before the federal election, on the same day as the federal election or after the federal election? These are matters entirely for the AEC, in my view. They are the independent authority and their independence should be respected. There should not be any prohibition on what day they can be held. I would remind the chamber that section 394(1) of the Commonwealth Electoral Act states:
On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no election or referendum or vote of the electors of a State or part of a State shall, without the authority of the Governor-General, be held or taken under a law of the State.

In theory, the authority of the Governor-General could override that provision, but in fact it is a virtual prohibition of elections, referenda or votes of electors which cover plebiscites being held simultaneously.

If the Americans can conduct simultaneous elections on the same day, involving everyone from dog catchers through to presidents, it is not beyond the wit of Australians to do the same. I would have no objection whatsoever to a plebiscite being held on the same day as the election. It is my view, as it was the view of the 1988 Constitutional Commission, that the provision of section 394 should be repealed. It is our view as a party that Australians are in frequent election mode, with nine governments holding federal, state, territory and local government elections, as well as referenda and plebiscites at all three levels of government. The issue is one of cost and convenience. If greater efficiency can be achieved in other countries where simultaneous elections are a longstanding, regular and unexceptional feature of their election system then there is no reason why they should not occur here. This provision came into place only in 1922 and it is about time it was done away with. I conclude by foreshadowing that I will be moving the following second reading amendment:

At the end of the motion, add:

“and the Senate is of the view that the International Covenant on Civil and Political Rights be introduced in full into Commonwealth law”.

(Quorum formed)
tions. It was a shocking thing to do, a grave error of judgement. We in the National Party and the Liberal Party had to act, and this bill is the coalition government’s response. Thanks to this bill, the Queensland Premier realised he was on a hiding to nothing and was forced to back down. However, there are still questions as to the legality of his backdown, so it is important to pass this bill to be absolutely sure that Queensland councillors are safe from penalty in organising plebiscites seeking their citizens’ opinion of amalgamations. It will also act as a deterrent to any state or territory government trying to do the same thing ever again.

The extent of the Queensland Labor government’s deceit on this issue continues to be revealed. This week we saw the rejection of an FOI request for the state government’s polling on council amalgamations. This polling was heavily relied on by the Labor government to prosecute their case for amalgamations, saying that their polling proved most people wanted it. The Local Government Association of Queensland put in an FOI request for the polling but, lo and behold, it was refused.

What is obvious to anyone is that the polling was not overwhelmingly positive, as Premier Beattie indicated. There was something to hide so they hid it, as Labor hide so many things, behind the cabinet paper defence. Then we have the issue of union involvement, which perhaps lies at the very heart of these amalgamations. Unionists are stacking the transitional committees which pave the way for the amalgamated identities. Unelected unionists now have these positions of power. Some unionists are on more than one of these committees, some are on one, some are on eight, and one is on four. They are affecting the dynamics of the way the current councils will come together in new merged entities. They are in the position of being able to make or break decisions that favour one group or another. They have the power to block or advance policies but they are unelected. They should not have that power, especially when democratically elected local councillors are forced to the sidelines of their own communities.

Despite a low level of union membership in the council workforce, union officials constitute almost half the committees and are in a position to determine the outcome of major decisions. One shire council has more union reps on their transitional committee than they have union members. Those members and their workforce do not represent the community. Half the union reps actually live more than 500 kilometres away from the shire, because they just have not got any union members in that shire; they have got to import them. Union organiser and failed ALP member for Burdekin, Steve Rodgers, has been appointed to no fewer than four council transitional committees: Townsville, Cassowary Coast, Cairns and the Tablelands. There are just not enough unionists to go around. How is it that Steve Rodgers, rejected by the electorate in 2001, is now better qualified than democratically elected councillors to make major decisions for Queensland communities? These committees have been established to make all the structural, financial and operational decisions for the new regional councils. And who is dominating these committees? None other than failed Labor politicians and union hacks. They are determining the future of communities where they have never lived and they have never been elected.

Labor could not care less about council workers. All they are interested in is handing power to their union mates. Their agenda is not about building stronger councils; it is about building stronger trade unions and entrenching union power in the council workforce. That is why Bill Ludwig has been so silent on the thousands of local jobs that La-
bor are destroying in Queensland. Why speak up when there is a cash cow of workers’ pay packets coming your way? But the union involvement goes much further. This week there have been reports of threats made to council workers that they would get the sack under amalgamation unless they paid up and joined a union. This is nothing but blackmail and union standover tactics legislated for by a Labor government—a leopard that does not change its spots. State or federal, it is the same leopard.

Reports have surfaced that union representatives have told council workers that those who are union members will retain their jobs and those who are not will not have a job. Of the 37,000 council employees currently in Queensland, only 10 to 25 per cent are union members. That is thousands of council workers who could be threatened into paying union membership of more than $400 each, because they are being told by militant union bosses that it is the only way that their jobs will be safe. The unions stand to gain millions of dollars by threatening council workers into becoming members. Council employees are expected to soon be dragooned into a statutory body for the AWU to feed on. That question was asked in the state house, and Mr Beattie refused to say that it was not the case. He skated around it. This is the type of ‘let’s reward the unions’ strategy that comes into play whenever Labor is in power. Look at who is being touted as the next member for Beattie’s seat: Queensland union chief Grace Grace. It does not matter that the frontman smiles; it is who stands behind and gets the power that matters; and, in Labor in Queensland, unionists have the power and the ordinary people do not even get a say. That is what it would be like under a Rudd federal Labor government. People should be warned, because this is a preview of what it will be like if the government changes.

Today, because the coalition is in government federally, we can restore the democratic rights of Queenslanders to have their say. If we were not here, that would never happen. Thankfully, today we have a Prime Minister who is prepared to do something about rogue state Labor governments. The federal Leader of the Opposition, Mr Rudd, knows that what Beattie did was wrong; he said so. But did he do anything about it? No, because ultimately he is not the one with the power. He is the smiling frontman, essentially weak. Did Labor come up with this bill before us today to restore democracy in Queensland? No. If federal Labor are really so concerned, where is their bill to right the wrongs of their state Labor colleagues? It is nowhere. Mr Rudd can talk the talk but he cannot walk the walk. When the Beattie government decided not to allow a referendum or plebiscite on the amalgamation issue, The Nationals were very concerned. This led to the Prime Minister offering funding for the Australian Electoral Commission to undertake plebiscites on local amalgamations. As the Prime Minister said:

It is a total travesty of democracy to not only refuse to consult with people about what you are going to do that affects them, but, having refused to consult, threaten to punish them if they dare to express their opinion in a vote.

This government is not expressing a view as to whether or not individual mergers should occur. Rather, the Commonwealth believes that people should have the right to express a view on the actions of a government without threat of penalty. Surely this is a fundamental democratic right, a fundamental Australian right—one that Labor tried to abolish. The majority of evidence before the Senate committee was critical of the actions of the Queensland government and expressed strong support for this bill. Subsequent to The Nationals championing of the democratic rights of Queenslanders, the Queen-
sland Premier has introduced a bill to amend the ban on plebiscites. Premier Beattie is reported as saying:
Perhaps we were a bit heavy-handed in relation to that—
the question of holding plebiscites—
and we got that wrong... That part of it we stuffed up. But if people want the right to protest we should allow that. I obviously got that wrong.
Well, he got that right. The new Premier, Premier Bligh, now has the opportunity to put it all right by revisiting the whole process of forced amalgamations.

The Senate Standing Committee on Finance and Public Administration was of the view that there remains a degree of uncertainty surrounding the status of the punitive provisions. It also noted that it was unusual for subordinate legislative instruments, such as a regulation, to amend primary legislation. The committee further noted that, at the time of writing, the amending bill remains listed on the Queensland parliament Notice Paper and is yet to be debated. As a result, the committee was reluctant to assume that the punitive provisions of the Queensland legislation have been withdrawn until it receives confirmation that that is actually the case.

The passage of this bill will provide protection in the event those provisions are not repealed or similar legislation is again introduced.

The extent of the lack of consultation with affected communities was felt hardest in the Torres Strait. As one witness told the committee, and I think this is very important:
There was no proper consultation throughout our region. It really distresses me. We are talking about a region that looks after more services than any other shire in the region, because we also deal with an international treaty right throughout our region. I would love to see how the Mayor of Cook Shire or the Mayor of Douglas Shire would deal with 10 canoes sitting on the beach with people with diseases ranging from TB and dengue to HIV.

That is what these people do in the Torres Strait. They are the back door to Australia.

Senator McLucash—It’s the front door, thanks.

Senator BOSWELL—Well, whichever way you look at it. The witness at that committee continued:
These are real issues that are happening throughout our region. It has been stated that our region is the eyes and ears of Australia. With the amalgamation process, the only thing left is the bare skull. There is a passage through that skull to Australia that no-one has really given any answers to.

Erosion of cultural identity was also cited as a consequence of the amalgamations by Mr Joseph Elu, Chairman of the Seisia Island Council. He said:
We are a different race of people to any other in this world. There are only 30,000 of us on this planet. This amalgamation will throw us together in a sense that we do not want to be. It will throw us, on the tip of Cape York, together with Aboriginal people. We feel we will lose our identity.

He continued:
We believe that God gave us part of the country that we are sitting in. I plead with this committee to come up with some answers for us. Otherwise, we will be lost to everything in this world.

No-one can doubt his sincerity. He is a strong man, a man that has the Torres Strait community in his heart. The committee strongly supported the passage of this plebiscite bill in order to provide certainty to councils wishing to enable their communities to express a view on the amalgamations. Labor senators on the committee also supported the passage of this bill. They stated in the report that they regretted the failure of the Queensland government to lodge a written submission. That is all they can do, of course: to ‘regret’. What would they say if they came to power federally and interest
rates soared again, and youth unemployment skyrocketed to 34 per cent like it was under them last time. Would they only say, ‘We regret that’? The Labor senators on the committee were Queenslanders—Senators Moore, McLucas and Ludwig. No doubt they will ‘regret’ the loss of jobs and they will ‘regret’ the loss of community viability and identity flowing from forced council amalgamations. Labor ‘regrets’ the loss of democratic rights. They ‘regret’ that they have to stack committees with unionists. But they cannot help it—they are Labor, and after all that is what they are all about. The true message out of all of this is: no Rudd, no regrets. (Quorum formed)

Senator MOORE (Queensland) (10.46 am)—The Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, which is before the chamber today, is straightforward. It is short; it is 3½ pages of text. We consistently made that point throughout the committee process. We had almost more sitting days on this bill than there are pages of the bill for people to understand. That was a point that needed to be made consistently through the three extremely interesting days of hearings that the Senate Standing Committee on Finance and Public Administration took to consider this bill, which had full cross-party support before we actually went to any process of consideration. Given that process, given it was a decision that was supported when the government decided to have a committee on this process, it would have seemed churlish for people to have rejected that opportunity. We raised the issue that it could well have been not the most effective use of time on a bill that is 3½ pages long.

The bill is effectively in two parts. One part is to allow the use of Australian Electoral Commission facilities for plebiscites—not just plebiscites that talk about local government amalgamations. The second component is to overrule decisions that the Queensland state government had made about punitive provisions if local government decisions were taken to have a plebiscite or any form of discussion about this at the local level in Queensland.

Given that we decided as a government to take the process of having a committee inquiry on the 3½ pages of legislation, the important thing in dealing with the wide interest in Queensland in the issue of local government amalgamations was to ensure that the people who gave their effort, their time, their energy to come and talk to the committee about the issues that were important to them, and to express their genuine pain about the decisions that were impacting on them and their local government, understood the situation. It was so important for the people who were involved in that process to be absolutely clear with those witnesses and to work with them to ensure that there was absolute understanding about the role of the finance and public administration committee’s inquiry and, most particularly, about the impact of the legislation we were discussing. That did not always occur.

I do not have the experience in this place that Senator Boswell has, and the depth of understanding that he has of issues around Queensland local government and the way the Senate operates should be respected. I do not have that length of experience in this place, but I do have a clear understanding about the role of a committee when we work with the community on a piece of legislation. We are there to talk about the legislation and how it will operate and what impact it could have on the community. That did not occur through the process of this finance and public administration committee inquiry.

Among some senators who attended—there were senators from the Australian Democrats, the Australian Labor Party, the Na-
tional Party and the Liberal Party—there seemed to be the misunderstanding that the debate point was the local government amalgamation process in Queensland. That was indeed an overwhelming issue for the people who came to give evidence, and it did trigger the decision to bring forward this piece of legislation about the role of referenda and overturning the punitive elements of the state government ruling. The debate, the concern and the expectation of so many of the people who came to see our committee were about the local government amalgamation process, the impact on their communities, and their hope that we would be able to overturn the state government’s decision. That was expressed on a number of occasions.

I encourage people who are interested in this process, and who are interested in particular in the operation of the Senate, to go to the Senate committee page, to look through the *Hansard*, to see the discussions that occurred and to actually hear people express their hopes that, somehow, the federal government would be able to overturn what the state Labor government had decided to do through their processes. That is not something that is possible under our Constitution.

One of my deep concerns about the process in which we have been taking part is that we somehow strayed from the process, through a political decision to raise awareness and exert pressure. While these are goals that are perfectly reasonable, they are not the intent of the Senate committee process and they are not the intent of the legislation that we are considering, which is quite simply titled the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. In terms of what we have heard so far in contributions and in this place, and in terms of what I expect to hear more of throughout the rest of this debate, we will continue to have this range of confusing issues in people’s views about the role of the Queensland state government and about the various actions that were taken. All that is worthy of discussion and debate but it is not the point of this legislation. I think that needs to be put clearly on the record.

Throughout the process we had what I consider the most unedifying process of senators working with witnesses and trying to make political statements. I quote from the hearing that we had in Emerald when Senator Joyce was talking with one of the local mayors and these words were said:

“How do you solve a political problem?”

Then came an ongoing question that Senator Joyce asked witnesses throughout the process of the committee:

“Can you see any pressure points coming up on the horizon that may be exerted that may encourage people to be a bit more active in trying to support your cause, and where—do you suppose—those political pressure points—could—be?”

The sad part is we had coming to our inquiry witnesses who had genuine concerns about local government amalgamations—and we share those concerns and we respect those concerns. But you had senior members of the community being somehow perplexed by the line of questioning and saying: ‘What do you want me to say, Senator? What is the response that you’re seeking me to make?’” To me that certainly lowered the impact of the process in which we were involved.

We know that we are involved in a political process. We know that we will use opportunities to advance particular causes. But I believe that when we clearly use people’s pain so as to exert political pressure over an issue, an issue over which the committee has no ability to make change, that is a misuse of the process. That disappoints me and it
makes me angry because I think that we have a responsibility to the people who seek to have their political representatives support them.

I think my favourite moments of the three days of hearings was when Senator Joyce—and I am not trying to single out Senator Joyce in this process, but he actually attracted my attention by the way he was asking these questions—was asking my particular favourite series of questions of a number of witnesses. He was asking them if they knew who made up the Queensland Labor government: ‘Do you know who makes up the Queensland government and what party they belong to? Do you know who they are?’ Leading on from these he came to his second point, which was to ask the political question: ‘Do you know who is the Leader of the Opposition at the federal level?’ I am not making this up, Mr Acting Deputy President, and I refer you to the Hansard of these hearings. My point is that we had been able to come to a consensus across the members who attended these hearings. We agreed that allowing a plebiscite process which would be able to be triggered where necessary would be a useful way for people to express their opinion. We actually shared the view through the committee process that we thought that the role of the Queensland state government on this issue should have been questioned. We felt that it was of a ‘punitive’ nature—and we used that adjective, and I think ‘punitive’ was used several hundred times over the three days of this process—and we shared the view that any attempt to punish local government elected officials for trying to find out what their people felt at the local level was wrong and that we should be exerting pressure to ensure that that was overturned.

One of the people who were asked the questions was the opposition spokesperson on local government and I am happy to report that Mr Hobbs did know who was in the Queensland government. I think it was a great relief to all of us in the committee that he was able to respond to that question. However, that reflects the way the process degenerated over the three days.

What we can do as a Senate is express the views of people at the local level. We can express concern and we can try to ensure that we expose things that we think are wrong. However, on the issue of state government and its role as to local government under the Constitution, at this stage we cannot intrude. No government—and it does not matter what flavour they are—can direct a state government about what it can do on decisions about local government. When we led into discussion in the committee about the role of local government, which is a really important issue, one which has been discussed previously in this place and we trust will be so again, we were talking about looking at constitutional recognition of local government. That was discussed quite openly by people. Then there was an attempt by some members of our committee to ask the question as to whether that would be of any use in the current debate—again, an attempt to misuse the process and to confuse people. I do not think that is our job. I think our job is to listen. I think it is our job to see where we can develop better policy and it is very much our job to see where we can work effectively to develop good legislation.

The legislation in front of us will serve a purpose. How many times it will be used we don’t know. There has certainly been an impact at the Queensland state level where the second elements to which Senator Boswell referred, the aspects of punishment for local government officials who would be looking at running any form of survey or local plebiscite about this issue, have been removed. That is a good result. I think that trying to continue to question whether or not that has
occurred misuses the process and continues to confuse.

As to the use of the AEC element, one of the points in the process in which I was interested was to look at the whole constitutional debate about how we impact as a federal government in making decisions about what can be done at the local government level, how we can do that and what is the best way of doing that, particularly as at the moment there is no status for local government in the Constitution as to just how it works. There was a very useful discussion. I think one of the more useful elements of the whole three days was the discussion with AEC representatives while looking at exactly how it could operate, finding out from them how they felt about their role, because there had been questions raised earlier in the hearings about whether it was the best use of the AEC. So I think it was useful to have that discussion. It would have been very useful to have been able to see the legal advice on which the federal government relied when it pursued this choice of going down the legislative process. We were assured by the public servant who travelled with us and was able to provide professional support to our process that the government had taken legal advice when it determined the drafting of this very short piece of legislation. We know it would have. It would have been particularly useful for us on the committee to have seen that legal advice, particularly when we had had evidence from a couple of very senior constitutional experts questioning whether in fact this particular legislation was effective under the current Constitution. Where you have people who have a genuine interest in and knowledge of our Constitution raising points, expressing concerns and attempting to work towards a clear result, I think it would be very useful if then, through the committee process, you would be able to see the legal advice, look at it and see exactly how it responded to the various points.

Again, that was not made available. That was certainly not the decision of a public servant; it was a government decision that the legal advice would not be made available. I think that is disappointing. I think that there was goodwill in this committee towards the process at times. We started out those three days mostly in agreement about the legislation. It would have been useful when we walked away at the end of the three days if we could have had all our questions answered, particularly those on the legal aspects. I raise that for further consideration.

This is a particularly complex area of constitutional law. Senator Boswell expressed some concern about what a federal government—he was actually referring to a possible federal Labor government—could do in this situation. I think it is really important that we understand exactly what any federal government of any political persuasion could do when we are looking at decisions being made by state government on local government. That has been an ongoing question that is still in front of us at the end of this process.

I think there was some value in having the process because it gave people in Queensland local governments the opportunity to express their concerns. I never think that is a wasted process. What I continue to be concerned about is raising any false hope about our ability at the federal level to change decisions that are being made on the local government area. I thank the representatives from local government and also the people from local communities who came to the meetings in Noosa, Emerald and also Cairns and handed in submissions about their views on the way the local government decision would affect everything they are doing. However, I do not think that very many of those people who came before us fully gave
information about the three-page legislation in front of us. That information was able to be drawn out during the process.

I express some worry about what will happen next, because one of the things that has occurred because of the time frame in which we are operating is that there has been a great degree of expectation created around the fact that plebiscites will be able to take place as a result of this legislation. In fact, plebiscites probably could have taken place anyway except that now we have it made clear by the legislation that the AEC will be able to use the electoral roll for that and also the Prime Minister has made it clear that there will be no cost to local government. There are no details on this in the legislation in front of us. There is no detail about how a plebiscite would operate or how much it would cost. I think Senator Murray raised the point very clearly that when you say, ‘We’ll have a plebiscite,’ people have very different views about what exactly that means. It certainly means that people will have an opportunity to respond to a question, but I do not think the very significant details about how that question will be phrased, what the process will be and on what date the plebiscite will take place are any clearer at the end of the committee process than they were at the start. There is an understanding that plebiscites may take place, but how they will act was not made clear.

I think one of the things that we did find out from information from the AEC on the last day was that the hope that had been fanned in the media that there would be imminent plebiscites in the next couple of weeks or months is something that the AEC is not prepared for at this stage. We are not sure whether anyone could be directed to do that, but the AEC’s evidence—which, again, is in Hansard for people to consider—indicates that at the moment they are clearly focused on working through the very signifi-
cant processes around a federal election across the whole country. They are mechanically and in a budget sense not able to look at running plebiscites in the next few weeks. Because of the political nature of the way this committee was formed and also the very rapid way in which the legislation was put before us, the media was running around in Queensland—I am not sure whether it got coverage outside our state—throwing dates around, throwing questions around and raising that sense of false hope. I think that has been said a few times. I think our role must continue to be to explore what we are able to achieve rather than to create hope, for whatever purpose—and it could be for a very strong purpose.

One of the clear issues that were raised in the three days by some of the contributions we heard, which are in the Hansard, was the role of unions. We heard evidence from one of the unions about what they see as their role in the process, which is to look after the conditions, jobs and futures of their members and employees in local government. That is where they see their role. I was interested to hear some of the people from the Liberal Party and Nationals on our committee calling for more activism from the union movement in Queensland. I was excited by that call and I think it was interesting in many ways, but I wonder whether it was actually the role of the committee in this process. Once again, I refer anyone who is interested in these points to the Hansard. I think they will find the contributions of the local government people who came to us particularly confronting because they do have concerns about the future of their communities. We should see what we can do to support them through that.

We support the legislation. There has never been any question about whether Labor would support the legislation or not. We do not support the process that surrounded
some of the questioning in the committee

Senator BARTLETT (Queensland) (11.05 am)—The Democrats support the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. As the very name of our party indicates, democracy is our core business and legislation that increases the prospect of direct democracy for the people is something that we support. That has been a longstanding and, indeed, founding principle of the Democrats. I think this is an example—in fact, it is a perfect case study—of where people need to look at what legislation actually does first and foremost in determining a position, regardless of what the motivation is for the legislation. The motivation behind the legislation coming forward may be cynical, hypocritical, breathtakingly dishonest and as misleading as possible. This is probably a good case study and example of that. It is hard to think of a more cynical, hypocritical piece of legislation, but nonetheless the practical application is a positive—

Senator Ian Macdonald—So you agree with Beattie’s legislation?

Senator BARTLETT—You just do not have a clue, do you, Senator Ian Macdonald. You do not understand the idea that you can support this legislation and also think that Beattie’s approach is appalling. I do not know why that is so complex for you. But I guess it comes down to the total inability of some here—probably in all major parties but particularly in the government at the moment—to see anything outside of any prism other than your mind-blowingly narrow, laser-like focus on what might get you re-elected, to the complete contempt of due process, honesty and what actually might be in the public’s interest. All that matters is your spin, your line, and any connection to reality is obviously irrelevant. Perhaps if you listen, Senator Macdonald, you might actually increase your understanding of what you are doing. You probably do not even realise what you are doing. I would not be surprised.

The Democrats are very pleasantly supportive of this legislation because it puts in place a mechanism to allow the Australian Electoral Commission to directly assist with plebiscites on any matter around the country. There is not enough detail, of course, on how people can actually make use of that new right that they will have, but we have a precedent being set where the parliament is saying that the Electoral Commission should have a role in being able to assist communities around the country to hold plebiscites on matters of importance to them. That is a huge step forward, and I am very pleased that the parliament is going to unanimously sign off on that basic principle. But what has clearly been demonstrated by the contributions to date from the government side is that this is being brought forward in an atmosphere of total cynicism and complete hypocrisy. So we will not have any details of where people can exercise this right; it will be plebiscites only when it suits the political point-scoring opportunities of the government of the day. That is certainly not ideal, but it at least provides that initial principle and right.

There are only two components to this legislation. The first part is to allow the Australian Electoral Commission and all its resources—its electoral roll, facilities, expertise, independence et cetera—to be brought to bear to assist with the holding of plebiscites. The second part goes to relying on the International Convention on Civil and Political Rights—which in itself is another monumental piece of hypocrisy from this government, who have spent most of their time in office trashing the UN conventions. I welcome any opportunity where any federal government seeks to validate and implement a component of international human rights
laws, particularly on such a fundamental issue as democratic participation. The second part of the legislation relies on using that convention to ensure against the absolutely disgraceful, draconian, outrageous and, indeed, punitive provision of the Queensland government in trying to fine and potentially therefore imprison any local council for even asking their electorate what they think—mind-blowing authoritarianism from the Beattie government!

What I think we have at the moment is a very sad competition between the state Labor government and the federal Liberal government about who can be most contemptuous of democracy, who can be the most cynical and who can be the most driven in circling each other looking for the best short-term grab to dominate the next 24 hours of the media cycle. But the simple fact is that the legislation that passes is what becomes the law. All of the political posturing surrounding it, including three days of Senate committee inquiries, is all part of the entertainment and political heat but, at the end of it all, that will all fade away—we will have the election and life will go on—and this law will remain. And that is what matters.

The precedent set in this law is a good one. It is hard to imagine circumstances where a state government might in the future do what the Beattie government initially proposed—although they have now stepped back from threatening and putting in law the ability to fine people in local governments for holding a plebiscite of their own constituency—but who would have thought the Beattie government would have done it? It is quite extraordinary. Thankfully, even they have realised that they went far too far in that regard and are stepping back from that proposal. Having a protection in law at the federal level against it ever happening again is a good thing. Having the precedent in law of the Electoral Commission’s resources being able to be used to enable people locally to express their views about an issue of concern to them is also a good thing.

We as Democrats unequivocally support the legislation; however, there is that wider issue of people not being misled about what is in the legislation—people not being misled into thinking that this legislation can actually reverse the local government amalgamations in Queensland. I am on record both in this chamber and in a number of public statements as being strongly opposed to the process that the Beattie government followed. Indeed, you have been in the chair—and are again—Madam Acting Deputy President Moore, having to endure me slagging off your state Labor colleagues vociferously about their terrible approach to local government amalgamations in Queensland. Of course, as we all know, that is not taking the position that no amalgamations should take place. Indeed, processes were in place—perhaps occurring slower than they should have been but nonetheless definitely occurring, and quite adequately in many places—to move in that direction.

It also needs to be emphasised that improving the efficiency and effectiveness at a local government level in Queensland or elsewhere is not just about amalgamations. Unfortunately, that seems to be all it has boiled down to from the state government’s point of view—smash everybody together, tell them they have a few months to sort out how it is all going to work and on you go. It is about a lot more than just the boundaries of the local government area; it is about how local governments work together—maximising efficiencies, sharing resources across boundaries, developing regional plans and all those sorts of things. That has, I think, been lost. That was a key part of the size, shape and sustainability process that was in place before the Beattie government
rolled in over the top and blew it out of the water.

Certainly some amalgamations are desirable—and there will often be some resistance—but the process followed by the Beattie government, which is still being followed, is a disgrace, particularly after letting them go through two years or more of working with people locally to explore the best way forward. To just sweep all that aside without notice—completely misleading people right up to the last second that the process was still supported by the state government and then smashing something over the top of them—with a completely inadequate time frame and no meaningful opportunity for participation and clearly with a pre-determined agenda is a disgrace. There is no other word for it. The Beattie government should be condemned for it—whilst it is still the Beattie government—and, if the Bligh government does not reverse some of its measures, it should be condemned for it as well. But this legislation will not change that, of course.

We had Senator Boswell calling this the ‘Restore Democracy to Queensland Bill’. It is a grand name, and I like the sound of that. As a Queenslander I think we could certainly do with a lot more democracy. We will test how solid Senator Boswell is about that commitment to restoring democracy with some of the amendments in the committee stage. I should at this stage also foreshadow that I will be moving a second reading amendment that I have circulated. If the National Party is so keen on restoring democracy to Queensland, let us genuinely support democracy. Let us put it in place, let us lock it in and let us make sure that it is not just a grand-sounding statement as part of pre-election pontification.

But let me remind the Senate of my experience of the National Party in Queensland, which is certainly not a party which, in my experience, has ever been committed to democracy. In the period from when Senator Boswell first got in—which was in 1983, from memory—a certain Joh Bjelke-Petersen had then been in office for about 15 years and was, at that stage, about to become Premier for the National Party, governing in its own right. I never saw any moves through any of that period to restore or increase democracy to Queensland. Indeed, I recall that even the basic matter of the electoral system that determines government was grotesquely corrupt, notoriously corrupt in Queensland. Now, of course, it has to be so in the interests of balance and partisanship. The disgraceful malapportionment and gerrymander that was put in place and distorted by the National Party in Queensland was initially put in place by the Labor Party, so I think it is more a matter of major parties in general liking to grab power for themselves and taking it away from the people. That is what we are seeing at the moment, of course, both at state level with the state Labor government and at federal level with the federal Liberal government—more and more power grabs taking away power from the people.

So it is a grand statement to talk about restoring democracy to Queensland, but I would like to see some evidence. I would like to see some policies put in place by the National Party-led coalition at state level in Queensland to restore democracy. I can tell you that the last time we had a National Party government in Queensland it was led by Mr Rob Borbidge, who got into government on a pledge to the people of Queensland that he would hold a referendum to restore the upper house to Queensland—to us, the people of Queensland. It was not even to be a plebiscite but a referendum—where their say would be binding—to restore an upper house to Queensland. We have less democracy in Queensland than in any other
state in this country because we do not have a house of review—we do not have an upper house. It is often forgotten—in fact, I think it is almost totally forgotten and certainly rarely mentioned—that Mr Borbidge’s pledge was not an insignificant part of the reason he got into government. We all know that he got in only by one seat after the Mundingburra by-election in 1996. That was after the 1995 election, where a significant number of seats were won by the coalition from the Goss government. That involved preferences, particularly from the Greens, going to the coalition but also, in some cases, from the Democrats, who ran in that 1995 election. Certainly, from the Democrats point of view, the key reason we thought that was worth considering—and I can definitely assert this because I was part of the decision-making process within the Democrats—was because of the pledge, even though there was a lot about the coalition we did not like. There was obviously a lot about the Goss government that we did not like either. But for any government to actually put in place a pledge to restore an upper house and increase democracy in Queensland would be a massive boon for the people of Queensland.

I was young and naive in those days and I thought, ‘This is a clear, signed pledge in writing from the alternative Premier and his party, the grand National Party’—which Senator Boswell assures us is thrilled with the news that we are about to restore democracy to Queensland. I thought: ‘Of course, they will keep their promise; how could they not? They are only holding a referendum; they just put in a pledge saying, “We’ll put in place a referendum and let the people decide whether or not they want an upper house.”’ So it is no exaggeration at all to say that a key factor of why The Nationals ended up in government was because of their pledge to hold a referendum to see whether we could strengthen democracy in Queensland by having an upper house put in place. It was taken away by the Labor Party, from memory, 75 or so years ago. It was not elected in those days, so there was plenty wrong with it. But, as usual, it is better to improve things rather than to just scrap them.

But what did we see when Mr Borbidge got into government? The pledge was broken. We heard: ‘No, we don’t think we should have a referendum anymore; people probably wouldn’t support it anyway, so we won’t even ask them.’ Suddenly when they were in government the idea of having an upper house, of having some sort of check and balance on the government, which was them, did not seem to be a very good idea anymore. Who would have thought that? The grand irony is that if they had gone ahead with it and we had had an upper house back in Queensland we would not have had legislation amalgamating local councils in Queensland, because there is no way that an upper house, if elected in anything like a proportional system and doing its job, would allow it. Even this chamber, now that it is controlled by the coalition, occasionally does not allow grotesquely ridiculous draconian legislation through without making at least some meek attempt to modify it. I think it is a very sure bet that if we had had an upper house in Queensland we would not have had this sort of ridiculous, outrageous antidemocratic local government amalgamation process forced upon the people of Queensland and on local councils by the Beattie government.

So you had your chance, and you blew it because you were interested in hanging on to power for your own sake when you had it, and now, when somebody else has it and is using it to keep hold of power, you do not like it. That is why you are supposed to have checks and balances. That is why strengthening democracy so the people actually have
more control is a good idea. That is why all of your protestations now are nothing more than cynical pre-election hypocrisy. If you want to prove me wrong, you can support some of the amendments that we will be putting forward in the committee stage.

The other point that has to be made here is not just about Queensland. I think the worst example of all of the amalgamations that I am aware of is Douglas shire and forcing it into Cairns. I am terrified about what that will mean for the people, particularly for the environment and the Indigenous communities around there. There are many other shires as well. Noosa has received a lot of attention but there are many other shires out west. I was in Eidsvold a few months ago, just after the Beattie government had announced this process. They were very concerned about what would happen, and what happened is what they predicted would happen. There are plenty of others. Tambo has been mentioned, and there are a lot of others that are quite right to be concerned.

Here we have three pages of legislation. The government were so concerned about democracy and about the people affected having their say, and Mr Howard had been saying in the other chamber that it was outrageous that people should have these sorts of things foisted on them without the opportunity to have a say, that they were going to give them the opportunity to have a say. We had a Senate committee inquiry—and good on them. We had three days of inquiry in Noosa, Emerald and Port Douglas for three pages of legislation—to give them the opportunity to have a say.

Straight after that we had this government bulldoze through over 500 pages of legislation affecting Aboriginal people in the Northern Territory. This legislation did not just amalgamate some of their councils or some of their townships; it gave this government power to completely take over their townships, their councils and their land. And you did not allow them one day to have a say. Hypocrites! Do you think people do not notice this? Just because you live in a plastic bubble inside Parliament House and blow hot air at one another do you think the community does not notice this sort of hypocrisy? You are not giving Aboriginal people a plebiscite. If you want to let them have a say then support our amendments. Let them have a say about whether or not they want their towns taken over. Maybe they do. I have heard Senator Scullion repeatedly say that the federal government’s actions are being welcomed with open arms in the Territory. I know they are in some communities, but in others they are not. Let them have a say. If you have a plebiscite you will get a 100 per cent vote. We love it. There will be cheering in the streets. Let them have a say if you are that confident that they support it.

That is what is happening: they are having their townships taken over, and maybe they love it. But they did not even have a say on the legislation. You would not have even one day of hearing in the Territory. Begrudgingly, you gave us a one-day hearing here and, as we know, half of the people who wanted to have a say were not even allowed to have a say. Yet we can have three days around regional Queensland to look at a three-page piece of legislation. What hypocrisy! Don’t come in here with this sort of doublespeak and try to pretend you have got any commitment to anything other than trying to protect your own political hide. You do not give a rat’s about democracy. Everybody can see that. Everybody knows that, including the people in Queensland who are most outraged by what the Beattie government is doing. The fact that they are outraged about the Beattie government does not mean they are not also outraged about the federal govern-
ment. People are capable of thinking of more than one thing at a time.

This approach here will just increase community cynicism, but as I said at the start it will, nonetheless, put in place the precedent of the Electoral Commission’s resources being made available for the people to have a say, and that is a very good thing. The fact that you have set that precedent just to try to protect your political hide as part of pre-election cynicism is neither here nor there. I welcome this precedent. I welcome this legislation and I welcome trying to build on the precedent set here to try to return some genuine democracy to Queensland. If the coalition senators want to work with the Democrats on doing that or if the Labor senators do as well I welcome that, but let us actually do it. Let us shift away from some of the disgusting, cynical, empty posturing that will not make one jot of difference to the very genuine concerns that the people throughout Queensland have. (Time expired) (Quorum formed)

Senator IAN MACDONALD (Queensland) (11.28 am)—The duplicity of the Labor Party knows no bounds. It was the Labor Party that introduced into Queensland legislation that took away from people the right to vote. No matter what posturing some of the opposition speakers might do they cannot escape from the fact that it was the Australian Labor Party that introduced legislation that threatened councillors and councils with fines, and councillors with jail, should they have the temerity to even request a poll on the future of their particular local authority.

The duplicity of the Labor Party continues. The Queensland Labor Party is one group of people. It is a group of people that elect the members to the state parliament, and it is the Premier of the day who chooses his advisers. I well remember when a Mr Kevin Rudd was the principal adviser to the Queensland Premier and got us into all sorts of messes with health, water and betting and gambling, but the duplicity now is that they are all moving to the other side. You only have to have a look at the minority report of the Australian Labor Party senators on the inquiry by the Senate Standing Committee on Finance and Administration into this bill before us, the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, to see again the duplicity of the Labor Party. In one of the paragraphs in the Labor Party’s report, they claim that they support this bill, but, if you read their report, you understand that they are obviously only doing that—they hate the thought of doing it; they hate the thought of denying their Queensland colleagues—because the focus groups that so much direct the federal Labor Party these days gave an indication of the outrage of Queenslanders over the undemocratic legislation of Mr Beattie.

The report, in an abject insult to everyone that came to give evidence at the inquiry, said:

Many witnesses appeared to be under the misapprehension that the committee could adjudicate on local government amalgamations ...

That is simply an insult to all of the witnesses that came along. All of the witnesses understood what this was about. They understood without equivocation that the federal government could not do anything about amalgamations. In fact, the federal government does not have a view about amalgamations. I do, but the federal government does not, and to suggest that the people who came to give evidence did not understand what they were giving evidence about is an outrage to them and an insult of the highest degree.

The minority report on this bill suggests that government senators were trying to foster in witnesses’ minds uncertainty about
Labor support for this bill. Hang on—it was the Queensland Labor Party that actually introduced, enforced and rammed through the Queensland parliament the bill denying Queenslanders the right to have a vote. The minority report says:

Labor Senators commend witnesses who rejected repeated attempts by government Senators to elicit responses to contrived lines of questioning.

That is simply fanciful. The Labor members must have been asleep. It says that Labor:

... regret the belligerent questioning by government Senators of expert witnesses who questioned the constitutional validity ...

I certainly questioned one of the so-called expert witnesses, a so-called professor of law—heaven forbid—and some of his propositions simply would not make elements of ‘Law 101’. I was surprised at his approach. I do not think I was belligerent. I did as any lawyer or former lawyer, as is my case, might do. I tried to elucidate the strange argument that he had.

The minority report then goes on to criticise the Department of Finance and Administration for not giving more evidence and not being available. As I recall—and I was at the meeting on the last day when the AEC and the department appeared—the questions to them were pretty limited. I am sure we finished early. So for the Labor Party to suggest in this duplicitous minority report that there was not time simply belies the facts. Labor senators were there—or were they? I know a few of them had flitted off and did not seem to have much interest in it. But those that were there had the opportunity to question people.

Senator Moore—Madam Acting Deputy President, I rise on a point of order. I would ask Senator Macdonald to withdraw that comment about lack of interest and flitting off.

Senator Conroy—It’s a reflection.

Senator Moore—It is a reflection on the senators who were there, one of whom was me.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Senator Macdonald, I would ask you to withdraw that comment.

Senator IAN MACDONALD—I could agree with you and your ruling, Madam Acting Deputy President, but I will not; I will withdraw. Let me rephrase it. Labor senators left before the end of the hearing. Now challenge that, Senator Moore. And if my colourful language of ‘flitting off’ offends you then I am sorry I used the term, but obviously those who left had a lack of interest in questioning the AEC, and yet the minority report makes so much reference to it.

This report was no doubt written by the senior member of Mr Rudd’s staff who followed around and kept an eye on Labor senators, riding shotgun with them for the whole of the hearings. No doubt this was written by that staffer from Mr Rudd’s office. Tell me I am wrong on that, Senator Moore.

Senator Moore interjecting—

Senator IAN MACDONALD—For the Hansard, there is silence on that.

The Labor senators’ report then goes on to talk about plebiscites and their mates in the Queensland Labor Party. The Labor Party in Queensland is one and the same Labor Party; there are not two Labor parties in Queensland. The union heavies who control state preselections are the same union heavies who control federal preselections. They all meet at the one conference; there are not two different conferences. It is one political party, and yet half of them are saying: ‘We didn’t agree with this. Look what we’ve done—we’ve introduced legislation to repeal the draconian legislation we just passed two weeks previously.’ Come on—the people of
Queensland understand duplicity when they see it, and they will not forgive the Labor Party for the duplicity and the attempt to remove democratic freedoms from Queensland.

As of two days ago, when I inquired, the Labor Party in Queensland had still not dealt with legislation to repeal this. All the way through the hearing, we had Labor senators telling us: ‘The Queensland government have seen the error of their ways. They’re going to introduce legislation. They are going to remove the legislation that has been introduced.’ But here we are several weeks later and it has still not been dealt with by the Queensland parliament—unless it happened this morning and I have not caught up with it. It was certainly not on the top of the legislative agenda for the Queensland parliament—controlled by the Labor Party—when parliament resumed after the break. Then they have the stupidity—I would love to get a lawyer’s view on this—to pass a regulation to amend the principal bill. It defies any logic of the law. It is absolutely amazing.

This is the sort of duplicity that the Labor Party go on with. Heaven forbid that the Labor Party should control every state and the federal government in Australia as, if you believe the opinion polls, is going to happen. Can you imagine what would have happened if the federal government had not been around to say to the Queensland government, ‘We are going to override your legislation to remove this antidemocratic piece of legislation’? If the Labor Party were in power federally, they would not have done it and we, the people of Queensland, would have been thrown into jail had we had the temerity to ask for a poll.

I am disgusted by the attitude of Labor Party people at the hearing, in their speeches today, and in this minority report suggesting that we should have a poll on nuclear power plants. If any council wants to have a poll—on nuclear power plants, for example—they can, unless the council is in Queensland and it happens to be a poll on the right of people to vote at a local government election; in that case, they cannot. Any council in Australia can have a poll tomorrow. They can have a poll on whether Senator Conroy should remain the deputy leader, or whatever he is, of the Labor Party in the Senate. They can have a poll about anything if they want to. Any council in Australia, except any council in Queensland, has the right to have a poll about anything. The people of Queensland would have been thrown into jail if they had asked for a poll on the future of their local authority.

As I said before, the duplicity of this report and of the Labor Party speakers knows no bounds. The suggestion that the Labor Party has had a second thought about this is just preposterous. If it had not been for the Howard government using fairly unusual circumstances and relying on the external affairs power to override Queensland legislation, things would not have changed in Queensland and the bill would still be as it is. The Labor Party—the one Labor Party there is in Australia and in Queensland—pushed this bill through the Queensland parliament in double-quick time. There was never a committee hearing in the Queensland parliament.

Senator Bartlett—one of the lackeys of the Labor Party in Queensland—came along and said: ‘The federal government are duplicitous in this. They are horrible; they only allowed a three-day hearing. They didn’t allow us time.’ How many days of hearing did the Queensland parliament, run by the Labor Party, allow for looking at this bill before it was rammed through the Queensland parliament? I hear no response from the other side. Well, let me give the response: there was no
committee hearing in the Queensland parliament.

The question of amalgamations in Queensland is a matter for the Queensland government, not for the federal government. We have never pretended and have never suggested that it is a matter for the federal government. All we have said is that we would restore to Queensland the right to vote on the future of local government. We understand that the polls that will now be conducted in Queensland will have no impact on an arrogant, out-of-touch Labor Party government in Queensland. In the federal Labor Party, the Leader of the Opposition displays the same sort of arrogance. Can you imagine his arrogance when the Labor Party control every state and territory government in Australia and the federal government?

The arrogance displayed by Mr Rudd yesterday in that cheap political speech in front of a foreign dignitary will be multiplied. The arrogance displayed by Mr Rudd yesterday in pre-empting a gift by the Canadian people to the Australian people, with some ridiculous self-centred story about his people coming out in the First Fleet, will be multiplied when the Labor Party controls every government in Australia. Mr Rudd’s arrogance and the hubris he exhibits now—just relying on opinion polls, as he does—will multiply 10-fold if the Labor Party hold every government in Australia. I do not believe it will be the case, but the opinion polls are there.

Under our leader, John Howard, we will be fighting a very determined campaign to save for Australia all of the benefits that Australians have received over the last 11 years of good government in this country. I shudder to think what might be the case in Australia if the Labor Party wins in the federal election. Mr Beattie’s arrogance and the way he has dealt with this undemocratic issue would be multiplied 10-fold. I suppose it is against standing orders to have a bet, but let me make this prediction: should the Labor Party win federally, the GST will be the first thing to go up, because the Labor Party cannot pay for the promises they have already made. They have promised to give everyone dental health care.

Senator Conroy—Madam Acting Deputy President, I rise on a point of order, on relevance. I wonder if you could draw my attention to where, in this bill, it mentions the GST.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—I think Senator Macdonald is allowed to make remarks that border on the political, as the Labor Party does. I will allow him to proceed but I am monitoring it carefully.

Senator IAN MACDONALD—There is a certain sensitivity on this issue—a real sensitivity. Perhaps I have let the cat out of the bag! Perhaps it is Labor Party policy to increase the GST, because they will not get any obstruction from the states. Further, on duplicity, you will see in the Labor senators’ report and in the second reading amendment moved by the Labor Party that they are calling for a referendum on constitutional recognition of local government. Let me ask anyone who put this report together and put their name to it—as I say, I know it was a staffer from Mr Rudd’s office, who followed the committee, riding shotgun on Labor senators to ensure that they toed the line, but I will not ask him—how many state governments, all of which are controlled by the Labor Party, would support this referendum? Not one. Labor state governments will not do it, so now we have this divide again: a federal Labor government would have this constitutional recognition for state government but the state Labor Party simply would not. Is it one Labor Party or are there two Labor parties?
Senator IAN MACDONALD—Senator Conroy, I know this disturbs you because this is the truth of the matter. Some focus groups have told Mr Rudd: ‘We can perhaps talk about an amalgamation and talk about constitutional recognition, so let’s put that in as an amendment to this motion.’ But that is the federal Labor Party; it is not the state Labor Party. If the state Labor Party believe that, you do not need to agree to a federal constitutional referendum. They could do it tomorrow. But where are the state Labor governments? They will totally oppose this, but it gives Mr Rudd a bit of kudos. It lets him do what the focus groups tell him he should be doing and it allows the Labor Party to, again, confuse the Australian public. Will whoever is going to speak after me tell me what the focus groups tell him he should be doing and it allows the Labor Party to, again, confuse the Australian public. Will whoever is going to speak after me tell me which state Labor government supports constitutional recognition of local government? Also, can they tell me, if there are any—and I guarantee there are not—why they are not doing it today? They could do it if they wanted to. We have this duplicity yet again of the Labor Party saying one thing and meaning something else. This report is duplicitous in its words, its paragraphs and in everything except the recommendation that the bill should proceed.

There is no confusion about this bill. It is a very simple bill. All of the witnesses who gave evidence at the inquiry understood what the bill was about. They did not really talk about plebiscites or amalgamations. It gives the Australian Electoral Commission the ability to use some information they have about electoral rolls in any plebiscite and, insofar as the Queensland law stated that you could not have a democratic right to vote, that was overridden by the Commonwealth act. Aren’t we as a nation and as Queenslanders grateful to the Australian government and John Howard for making this happen?

I am not sure whether anyone who is listening to this debate understands the draconian nature of the bill that the Labor Party rammed through the Queensland parliament. I never cease to be amazed by the Australian media, but imagine if the Howard government had done something like that. It would not have got off the front pages for five months. Yet here was a piece of legislation introduced by the Labor Party which stated that not only can you not vote in a poll on your future as a council but, if you have the temerity to even suggest it, you will be thrown into jail. That is unheard of in the annals of Australian parliamentary history. It is the sort of thing—

Senator BRANDIS—The jackboot!

Senator IAN MACDONALD—the jackboot sort of thing that people go to war over. And here we had the Labor Party in Queensland—which is the same as the Labor Party in Australia—putting forward that legislation until they were prevented by John Howard, his government and the Senate when we passed this law. I commend the bill to the Senate.

Senator FAULKNER (New South Wales) (11.49 am)—I have been invited by the previous speaker in his speech on the second reading to address some of the issues that he raised. He appeared to use the theme of duplicity in his speech. I am delighted that Senator Ian Macdonald has taken time off from undermining his leader, the Prime Minister, Mr John Howard, to speak about one of his other pet hates, the Australian Labor Party.

Senator Conroy—to be fair, he hates Howard more than he hates us!

Senator FAULKNER—that is in the eye of the beholder.

Senator Ian Macdonald—Madam Acting Deputy President, I rise on a point of order. To suggest undermining was a real reflection
on me. That sort of thing is foreign to me, as anyone who knows me would understand, and I ask that Senator Faulkner be directed to withdraw that imputation.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—That does reflect on Senator Macdonald, Senator Faulkner.

Senator FAULKNER—Madam Acting Deputy President, if you take the view that it is a reflection, I will withdraw. I am surprised to hear that—

Senator Ian Macdonald—Thank you for your apology, John!

Senator FAULKNER—I have just withdrawn; I am not apologising for anything. We all know how embittered Senator Macdonald has been since Mr Howard dumped him from the ministry. He is very embittered, and the result of that is that he comes into the chamber and simply raves. We have just heard ravings from Senator Macdonald—'red faced and belligerent', to use his own words. I am not surprised that he was described as 'belligerent' during the committee hearings into this bill. We have seen an example of it in this chamber today. As I said, not only do the internal affairs of the Liberal Party seem to get Senator Macdonald worked up—we all know what he is about in relation to that—but from time to time he even gets worked up about what happens in the Labor Party.

We are dealing here with legislation that is very unusual. It is unusual because most often—the Howard government's amendments to the Electoral Act have nothing to do with enhancing the democratic rights of Australian citizens. This piece of legislation, the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, would be the first time the Howard government has actually supported people voting. This would be the first time we have seen an attempt by the Howard government to enhance the democratic rights of Australians. Usually, the Howard government spends its time, in relation to electoral legislation, trying to make it harder for Australians to exercise their vote, to exercise their democratic rights. We have seen this government force through a number of regressive and undemocratic changes to electoral laws in this country, including early closure of the electoral rolls, greater identity requirements—

Senator Brandis—I raise a point of order, Madam Acting Deputy President. My point of order relates to relevance. This is a bill designed to secure a specific legislative outcome—that is, to overrule the Beattie Labor government's prohibition of the exercise of democratic choice by plebiscite by local authorities in Queensland—and remarks about prior legislation under amendments to the Commonwealth Electoral Act are, with respect, irrelevant to the subject.

The ACTING DEPUTY PRESIDENT—Senator Brandis, I have allowed speakers to range far and wide across the subject matter. I consider that you are debating the point and, therefore, I am ruling that there is no point of order.

Senator FAULKNER—Of course the government minister in the chamber does not want to hear the truth about the way this government has forced undemocratic changes on electoral laws in this country. I will go through them: early closure of the electoral roll; greater, and unnecessary, identity requirements for those wanting to enrol; new requirements for provisional voters to prove their identity; and increasing the declarable limit for the disclosure of political donations from $1,500 to $10,000. Of course, another one of the Howard government's attempts to restrict the democratic process in Australia, by taking the vote off all prisoners—not just those serving serious
sentences but all prisoners—has just been found by the High Court of Australia to be unconstitutional.

The ACTING DEPUTY PRESIDENT—Senator Faulkner, you are pushing against the boundaries of this bill while talking about another bill.

Senator FAULKNER—I am not talking about another bill. With respect, I will take a point of order. Madam Acting Deputy President, historically, many speakers in this chamber for years and years have provided this sort of context in second reading debates. It would be absolutely unprecedented to suggest that anything I am saying in relation to this bill is not utterly appropriate and consistent with longstanding practice and precedent in this chamber. I would ask you, Madam Acting Deputy President, to respect that. But I will be careful in what I say. I intend to talk about electoral laws and the context of this electoral legislation. It is critically important because the point I want to make is that all these changes make it harder for ordinary Australians to vote while, at the same time, making it easier for big business to donate to the political parties, particularly the Liberal Party, in secret. That is critical.

Senator Brandis—I rise on a point of order, Madam Acting Deputy President. I do not ask you to revisit your previous ruling, but I do draw to your attention the issue of the relevancy of the question of political donations to a bill that is specifically limited to local government plebiscites in Queensland.

The ACTING DEPUTY PRESIDENT—There is no point of order, Senator Brandis, but thank you for that comment. This is a bill to amend the Commonwealth Electoral Act.

Senator FAULKNER—I can assure the Senate that I am well aware of what the bill is about, and I intend to provide context in relation to how the Howard government has dealt with the electoral laws in this country. I am not surprised, of course, that the minister at the table does not want this information on the public record. I am not surprised that the minister intends to try and stop this sort of information—not ravings like we had from the previous speaker, but important information—being presented to the Senate in this second reading debate.

In relation to these electoral law changes that I have spoken of, increasing the declarable limit for disclosure of political donations from $1,500 to $10,000 is a massive jump in the limit required before donation details must be made public. Think about what happens here. Massive sums of money go into party coffers without the public knowing. Over 80 per cent of donations would disappear from public view. In 2003-04, over $12 million across all major parties could have vanished from public scrutiny with this threshold. Think of that: $12 million in 2003 would have vanished from public scrutiny, and this government has the hide, in relation to debate on this bill, to say that it is proposing a measure that enhances democratic process in this country. Look at the record of this government. Of course, there is more. The Howard government has also increased, by 1,500 per cent, tax deductibility for political donations. That is a massive windfall to coalition donors, who no longer need to worry about their donations being open to public examination. This is the record of the government that now starts to beat its breast about democratic process.

While all this is happening, ordinary Australians are finding it harder than ever before to actually get onto the electoral roll and exercise their vote. There has never been a case where false enrolment has affected the outcome of an election in this country. Everyone knows that. Nevertheless, the Howard government has made it much harder to enrol to vote. This affects young people the most, as the minister knows, because they move more
often and are more likely to change their enrolment. It affects renters more than it affects homeowners. It affects lower income Australians more than the wealthy. It hits Indigenous Australians in remote Australia especially hard, disadvantaged as they are by the distances they have to travel to register their vote and the time involved for them in the political process. So this change potentially disenfranchises thousands of Australians who cannot afford $9,999 to buy access to the political process through donations which are covered up—thousands of Australians whose voice is heard through the ballot box, not through the boardroom.

The same is true of the new requirements for Australians needing to cast provisional votes to provide additional proof of identity. If they are unable to do so, their vote will be excluded. More than 180,000 Australians cast provisional votes at the last election. That is more than 180,000 Australians whose right to cast a vote, whose right to have their voices heard, is imperilled by decisions of the Howard government. In addition, and for no good reason except partisan politics, the Howard government plans to close the electoral roll for most new enrollees on the day the writs are issued and to give people who are currently enrolled only three days to correct their details. We all know that, when an election is called in Australia, that is when people who are not enrolled usually take action to ensure they go on the rolls, and that is when people who are enrolled at an old address take action to ensure that their enrolment is corrected. A lot of people are just not like the senators in this chamber. They are not so obsessed with politics that they live and breathe it every day of their lives, and the calling of an election makes sure that they undertake this sort of action. If these new laws introduced by the Howard government had been in place at the time of the last election, 80,000 Australians who voted would not have voted at all, and up to 280,000 people in total could have been affected by having a substantial fault in their enrolment. This is the record of the Howard government in relation to electoral laws—the bread and butter of the democratic process in Australia.

We know that these enrolment changes massively increase the administrative burden on the AEC, and so does this legislation that we are debating now. Mr Paul Dacey, the Deputy Electoral Commissioner, told the inquiry into this bill by the Senate Standing Committee on Finance and Public Administration:

... we would be very reluctant to tie up considerable AEC resources in the next few weeks ... we are not even considering the possibility of having an attendance ballot in conjunction with the federal poll ...

The government, of course, has failed to detail the funding implications of these plebiscites. They just have not been detailed at all.

As Professor Brian Costar pointed out in his evidence to the Senate Finance and Public Administration Committee’s inquiry into the bill, the bill has the potential to undermine the independence of the Australian Electoral Commissioner. By saying publicly that the services of the AEC will be made available for the conduct of these plebiscites, the Prime Minister and other ministers are in effect saying that the AEC will be directed by the Special Minister of State to do so, infringing the status of the commissioner as an independent statutory officer. This underlines the fact that this bill is a hastily cobbled together political stunt from a party that has done nothing, in the whole time it has been in office, to enhance electoral law or the democratic process in this country. This government has never shown an interest in giving Australians more and better opportunities to vote. The Howard government does not give a damn about enhancing our democ-
racy; all it has ever cared about is the quick and dirty political fix, which is part and parcel—

Senator Conroy—The masters of.

Senator Faulkner—That is true; that is the way the Howard government does business. It is all very well for the government to tout this bill and for us to hear ravings like we have just heard from Senator Ian Macdonald about it. This bill, after a partisan and contrived committee inquiry, is meant to provide a fig leaf to cover the Howard government’s complete lack of interest in and, indeed, contempt for the democratic rights of Australian citizens. The government is trying to make this a wedge. The Leader of the Opposition suggested plebiscites back in May this year, before these amalgamations. But the government is not fooling anyone. Its record of attacks on Australians’ ability to have their say by casting a vote at the ballot box cannot and will not be erased by a hasty, badly drafted, opportunistic bill like the one we are debating now.

Senator Joyce (Queensland) (12.10 pm)—There are probably a lot of people in the gallery today who are wondering what this is all about, so we should cut to the issue. What happened in Queensland is that the Labor government brought in a piece of legislation that was going to put local government officials in fear of criminal prosecution, and possibly jail, if they tried to bring about a democratic reflection of the aspirations of their community. This is what the Labor Party brought about in section 159ZY of the Local Government Act 1993:

(2) If ... a local government had resolved to conduct a poll the conduct of which is prohibited under subsection (1), the local government—
(a) must take all necessary action to ensure that the poll is not conducted; and
(b) must give public notice that the poll is not to proceed—
(i) by advertisement in a newspaper ... and
(ii) in any other way that is reasonably appropriate for making the information publicly known.

This also comes from the Labor Party:

(3) A person who is a councillor of a local government must not take any action for the purpose of the conduct of a poll that the local government is prohibited from conducting under this section.

Maximum penalty—15 penalty units.

(4) All persons who contravene subsection (3) in relation to a particular poll, whether or not they are prosecuted under subsection (3), are jointly and severally liable for the total poll amount, which may be recovered by the State, in action as for a debt for the amount, and reimbursed to the existing local government, or the successor of the existing local government, less the costs of recovering the amount.

That is a piece of legislation passed by a Labor government not in Zimbabwe but in our nation. That was passed by a Labor government in this nation. It is a complete and utter abhorrence to the democratic process. We have heard about being contrived and duplicitous; the approach of the Labor Party on this is both of those.

This is a ridiculous position. We have 59 people from the Labor Party in the state of Queensland who support this sort of legislation, and then we have six people from the state of Queensland in the federal Labor Party, including Mr Kevin Rudd, Mr Wayne Swan, Ms Kirsten Livermore and Mr Ripoll, who apparently do not. Some sort of epiphany happens to them as they go through the lounge at Brisbane Airport and they all of a sudden change their views from those of all their colleagues. And that is supposed to be accepted by the Australian people. This is a duplicitous and contrived position to cover
up a complete abomination of the democratic process in our nation.

What is this about? What are we actually trying to do? Council amalgamations are going to destroy the identity of areas and the identity of the state of Queensland. It is arbitrary nastiness to destroy local towns. What happens in these local towns when the council leaves? What is left behind are the people who cannot move because their qualifications or their education are not at a certain level, because their age is beyond when they can go into other parts of society in Brisbane or because their capital base is insufficient. Who are left behind? The most marginalised and the most impoverished are persecuted, left behind in poverty traps throughout the state. And this comes from a Labor government that is supposed to be extolling the virtues of a wider horizon. We have areas where people’s democratic right is going to be removed and where their numbers are going to be completely walked over by incorporation of big regional centres. This situation has come from the Labor Party; the Labor Party have brought this about.

There is another example of the duplicitous nature of the Labor Party—this time, the federal Labor Party. When they moved their amendment to the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, they put that the Senate expresses support for ‘a referendum to extend constitutional recognition to local government’. That is probably an admirable cause, but they had to tack on this ridiculous part: that the Senate ‘notes that the Australian Labor Party believes communities are entitled to express a view’—and on they go about nuclear power plants. They have to try to once more pull the wool over the eyes of the Australian people with another contrived, duplicitous amendment that talks about two completely different issues and bangs them together for us to swallow.

I support the idea that in the future we will have to look at the constitutional recognition of local government. When we do, we should be doing that on behalf of the Local Government Association in my state, Queensland, and listening to their recommendations. There is one font of knowledge that you will not be listening to when it comes to the support of local government and that will be the Labor Party, because it is the Labor Party that brought this all about. This is a creature that they have brought into life. The reason they have this duplicitous approach is that they think it might affect them at a federal election. That is the issue. It is a political problem for which there is only a political solution. The political pressure point is the upcoming federal election, and the people of Noosa, of Port Douglas, of Taroom and of Redcliffe know this.

Opposition senators interjecting—

Senator Joyce—This is why they get upset; this is the problem. This is where it is hurting. What happens with the Labor Party is that they think they can do this little pas de deux, this little two-step, that it might not really affect them that much in Queensland and that they will pick up the seats somewhere else in any case. But, if this really and truly does become the straw that can break the Labor Party’s back at the federal election, they will change. I do not believe for one moment that an organisation that immediately expels members of their own who dare dissent, who dare cross the floor, does not have the power in that structure to change this. The last person in the Labor Party to dissent was Senator George Georges in 1987, and they immediately kicked him out. That is the sort of democratic organisation the Labor Party is! That is the absolutely tyrannical approach they have to their own colleagues, and now it is the tyrannical approach that they have brought upon the people of Queensland. That is it; it is in their culture. It is
what they are. They hate dissent: you must walk in unison; you must walk to a tune. Then, when they are there for long enough, they say to the people that they are supposed to be governing for that they too must follow the culture that ‘if you dissent, you will be squashed; you will be completely and utterly suppressed’. How dare they dissent to the aspirations of the Australian Labor Party! This is what this is about. I would say that this is one of the most fundamentally important pieces of legislation we have had.

Opposition senators interjecting—

Senator JOYCE—That is why they get upset. It is good to see them come out. They send their chargers in here because this is a pressure point that hurts. They know that they have crossed the line, and they are trying to play this funny little game. We will see Mr Rudd with an earnest look on his face, saying, ‘Oh, they are just so shocking back in Queensland. Hang on—that is where I come from.’ That is where Mr Rudd is from. The Queensland Labor Party? Hang on—that is Mr Rudd’s family. His party in his state brought this legislation into existence.

Let us go to more technicalities. In the Labor Party legislation, which is a complete affront to the democratic process and which reflects the culture of the Labor Party, three union delegates are appointed to the transitional committees. Most of these union delegates are not even from the same region, yet they have the right to be on the transitional committee regarding how these amalgamations go forward. Once more, it is an affront to the democratic process. It is a complete walking over of the fundamental voting liberties of people in the area. Not only do they have to deal with the insult of having their first form of democratic representation ripped out from underneath them; they then have to put up with this affront where the person who is going to deliver the remedy is appointed by the Labor Party and is from somewhere else. It verges on pathos. Everything about the Labor Party on this issue is contrived, duplicitous and a complete affront to where this nation should be.

How are we going to deal with the inherent nastiness of the Australian Labor Party? How are we going to deal with those towns that are going to be left behind in a pool of poverty because of the actions of the Labor Party? Let us say that a pensioner lives in a town. All of a sudden, the main employer leaves and the value of the pensioner’s house goes from, say, $120,000—because generally these are not rich people—down to $40,000, down to $10,000 or down to unsaleable. It represents their life savings. What are we going to say to that pensioner? How are we going to deal with that? How are we going to deal with those towns that are going to be left behind in a pool of poverty because of the actions of the Labor Party? Let us say that a pensioner lives in a town. All of a sudden, the main employer leaves and the value of the pensioner’s house goes from, say, $120,000—because generally these are not rich people—down to $40,000, down to $10,000 or down to unsaleable. It represents their life savings. What are we going to say to that pensioner? How are we going to deal with that? How are we going to deal with that? What is the Australian Labor Party’s policy for that? What are they going to do on that issue?

What are they going to do when the doctor leaves and the chemist leaves and people do not have access to medical supplies? What are they going to do when they do not have access to a doctor and when the whole infrastructure of a town is taken up and moved away? Are they going to provide a support package so that we can get them into Ipswich? Are they going to buy them another house? Are they going to buy them another life? Or are they just going to allow this process to go forward?

Here is another example of the duplicitous and contrived nature of the Labor Party. They have said, ‘We’re going to repeal this legislation.’ They have not. It is not up for debate; it has not happened. They talked about it three weeks ago and I thought: if the Labor Party thought that it was such an affront, you would think that Mr Rudd would have the conviction to get on the phone to his colleagues in Queensland and say, ‘Look, you’d better get on with that piece of legisla-
tion. It is kind of important.’ But they do not. It is not even worth a phone call from Mr Rudd to try to move this issue on—and this is the person who aspires to lead our nation.

This is the person whose mantra was that he would be able to work with all the Labor governments under cooperative federalism. This is the first major test and he has utterly failed. The reason he has utterly failed is basically that Mr Beattie thought he was weak. Mr Beattie does not get along with him; he thinks he is weak. They are all absolutely perplexed as to how he has got into the position that he is currently in. They are happy with how the polls are running for them, but they are absolutely flummoxed as to how a person whom they see as completely lacking oomph has got into the position he is in.

But, putting all that aside, we should be dealing with this inherent nastiness and unfairness and asking the Labor Party now how they are going to deal with these towns that they are going to leave destitute. What is their program for these townspeople who are going to be left destitute? Aren’t they the party that used to believe in the people who had been left behind? But now they are inspiring the policy that will leave them behind. What are you going to do in the town of Taaroom? What are you going to do in the town of Isisford? What are you going to deliver to those people? What is your program? Look at when they go down to the coast to campaign. We have got their aspiration for the coast of Queensland: it is going to look like a mini-Los Angeles and it will start north of Byron Bay and go all the way to Noosa. We will have multiple-storey high-rises festooning the beaches of Noosa so their property developer mates can chuck some money into their campaign. That is the reality, and that is why people are so abjectly frustrated, annoyed and furious over where the Labor Party has gone with us. They will fight. They are talking all of the time about how they are going to fight. They are going to pick out your federal Labor Party members in Queensland as the targets because the Labor Party brought this about.

What is going to be the cultural identity of Port Douglas when Port Douglas looks just like Cairns? What is going to be the identity of Noosa when Noosa looks just like the rest of the Sunshine Coast? Why does Redcliffe have to be part of Pine Rivers? Why does the Labor Party manifestly bring these nasty, arbitrary decisions? They come on the back of such other things as the decision on the Traveston dam. What a joke! They do not rule for all. They do not even rule for most. They rule for those in the Labor Party club. Those are the only people who get a look in. That is the quid pro quo for their having to deal with this culture of ‘you will do exactly what we tell you to do’.

This legislation is supported by all; otherwise what is their other alternative? That is the reason the Labor Party are supporting it. But the legislation is a clear indication of what is in front of Australia. It is a siren call. It is also a bell that is ringing for Australians that says: ‘Watch out! Look at who is coming to town. If this is the way they deal with their own, watch out as to how they will deal with you.’ I hope that every time people go to vote in the federal poll—and we will make sure this is known everywhere during the federal poll—they will see us holding up section 159ZY of the Queensland local government reform implementation bill. We will say: ‘This is the Labor Party. This is whom you are voting for. They say, “Dissent and we’ll send you to jail.”’ That is going to be what we will use.

I can assure you that these people are not going away. These people are well organised. These people are resourced. These people are persistent. These people are ready for the fight. I can quote the fact that even in places...
like Noosa we have had people come up to us and clearly say, ‘I’ve always voted Labor and I’ll never vote for them again till this issue is dealt with.’ I am clearly making a political issue out of this because it is a political problem that can only be solved with a political solution, and the political solution is this: you have to remove this process. You have to reverse it right back to where it was. Go back to the SSS process and do something decent and fair, not something arbitrary and nasty. Think about the destitution you are going to cause and deal with it, or come up with a package of how you are going to pay these people out and help them out. Have Mr Rudd propose the package that he is going to use to pay for the compensatory rights of the lives that are going to be destroyed because of the Labor Party’s policy. Let’s see some sense of fairness.

This is the issue that we must concentrate on; otherwise we are going to have this ridiculous proposition of Mr Rudd, with his earnest smile and a little bit of a cheeky grin, trying to make us swallow the fact that he has not got control of this situation. The only way that this is going to be dealt with, the only way that we can reverse this situation, is to take it to the federal election and make sure that the people of Queensland get their right to a plebiscite on this, to reflect their intentions about council amalgamations at the next poll that comes to their favour, which is the federal election. We do not have to convince them all; we just have to convince five or 10 per cent to change their minds—and you will remain on the opposition benches. That will be the game, and so there it is. We are not hiding behind it. We are going to make it a political issue. We do not have to convince them all. We only have to convince five or 10 per cent and then you will remain on the opposition benches. The only way you can resolve that is to deal with this. And if you ever come up with another amendment, do not try this ridiculous notion of tying nuclear power plants to referendums for acknowledging local government associations. Even when you brought this thing in, you said, ‘We’ve got an amendment,’ but you had not even tabled it. That is how much thought went into this. It was not even tabled when Senator Lundy was giving a speech. We have had to wait for it. Now it has turned up with ‘nuclear power plants and local government recognitions’. That is the duplicitous nature of it—and this has come from Mr Rudd’s Labor Party. There is not cross-party support for this bill. There is support from the National Party. There is support from the Liberal Party. There is support from the Democrats. There is support from the Greens. But as for the Labor Party, 59 out of 65 elected members in Queensland want this to remain the way that it is.

Senator Forshaw interjecting—

Senator JOYCE—Obviously, an ad hominem statement is all that Senator Forshaw can go to because he has lost this debate. But we are going to have another debate. That debate will be the federal election. It will be decided in Queensland and this legislation will provide ample fodder for us to use against you.

Senator FORSHAW (New South Wales) (12.30 pm)—I rise to speak in this debate and to once again state absolutely clearly, so that it will even penetrate between the ears of Senator Joyce, that the Labor Party is supporting the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. Indeed, the Labor Party leader, Mr Rudd, was on the record well before the Prime Minister to state that there should be plebiscites in Queensland on local government amalgamations. Let us cut to the chase: Senator Joyce has just outlined precisely why this legislation was introduced. It has nothing to do with upholding or restoring the
democratic rights of Queenslanders. Let us remember that Senator Joyce comes from the party of the late Sir Joh Bjelke-Petersen, who rode straight over the top of democratic rights in Queensland.

During the inquiry into this bill we were told about the thousands of people who marched in the streets to oppose the Queensland state government’s legislation, and I applaud them for marching. But do not forget that when Senator Joyce’s party was in power, if three of those people decided to get together on a street corner they would have been arrested and thrown into jail for talking to each other. So do not come in here and talk to us about restoring democracy and electoral integrity. This is the party that presided over the greatest gerrymander probably in the history of the world—other than perhaps in Boston back in the great Tammany Hall days. You presided over the biggest gerrymander that ever existed in Australia. Do not lecture us about democratic rights or electoral reform.

In all of Senator Joyce’s 20-minute speech, I do not recall him actually once mentioning the bill. I do not recall him on one occasion actually speaking to this piece of legislation, which is what this three-day inquiry was about.

Senator Joyce—I raise a point of order, Madam Acting Deputy President. I think you will find from the Hansard that I did mention the bill. In fact, I started off by mentioning the bill. The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Joyce, you know that is not a point of order but you have it on record.

Senator FORSHAW—In your introduction you mentioned the bill and then you completely forgot about it for the next 19 minutes and 45 seconds. What Senator Joyce has just done is to make absolutely clear what we all know is the real purpose behind this legislation—that is, to give the coalition parties in Queensland an opportunity to conduct a Senate inquiry, a three-day public inquiry, and go around and try to drum up support for their candidates in the next federal election. Senator Joyce has just admitted what he was constantly doing in the inquiry: trying to make this an issue at the next federal election. He did not run away from that, and I applaud you, Senator Joyce, for acknowledging it.

But the real duplicity here occurred only a few moments ago whilst Senator Faulkner was making a speech on this bill and on the Electoral Act. When he tried to place this government’s legislation in context in relation to the Electoral Act, it was objected to on a number of occasions by the minister at the table, who said, ‘That is not relevant.’ It was apparently not relevant to the government to talk about the Electoral Act but apparently it is relevant to government senators, such as Senator Joyce, to spend their entire time talking about the next federal election and about how they are going to campaign on this issue. Of course, what actually happened here was that we had a three-day inquiry into a piece of legislation—which I accept is important—that is supported unanimously by senators in this parliament, which we know is going to go through and which could have gone through as non-controversial legislation. But no, the government had to have its three-day inquiry. They took us to Noosa, Emerald and Cairns. I was pleased to go because I was willing to hear the views of the people there. I have never opposed the idea of Senate committees undertaking inquiries and listening to the people, but this government does.

There are five pieces of legislation that we pointed to in our report which are some of the most significant legislation to be dealt with in this parliament in the last year or
two. There was the recent legislation affecting Indigenous communities in the Northern Territory, the Northern Territory National Emergency Response Bill; the legislation regarding the excising of the radioactive waste dump, pursuant to the Commonwealth Radioactive Waste Management Legislation Amendment Bill; legislation to amend the Electoral Act, which dealt with all those issues that Senator Faulkner drew attention to; the Telstra (Transition to Full Private Ownership) Bill; and the Commonwealth Radioactive Waste Management Bill. How many days of public hearings were there for each of those five pieces of legislation? One day on each—one single day each for those very significant and complex bills, some of which ran into hundreds of pages and with hundreds of pages of explanatory memoranda. This government allowed a one-day inquiry on each of those bills. The public had virtually no time to put in a submission, they had one day to appear before the inquiry and the hearings were held in Canberra. They did not go to the Northern Territory to hear what the people in the Northern Territory communities thought about this government’s legislation.

But when the electoral amendment bill comes up for Queensland, which we are supporting, the caravan gets on the road, capably led by Senator Fifield as the chair and ably assisted by myself as the deputy chair. We made it possible for those hearings to go ahead because we cooperated with the facilitation of those inquiries, and I pay tribute to the secretariat for the excellent work they did in a short space of time. So let us not have all this hypocrisy about denial of democratic rights and so on. This was a political exercise. Let me go to the Hansard. Senator Joyce was there on the first day, but I am reminded that Senator Ian Macdonald did not attend on that day. I understand that in his earlier speech he tried to have a go at some Labor senators apparently because they may have left 10 minutes before the finish of the last hearing in Cairns to catch a plane. That is the sort of cheap shot that you get from Senator Macdonald—a person who did not even bother to attend a whole day’s hearing at the start. But I digress. Let us go back to the Hansard.

Senator Joyce started off with the very first witnesses, the Friends of Noosa, by saying:

Some have suggested that it is an infringement on a state’s rights for the federal government to insist on local governments having a plebiscite. And then he went on to say:

My final question is this: if Mr Beattie and Mr Fraser—the state minister—do not listen to the views of Noosa, do not listen to the views of a demonstration of 10,000 people—which, I read in your submission, went to Brisbane—and do not listen to the views expressed in a plebiscite that is held in the Noosa shire, do you know of any other pressure points on the Australian Labor Party that you can use to try to get them to listen?

So Senator Joyce started off by asking witnesses about what possible political pressure points might be coming up in the near future that might have some influence on this debate.

We all know what he had in mind: it was the federal election—and he has now acknowledged that. But the witnesses did not take the bait. They were not going to be dragged into a political point-scoring exercise by Senator Joyce, but Senator Joyce kept trying. He asked the next witness:

What would be the likelihood of the current position being maintained if there was a strong belief or, in fact, if it was proven that it was going to affect a federal election? Do you reckon that that could be the impetus for Mr Beattie to change his mind?
Again, the witness declined to take the bait. That was the tone in which Senator Joyce went on all through the hearing. Every witness was asked a question about what sort of political pressure point might exist that could influence the Queensland government. So let us not have all this palaver about this being a big debate about democratic rights in Queensland. This is all about the last desperate attempt by National Party senators and members and Liberal Party members and senators to find an issue in Queensland to help them hang on to a few seats at the next federal election.

At one point during the committee’s hearing, Councillor Brown, the Mayor of Peak Downs Shire Council, was asked a question about this political pressure point, and his response was something like: ‘What do you want me to say? You want me to say that this is going to have an impact on the federal election.’ Senator Joyce had the lead carriage for the coalition at the committee’s inquiry—with no disrespect to either Senator Fifield or Senator Ian Macdonald—and right through the inquiry he talked about issues like the possibility of changing state boundaries and having referendums and plebiscites for that. He talked about the relationship between the state branch of the Labor Party in Queensland and the federal Labor Party—and we have had all that again today. He talked about the internal rules of the ALP. He did not go to this legislation at all.

Senator Joyce is trying to attack the Labor Party because we actually happen to have a position at the federal level which is different to the position at the state level. We have never tried to hide that. It is a fact. It is something that the Prime Minister encourages. He thinks it is healthy for democracy that state governments, federal governments, federal parties and state parties have healthy disagreements. I am sure that it is something that occurs occasionally in the National Party. I have some recollection of Senator Joyce disagreeing with Mr Scott—the President of the Queensland Nationals—over Telstra, or at least he said he disagreed. Senator Joyce did not want to sell Telstra, or he said that he was not going to sell Telstra. He said that he would not support it but, in the end, he rolled over and gave in.

Senator Joyce has made a virtue of trying to make a name for himself as being different to his colleagues—of being an independent maverick and not always following the party line. Yet he stands up here in the parliament today attacking members of the Labor Party—and he did this right through the inquiry—because they actually have a disagreement at the state and federal level on what the party’s position should be on this issue. We have made it very clear that we support plebiscites for local government in Queensland.

The issue of constitutional recognition of local government came up during the inquiry. It has been pointed out by earlier speakers that the Labor Party has had a long history of supporting federal constitutional recognition of local government—and the coalition parties have had a long history of opposing it. Indeed, Mr Howard was on the record during debate on the referendum amendment bill saying that he did not support changing the Constitution. The report says at page 40:

1.33 Launching the ‘no’ case on 23 June 1988, Mr Howard said his opposition to constitutional recognition was based on ‘a strongly held view that it will distort the natural order and Constitutional balance of our federal structure’.

1.34 Mr Howard said ‘Australians will not take a leap in the dark by giving Canberra a chance to interfere in local government and to by-pass state governments’.

That was Mr Howard’s position then but apparently that has not quite filtered down to the members of his coalition. During the in-
quiry, both Senator Joyce and Mr Scott told the witnesses and the inquiry that they fully supported constitutional recognition of local government—despite the fact that they had voted against it only 12 months ago, and that is on the *Hansard* record. We pointed that out to them during the inquiry, and they were stumped. They actually did not know that that was their position.

Debate interrupted.

**MATTERS OF PUBLIC INTEREST**

The **ACTING DEPUTY PRESIDENT**

*(Senator Moore)*—Order! It being 12.45 pm, I call on matters of public interest.

**Sport**

**Senator BERNARDI** *(South Australia)*—(12.45 pm)—Australians have a particular fascination with sport, which escalates during major sporting events. Outside of immediate matters political, the nation is once again focused on major sporting events internationally and at home, with the recent Rugby World Cup in France, the World Athletics Championships having concluded in Japan, football finals taking place right across this country and the Beijing Olympics less than a year away. We all enjoy watching such spectacles, and we love to cheer on our sporting heroes as they participate at the very highest levels and perform at their very optimum. We wear our patriotism on our sleeves for all to see during times like this. As one, we share in the triumphs and the trials of our athletes and our representatives.

But sporting heroes are not made simply in the 40 minutes on the field or in the sub 10 seconds on the track; they are the result of years of very hard work by not only the athletes themselves but the committed coaches, organisations and clubs right across this country. As a nation, we enjoy the fruits of such dedication. It has seen us excel in a myriad of sports: cricket, cycling, swimming, rowing—the list could go on. May I add, for the record of *Hansard*, that we have the benefit of the presence in the gallery today of a great Australian rowing champion in Alastair McLachlan, a good South Australian.

Our sporting achievements are really remarkable when put into the context of the place our nation occupies in the world. At the Athens Olympics we finished fourth on the medal tally, an amazing feat, given we are a country of around only 21 million people. Our closest competitors on that medal tally were Germany, a nation of 80 million, and the Peoples Republic of China, with a population of around 1.2 billion.

But we cannot take for granted our sporting success. We cannot afford to rest on our laurels. We cannot assume that we will maintain our position as one of the world’s most successful sporting nations. We must do more to ensure continued success. I say this because it is oft remarked that imitation is the sincerest form of flattery. So, as a nation, successive governments should be flattered that our successful programs, our groundbreaking sporting programs, are being copied by other countries. Countries such as the UK, Germany, France and China have all developed their very own version of the Australian Institute of Sport. It is obviously not called the Australian Institute of Sport but they have their sporting centres of excellence. We should not only take this as a compliment and recognition of the great strides and achievements we have made but also recognise it as a potential threat to our continued sporting success.

The results of these competing programs are already becoming evident. China has developed into a sporting superpower. In 1932, for instance, China sent a single athlete to the Olympics. In 2004, China came second on the Olympic medal tally, with 32 gold medals. The Chinese have a particular ap-
approach that is applicable only to that country. But similar methods are being implemented right across the world. In the lead-up to the London Olympics, the UK is deploying formidable resources to ensure their sporting success. Not only have they established their very own sporting centre of excellence; they are recruiting second generation migrants from Africa and the Caribbean. They are recruiting Australian coaches. They are recruiting managers and sports scientists from this country who are being lured to work offshore in not only the UK but other countries on the promise of hefty pay packets and virtually unlimited budgets. As a nation we cannot afford to lose this local expertise—and it is very important when once again we consider the relatively small pool of talent that Australia has available to it.

I would like to put this in perspective. Let us assume that around 10 per cent of the population aged between 10 and 19 have the capacity to become elite athletes. Countries such as China have a talent pool of 22.8 million potential elite athletes; the USA, about 4.2 million; and Australia, around 280,000. This is a very rough estimation, of course, but it illustrates the enormous challenge facing Australian sport and the very real need to make the most of the talent pool we have. We need to ensure that we can retain Aussie ingenuity and Aussie know-how in this country, not only for the development of our athletes but for the future development of our coaches. We need to ensure that young talent is prepared to replace our existing pool of athletes as they retire or move on to other careers. We in Australia very much need to look forward and focus on the future of the Australian sporting system in order to maintain our sporting influence worldwide.

It is fair to say that our sporting future changed with the development of the Australian Institute of Sport in 1981. I think that every time we witness the success on the international stage of an individual or a team, or we see our national flag being raised in victory, we are witnessing the demonstration of the success of the AIS. It remains one of the most innovative sporting organisations in the world, and our results are testament to the programs themselves. But in an increasingly competitive sporting environment, in a world where many countries have their own sports institutes, what is going to take Australian sport to the next level? What is going to be the AIS of the next 20 or 30 years? At the very base level we need to ensure that we have more children, in particular, participating in sport, because participation rates have, quite frankly, been dropping. It is an issue that has led to a number of health and welfare constraints across the country. It is an issue on which I think quite frankly the state Labor governments have dropped the ball, because they have not committed, over many, many years, to supporting physical activity as a core part of the education policy.

But the federal government has recognised the importance of this, not only to sport but also to the health and wellbeing of the future generations of our entire country. We have done this through the Active After-school Communities program. Through the AASC program, children have the opportunity to develop the mobility skills that will serve them very well throughout their life, whether they become an elite athlete or even a competitive athlete. Children now have the opportunity to become interested in sport, and we need to ensure that young people have the interest and the ability to participate as fulsomely as they can so that we can develop any sporting talents they may have.

We need to encourage more young people into the sports system. An active after-schools program can do just that. We need to also review how best to support them once they get into the sports system and how best to develop their natural talents because it is
in the early stages that future elite athletes—or, indeed, people of any walk of life—develop a number of skills. They develop their dedication, work ethic and commitment—and build their character—that will stand them in very good stead.

Right now we are entrusting our sporting future to a number of very well-meaning, very well-intentioned and very dedicated parents and volunteer coaches. One can never underestimate the contribution that these people make to our nation, the history of volunteerism and the development of the potential and character of every child. But our best and brightest sporting talent need our best and brightest coaching talent. We need that to ensure that Australia’s sporting potential is fulfilled. We need to be able to identify at a very early age our best and brightest sporting talent and take them as far as they can go. We also need to identify which coaches offer the most innovative development of sporting potential in this country. We need to identify those at a very early age too.

I believe that Australia’s sporting future lies in talent identification, which was pioneered by the AIS some 20 years ago. I was involved in the early stages of that development. They must have used me to discover what not to get in an elite sportsman; nevertheless, I was one of their early guinea pigs. Since then talent identification has been a big part of the AIS and the Australian Sports Commission. One of the aims of the program was to identify and develop athletes in preparation for the Barcelona and Atlanta Olympics. The focus initially was on eight sports, including athletics, cycling, swimming, rowing and weightlifting. Over the years the program has progressed and become more important, especially in the lead-up to the Sydney Olympics.

Talent ID was used in schools to identify those children with the physical potential to develop in a chosen sport. We have had a number of successes with this approach. According to the Australian Sports Commission, the program aims to identify and subsequently fast-track the development of potential athletes to Olympic and world championship levels. It also contributes positively to our sporting culture by increasing participation, increasing the depth of our competitive field and developing our coaches.

This program also allows us to target particular sports where Australia can achieve early success. Perhaps the best known success is the skeleton project of 2004. Skeleton is an unusual sport. It is a sport which involves sliding headfirst down a bobsled track—it is not for the faint of heart! Ten women were identified as having enormous potential to succeed in this sport. These women came from areas such as surf-lifesaving and beach sprinting. A few of them had not seen snow or a bobsled track ever before. They trained these 10 women very hard and they participated in international competitions. Some 18 months later we had a junior world champion and a skeleton crew member qualifying for the Torino Winter Olympics in 2006. This demonstrates very clearly that Australia has the talent, the capacity and the ability to succeed in a range of areas based on identifying the talents and potential of athletes.

The federal budget in 2006 allocated $55.7 million to the Australian Sports Commission to enhance the performance of our elite athletes. This was part of a $125 million package given to the ASC to deliver excellence in sports performance over 2006 and 2007. Importantly, $4.8 million was earmarked for the development of a national identification network, involving regional talent identification initiatives and the implementation of a talent transfer program.
Further funding of $4.6 million was also allocated over four years to identify, develop and retain elite coaches. This is a very far-sighted allocation of funds and it will stand the Australian sporting network in very good stead.

We also have an Indigenous talent ID program. This program aims to develop the athletic ability of the Indigenous population, who are very well regarded and very well known for their enormous sporting potential. You just have to look at the football field or see the success of Cathy Freeman to understand that. We have programs in athletics, boxing, basketball and a whole range of other areas. One example of success in this program is Patrick Mills, a 19-year-old basketball player who was selected to join the Boomers on their European tour. His performance there earned him a spot in the Olympic qualifying series against New Zealand. So we are already producing results.

We are taking multi-talented athletes with a background in one sport and identifying those people who have an interest in sport and channelling them into an area where they can achieve not only success and enjoyment but a great deal for Australia. We did it with Alisa Camplin, who went from gymnastics to aerial skiing, and Jane Saville, a former ironwoman in surf-lifesaving turned race walker and triple Commonwealth gold medallist.

Many other talent identification programs are being undertaken because we need to know how many potential Cathy Freemans are out there. How many potential Ian Thorpes are swimming in the backyard pool, unseen by those who could catapult them to glory? This is a way of allocating our scarce resources—the human resources, the human potential and the talent pool I referred to earlier—and applying our funding model in the most consistent manner possible.

Australia cannot afford to leave the discovery of our successful athletes and our potential gold medallists simply to chance. With the small population that we have we cannot wait for accidents or coincidences to identify future successful athletes. ID programs are essential for the future of Australian sporting success. To remain competitive we must focus on these programs and support them wholeheartedly. International sporting success is a vital part of our cultural identity. We cannot afford to leave any stone unturned in seeking to achieve these aims.

**Workplace Relations**

Senator HURLEY (South Australia) (12.59 pm)—Last week, Senator Bernardi and I were invited to speak to the year 12 economics students of Trinity College. I followed Senator Bernardi and was asked a question about the industrial relations laws because, according to the students, Senator Bernardi had again put the point of view that in these times of low unemployment employers are desperate to keep employees and therefore employees are able to negotiate very good workplace arrangements with their employers. The matter of industrial relations and the relationship between employers and employees is consistently stated within the Liberal Party. In a press release from the Minister for Employment and Workplace Relations, the Hon. Joe Hockey, on 9 July this year titled ‘Minister recognises improvements in work and family balance’ he said:

I encourage businesses to continue to provide more family friendly provisions—with the unemployment rate sitting at 4.2 per cent more businesses are compelled to provide family friendly conditions in order to attract and retain staff.

Family friendly conditions are best negotiated between the employer and employee in the workplace when they are important to the employee.
More and more employers are offering innovative family friendly conditions, from grandparents’ leave to bonuses and extra flexible hours for Mums returning to work. These initiatives demonstrate the power of the employee in a strong economy.

To the students of Trinity College and to this chamber I will give an example, which occurred in the marginal seat of Wakefield, of where that was absolutely not the case. In June this year we were alerted to the difficulty of a constituent, Mr Trevor Cairns. Last year, Mr Cairns had worked for four weeks for a print and copy centre in the northern suburbs. The arrangement between the employer and Mr Cairns was that there would be a trial period. After that time, at the end of November, Mr Cairns approached the employer to confirm whether his employment would continue. Mr Cairns was informed that the employer was very happy with his work and would be retained as a press operator.

One week later, Mr Cairns approached his employer again. He explained that he was having difficulty with the finishing time as he had a child to pick up from school and asked whether he could change his hours from 7 am to 4 pm to 6.45 am to 3.45 pm, a shift of merely 15 minutes. His employer, according to Mr Cairns, responded quite abruptly that those arrangements did not fall into the parameters of his business. With this, Mr Cairns explained that he felt that he did not think he had a long-term future with the company because of his family obligations. The employer responded with the phrase, ‘When do you want to leave then?’ It was not Mr Cairns’s intention to leave that day, but he was upset with the response he got. So he said that he would like to leave immediately. His employer replied that that was no problem and he could do that. At no time was the subject of notice discussed.

On 8 December 2006, Mr Cairns received a letter from the print and copy centre where he had been working stating that Mr Cairns would not be receiving his last week’s pay as he failed to give notice. It should also be noted that at the beginning of the letter the company stated they were writing to him and had accepted his resignation. Mr Cairns was understandably upset as he would gladly have worked any notice the company had required. He even told the employer he would work the notice but was then told, ‘No, I’ve accepted your resignation effective immediately and I don’t want you back in my factory.

Mr Cairns then consulted a Legal Services Commission lawyer, who told him that he believed he was entitled to his wages and that there may be potential for one week of pay in lieu of notice. Mr Cairns was not interested in claiming pay for the notice but believed he was entitled to his last week’s pay. He then contacted the Office of Workplace Services, which has now been replaced by the Workplace Authority, and was interviewed by a workplace inspector.

After interviewing both parties, the inspector came to the conclusion that the company was meeting its obligations under the act and the industrial instrument and was unable to sustain his claim. That was where we came in. After reading all the information, we rang the workplace inspector and voiced our concern that an agreement had been reached with the employer making the notice void and that Mr Cairns was entitled to his last week of pay. We asked how Mr Cairns could appeal against the inspector’s decision and were told that there was no avenue of appeal.

But, feeling that Mr Cairns had been wrongly done by, my office contacted Andrew Farrell at the Office of the Employee Ombudsman to ask for his advice. Mr Farrell
was happy to speak with Mr Cairns and advise him of his rights. Mr Cairns was guided to the commission and, with the help of Mr Farrell, got a much more satisfactory outcome. I am happy to report that Mr Cairns won his case and the company was ordered to pay his last week’s pay. Although he is very happy with this outcome, of course, Mr Cairns is still very upset that the Office of Workplace Services would not support his claim and wants to know how they decided to support the company when they had access to the same evidence we did.

This is the kind of happy workplace arrangement that we hear about all of the time from the Liberal Party members: the joyous workplace where everyone helps each other and where employers sit down with their employees to work out arrangements that are agreeable to all parties. Those of us out in the real world who are in contact with people who work in jobs where they deal with employers every day know that the kind of job relationships that the Liberal Party ministers and members talk about does not exist. We do get these arbitrary decisions by employers, and so employees need to be protected.

Senator Joyce spoke last night in another discussion about small business not being able to lobby in the same way as large businesses because they simply do not have the time or resources. That is very true, but workers are in a similar situation. Senator Joyce said that because of the position of small business we should do the right thing by them in this chamber. I think we should do the right thing by workers as well. We should give them the proper support and legislation that allows them to have a voice too, which is singularly missing.

In the time since Mr Cairns’s situation, the Office of Workplace Services has been dropped in favour of the Workplace Authority, the fairness test has been introduced and the government has dropped the very name Work Choices. We are not allowed to talk about it any more, apparently. But nevertheless the situation remains. This is what the government has failed to recognise. There are many, many ordinary workers in the very same situation as the one Mr Cairns found himself in. Whether they have the wherewithal to fight it through to the end and get justice as Mr Cairns did is debatable, but what we do know is that the government has not provided Mr Cairns and employees like him with the ability to go up against their employers.

Mr Cairns lives in a marginal seat. Mr David Fawcett, the member for Wakefield, is his local member and voted for the legislation which put Mr Cairns in such a difficult situation. The government was still maintaining as late as July—just a couple of months ago—that there have been improvements in work and family balance as a result of its legislation. I said to the students of Trinity College and I will say to anyone that listens that this is simply not true. There will never be that kind of equality between all employers and employees. We do recognise that some employees have the skill levels that employers need and have a better ability to negotiate their own conditions. We do recognise that there are very good employers who will encourage employees and provide the flexibility and family-friendly environment that we would all like.

But we also know that there are many, many examples of the kind that Mr Cairns encountered, where arbitrary decisions are made by employers. We now know that the mechanisms that the government has put in place to give some protection to those employees are not working. They certainly did not work in Mr Cairns’s case. If Mr Cairns had a union or some other body to represent him, then he would have been able to take that case to the union and be assisted, but
instead he had to go through several different organisations. Many a more easily put-off person might have been very much deterred after having gone to the Legal Services Commission and the Office of Workplace Services. Fortunately, he went to his state member, Michael O’Brien, who then referred the matter to my office, where we were able to assist Mr Cairns with redressing this situation.

I hope that we will never again have to sit here in this place and be told the kind of nonsense that the Minister for Employment and Workplace Relations, Joe Hockey, put out in his press release about employers now being made to recognise the necessity for work and family balance more. Certainly Mr Hockey is not the only one. In this chamber we have heard Senator Abetz say similar things. An example that I think he used in one instance was in Katanning in Western Australia, where a group of mothers had organised family-friendly hours of work around school times. It is wonderful that that has happened in Katanning. But, if the minister has to go to the small town of Katanning in Western Australia to find an example, then I know that in my electorate of South Australia I will find plenty of examples similar to that of Mr Cairns where it is just not working, as indeed this government is not working. It is well recognised in the polling that is coming out now and in the attitude of many constituents that I have spoken to at doorway and street-corner meetings recently.

Health Services

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.14 pm)—By international standards, Australia has a good healthcare system, but it is not good enough. We are there with the high health spenders internationally, but it is not smart spending. The Howard government blames the states and the states say that the federal government is welshing on the deal to pay 50 per cent of hospital costs. The government is not interested in long-term solutions, will not listen to persistent calls for reform and will not ask people who use the system. Swooping in like Dr Who to save the Mersey hospital, in Tasmania, in the lead-up to the election does not count as asking! In fact, that sad little exercise says it all: short term, ad hoc and politically opportunistic. For the sake of a handful of votes in Tasmania, the government has made itself a laughing stock to the rest of the country, and people are asking, ‘Is this the best you can do to solve our problems?’ Even the House of Representatives Standing Committee on Health and Ageing found inefficiencies, duplication, cost-shifting and buck-passing, not that any of this is new.

Ideology has driven the government to see the answers in private health, and the health system has paid dearly for this blinkered view of the world. Australians are very attached to universal access to health, but they are being herded into private health insurance by a government that will not take a hard look at the price—that is, the price to the system overall and the price to individuals who are sick. Our hospitals are full of people who should not be there, not because they are not sick but because better primary care and prevention could have kept them well. If people with mental illness received services when they were needed, if more than a pittance were spent on discouraging smoking and if the government were to insist on a proper system of labelling food the demand for hospital beds would be far less than it is today. If there were a decent public dental health program, people would not end up sick for want of a timely filling. The government takes baby steps, such as funding dental services for people with a small range of chronic illnesses but leaving 650,000 people lingering on waiting lists.
If simple measures like antibiotics for trachoma and treatment for scabies were taken up, these debilitating Third World diseases could be eliminated from our Indigenous communities. The abuse that comes from wilful neglect by governments is at least as serious as sexual assaults on defenceless Aboriginal children. We know there is a chronic shortage of medical staff, so communities go without or we poach them from countries that can ill afford to lose them. Turf wars between professions aggravate the problem. Our outdated MBS system is doctor oriented and rewards expensive diagnostic procedures and interventions over cheaper preventive activities. Rural Australians miss out and people on low to middle incomes are disadvantaged.

So how can we do it better? Good health policy is not just about throwing money around like a drunken sailor; it is about spending money wisely and engaging in long-term visionary solutions. It is time for structural change. Labor says it will establish a national health and hospitals reform commission, but there is no detail yet. The Democrats too want to see a Commonwealth-state health commission, made up of state and federal representatives, to guide reform and to determine priorities intelligently and independently, informed by both the evidence of what works and what people say they need.

It seems to us to be a good idea to pool Commonwealth and state funding to take away the buck-passing and absurd ad hoc decisions and to work with current providers and build into the system incentives linked to health outcomes rather than numbers of procedures delivered. Efficiency should be measured not by how soon a patient can be turfed out of hospital but by how rates of preventable illness can be lowered so people stay out. The revolving hospital door of mental illness is a classic and awful example of the lack of alternative services.

Such a commission should identify and contract out the services that are most needed and see that they are properly funded. The Democrats would start with reform of the health workforce, whose structures and practices are, frankly, archaic. Roles and responsibilities should be reorganised, perhaps creating new professions and certainly opening up the MBS to health professionals currently shut out of the Medicare system and to those working more collaboratively in primary health care, outside private practice.

Victoria has a good network of community health centres that ought to be enhanced and replicated around the country. We have made some progress here with psychologists, but there is much that physiotherapists, podiatrists and others can do to keep people healthy and prevent conditions from putting people in hospital. The Productivity Commission says that a five per cent improvement in the productivity of health services would deliver resource savings of around $3 billion every year, which could fund a big shopping list of initiatives.

Many procedures carried out by doctors and specialists could be done by other health professionals. Only 10 per cent of normal pregnancies and births are managed by midwives in Australia. In the Netherlands the figure is 70 per cent and in the UK it is 50 per cent. In the US there are 65,000 nurse practitioners, who prescribe medications, initiate tests and X-rays, refer to specialists and admit and discharge patients. In Australia, we have just 100. We need role renewal, upskilling, multiskilling, broadbanding and teamwork. We need integration of education and employment. We have to make these decisions based on evidence and tackle the barriers put up by some health professions.
We learnt how dangerous our health system was 10 years ago, when the first hospital safety report showed that, each year, 10 per cent of Australian patients suffered an adverse event because of errors and that 18,000 people had died as a result. At least 50 per cent of those deaths were avoidable. A decade ago the estimated cost of this harm was $4.17 billion, and it is probably more like $6.5 billion today.

The Bundaberg hospital scandal showed how staff who notice mistakes are victimised. We need to change the culture to one that is open and transparent. We must have a mandatory, national open disclosure standard to help identify problems and ensure that responsibility is widely shared, including tackling systemic problems.

Private health insurance pushes up health costs and does not deliver better care. Taking into account the 30 per cent rebate, the one per cent tax penalty and other measures, public support for private health insurance costs around $6 billion a year. It should be phased out. Imagine having this kind of money to spend on Indigenous health, mental health and dental services. Alternatively, we could fund private hospital providers directly. They would be better off and the government would have some control over costs, something that the private health insurance rebate has failed to deliver.

The treatment that patients get for the same condition varies widely from doctor to doctor, hospital to hospital and town to town. Perverse financial incentives encourage under and over servicing. We need financial incentives for better care and to let go of our obsession with providing all forms of health care close to home. More local, integrated primary health care is vital, but cost-effective, quality specialised care needs patients to be mobile and we need to support them in their travel. We need state based centres of excellence for certain pressing conditions.

The IT revolution, which has driven productivity gain in other parts of the Australian sector, has passed by the Australian health sector. IT can support better clinical decisions; avoid waste in equipment, supplies and resources; and support continuity of care and self-management. We still do not have a minimal electronic patient record system, after nearly $1 billion has been spent on various projects. Privacy protected electronic patient records would cut out huge amounts of duplication, save time on collecting basic data, cut the need for repeat tests and improve medication adherence.

Choices have to be made in what services can be provided, but the only voices we hear at the present time are those of doctors, pharmaceutical companies and our health ministers. We want a national public dialogue on the health system. We want a national set of expectations that are based on a common set of values, principles and priorities for the health system. We also want a national preventative health task force, like those in the US and Canada, to initiate investment, for instance, in prevention and treatment research.

Australia can have an excellent health system. It is not that hard. It just takes political will, collaboration between levels of government and the Australian people and a much more intelligent, common-good approach to health.

Hearing Impairment and Deafness
September 11

Senator STOTT DESPOJA (South Australia) (1.23 pm)—I rise briefly to raise an issue of inequitable access in our very own building, Parliament House, specifically for those people who are deaf and hearing impaired. There have been ongoing problems with the hearing loops in this building. This
has meant that deaf and hearing impaired Australians have been denied access to meetings and other events that have taken place here. It is discriminatory and it has to be addressed, especially in a modern, democratic building such as this. Yet, despite repeated representations from Deafness Forum and other groups to the Department of Parliamentary Services, the concerns remain.

Last week, the Deafness Forum attended an event in Parliament House in the theatre on level 1. The venue’s access facilities were not adequately signed, nor were the AV operators aware of the presence of the hearing loop. It was found that the loop did not cover the entire theatre. Of course, proper signage would have helped attendees know where to sit in order to access the loop, and it even would have helped the AV operators. The event, ironically, was an internet relay launch to assist people who are deaf and hearing impaired.

In recent times, the Deafness Forum has, with me and other senators, attended meetings in this place, specifically in committee rooms 1S3 and 1S2. This is the last sitting period. These rooms were booked by us. I asked in advance: ‘Would there be an operating hearing loop?’ When we arrived, no technician had turned the loop on and, when contacted, did not know anything about the loop. As I understand it, only one of these rooms has signage referring to a loop system.

DPS and now the government must explain why this is still happening. Why aren’t enough correct signs—that is, showing the international deafness symbol—being put up? Why are the technicians who are supposed to be maintaining and operating these loops unaware of the existence of the loops and why do they lack knowledge as to what to do with them? Clearly, education on these issues is important.

Following contact from the Human Rights and Equal Opportunities Commission, the Deafness Forum met with DPS over six months ago and, after subsequent emails with DPS, they presumed that these access issues had been fixed. Recent events prove otherwise. When members of the public are denied access to their parliamentarians and events in this place because of a lack of adequate access, then it becomes an issue of discrimination. So I would strongly urge those people to pursue this issue through the Disability Discrimination Act. We should be providing best practice models in this place. We do not have signage here. That is bad enough as it is, let alone the lack of other facilities. So I hope that DPS will pay attention to this. For the next 10 months, I am going to be like a bee in a bonnet on these issues.

On that note, I want to congratulate Senator Coonan on her constructive discussions and negotiations. I am pleased to acknowledge that today we can announce that the government will hold an inquiry, a review, into all electronic captioning in this nation—I am thrilled—and, as a consequence, I will let my motion before the Senate today lapse. Again, I thank the government for their cooperation, and I can promise them that I will be looking forward to the results of that review.

In conclusion, and on a more sombre note, as Americans commemorate the anniversary of September 11, I want to put on record that I found it very difficult yesterday when leaders, including our Prime Minister, referred to September 11 but did not acknowledge the fact that 10 Australians also died on that day. I want to make sure that the Australian victims’ relatives understand that we do not forget that in this place.
Australian Labor Party

Senator IAN MACDONALD (Queensland) (1.27 pm)—This afternoon, I want to talk about a very grave matter of public importance, which is that, if the opinion polls are to be believed, by the end of this year we will have Labor governments in every state and territory of Australia, including the national government. I have to say that I do not believe those opinion polls—although it is silly for politicians to stick their heads in the sand. Quite clearly, the Labor Party do believe the opinion polls. The hubris and arrogance that they are already showing indicates that they believe that they are simply the government-in-waiting, and no better demonstration of that could exist than the disgraceful speech by Mr Rudd yesterday at the luncheon for the Canadian Prime Minister.

To use that opportunity to start making political points, to get down to crass politics at a luncheon which has traditionally been non-partisan, I think not only demonstrates Mr Rudd’s arrogance and immaturity but also puts the lie to him allegedly being a diplomat. No-one with any diplomatic training would pre-empt our esteemed visitor, the Canadian Prime Minister, who was here to make a presentation from the Canadian people to the Australian people. It was gazumped and pre-empted by Mr Rudd’s silly story about his forebears coming out in the First Fleet and attending plays in Sydney. Big deal! Many Australians have relatives and forebears who could exist than the disgraceful speech by Mr Rudd yesterday at the luncheon for the Canadian Prime Minister.

Mr Rudd, as well as allegedly being a diplomat—which clearly from yesterday he is not—also claims to be a fiscal conservative. Why? Because the focus groups told him that that has a good ring about it. Let us have a look at Mr Rudd’s fiscal conservatism. First of all, he wants to rob the Future Fund of $5 billion to set up a broadband system that the private sector is very happy to be doing as part of their business. So $5 billion, which was last year’s surplus, is out of the way in one go. Mr Rudd is also promising to give everyone Commonwealth dental treatment. The cost of that, as was clearly pointed out in the other place, is $5 billion annually. So in just two initiatives, Mr Rudd has already spent twice the surplus from last year, and that says nothing about all his other extravagant, arrogant promises and all the other commitments he is making for roads, rail, health and everything else. So the fiscal conservative tag is only a tag; it is not genuine.

I despair of wall-to-wall Labor governments because I have seen the arrogance of Labor governments, particularly in my home state of Queensland. Remember that the Queensland Labor Party is the party that has spawned Mr Beattie, Mr Rudd and Mr Swan, the would-be Treasurer. It has spawned some excellent people like the previous Acting Deputy President, Senator Moore, but it has also spawned people like Bill D’Arcy, who is currently in jail on child sex offences, and Keith Wright, who was the Labor leader in Queensland in the state parliament, who is in jail on child sex offences. Keith Wright was also a member of the federal ALP in this place for a period of time.

Senator Marshall—Andrew Laming!

Senator IAN MACDONALD—I hear ‘Andrew Laming’ over there. Thank you for the interjection, Senator Marshall. Why would Andrew Laming be mentioned? Andrew Laming has been under investigation for the past six months, an investigation instituted by the wife of the person who is now
the Deputy Premier of Queensland. A member of the Labor Party six months ago instituted this inquiry as a police officer. It has already been demonstrated clearly that the two other people under investigation have been cleared, and one can only wonder to what depths the Labor Party will sink in their march towards federal government.

The Queensland Labor Party has also spawned Karen Ehrmann, who is in jail for electoral fraud. It has also spawned Merri Rose, a trusted adviser and close confidante of Premier Peter Beattie and a minister in his government for many years. She has just been released from jail on blackmail charges. It has also spawned people like Gordon Nuttall, who is under investigation for fraud and corruption and who was a minister until a short while ago in the Queensland government. It has also spawned people like Pat Purcell, who has allegedly broken the law by physically assaulting his staff. This is the Queensland Labor Party we have in Queensland, spawning those people. I will not go into Brian Burke, Theophanous, Milton Orkopoulos, Bob Collins and Peter Duncan, some of whom have not yet been convicted. I do not suggest that they are guilty of charges, but certainly the charges against Orkopoulos and Bob Collins are very, very serious.

This is the party that has spawned these people. I acknowledge that there are many, many good people in the Labor Party; I am not suggesting anything for a moment about any of them. But I am suggesting that the party that gets us premiers like Brian Burke and gets us ministers like Merri Rose, Keith Wright and Bill D’Arcy is the same party which, in my state of Queensland, less than two months ago attempted to take away from Queenslanders the right to free speech. The Labor Party in Queensland legislated in the Queensland parliament to make it a criminal offence for a council to have a plebiscite on its future. Not only would it be an offence, but any councillor who had the temerity to suggest a poll would be fined and, if he did not pay the fine, would be thrown into jail and would be made to pay. This is the Labor Party. Fortunately, the Howard government used its constitutional powers to override the Queensland parliament in that particular piece of legislation so that it is no longer an offence to have a poll in Queensland on the future of a council. But the Labor Party, in the most undemocratic piece of legislation ever brought before any parliament in Australia in its parliamentary history, tried to stop Queenslanders from having a say—on pain of imprisonment, if anyone should contrive against that.

This Queensland Labor Party has spawned those people I mentioned—and Mr Rudd. Mr Rudd and Mr Swan have been around for a long time, as has Anna Bligh, the new Premier, and all three of them were around when it was as clear as the nose on your face that Queensland would have problems with water in the future. But Mr Rudd, Mr Goss, Ms Bligh and Wayne Swan did nothing about it. In fact, the previous National Party government had put aside a bit of land for a dam, and the Goss government, advised by Mr Rudd, took that off the burner.

Have a look at Queensland—the state from which Mr Rudd and Mr Swan hale—and the public health scandals. Remember Dr Patel? He is on charges currently—if they can ever find him. Mr Beattie had the opportunity to bring him back from the USA but declined that because he himself was having an election a few weeks later, so they did not bother to get him back. Dr Patel is alleged to have caused the deaths of many Queenslanders. Why? Because the Labor government in Queensland cannot be trusted with administering even a health system. In spite of the billions and billions of dollars given to the Queensland government by the federal government for health and other matters, the
Queensland government have not got a health system which you would feel safe in. The Dr Death scandal is one that will hound Mr Beattie and Ms Bligh to their political graves.

The Traveston dam travesty is another indication of the failure of the Labor Party in Queensland to properly administer its jurisdiction. Anna Bligh has been caught telling mistruths about the Senate report in relation to that dam. I saw a media release from Anna Bligh the other day saying that the Senate report into the Traveston dam ‘vindicates the Queensland government’. It did anything but vindicate the Queensland government. It was full of criticism. But Ms Bligh, the new Premier of our state, could not even distinguish truth from untruth on that issue.

This is the sort of area from which the Labor Party is launching itself into operation of the federal government. So, if the opinion polls are to be believed, every government in Australia will be held by Labor. You can imagine the result. The GST will go up because there will be no-one to stop it, no-one to fight against it.

_Opposition senators interjecting—_

_Senator IAN MACDONALD—_The Labor Party have already, on the two issues that I have given you, spent twice the budget, so where will we get the money from? Up will go the GST. The sorts of things Labor does in government are demonstrated by the council amalgamations issue. I will not talk about the amalgamations as such, but there are transition committees to work between councils that are going to be amalgamated. What comprises those committees? Two members of one of the councils to be amalgamated, two members of the other council to be an amalgamated and, according to the evidence given to our committee, three unionists, only two of whom are from one of those cities and the other is from Brisbane, some 3,000 kilometres away.

That transition committee is top-heavy with unionists. I asked any witness: who has actually elected these unionists? Nobody knows. They are not elected people, but they are there to work through and set the groundwork for the amalgamated councils. In the case of the amalgamation of Townsville, my home city, and Thuringowa, there are two representatives from the Townsville City Council—Labor controlled; two representatives from the independent Thuringowa council; and three unionists. So you would not be surprised, Mr Deputy Speaker, to find that any vote in that committee has been determined by five Labor votes to two independent votes. This is the sort of activity the Labor Party engages in in my home state Queensland, so you can imagine what will happen if the Labor Party also has the federal government after the end of the year.

These things should be and, as I know from my travels around my state, are matters of very grave importance to the people of Queensland and, indeed, to the people of Australia. I am concerned at the thought of all governments joining together to do things like increasing the GST. Stopping free speech as they did in Queensland, having a health system that is just plain dangerous and neglecting infrastructure, as Labor governments have done, are all things that will be repeated. It is not a question of listening to what Mr Rudd says. It is very much a case of seeing what Labor governments have done in power. In power, they had interest rates at 17½ per cent on home loan mortgages. I paid 17½ per cent—and one day I shall table in this parliament my bank statement to show that. Labor talk about low interest rates but, when they are in power, see what they do: you have interest rates at 17½ per cent. _Time expired_
Wheat Exports

Senator O'BRIEN (Tasmania) (1.42 pm)—Unlike the previous speaker in this debate, I propose to address a matter of public importance rather than play politics and talk about the blame game. The issue I want to discuss is a serious responsibility of a minister of this government. I think it demonstrates that, far from performing the responsibilities of government, this government is casting around to try to blame others—a la the speech we have just heard—for the problems facing the Australian community rather than accepting the responsibility that falls on it as the government. Last week AWB Ltd confirmed that the demerger of AWB International from AWB Ltd was dead, and earlier this week AWB Ltd announced that it will be abolishing AWB International at the end of 2008. A media report said:

AWB says growers will bear capped costs of $16 million, which will be taken out of any profits from selling this year’s harvest.

And while no wheat has been delivered to the national pool yet, there is speculation that around eight million tonnes is expected to be delivered.

This story appears to have gone largely unnoticed. But I have received legal advice which raises serious concerns about AWB’s conduct in relation to this final pool—the 2007-08 pool—in particular alleging that it is contravening the Wheat Marketing Act by providing for costs for previous pools and the winding-up of AWB International to be incorporated into this final pool. The Minister for Agriculture, Fisheries and Forestry, Mr McGauran, recently effected amendments to the Wheat Marketing Act explicitly providing himself with the power to direct the Export Wheat Commission to investigate a matter where the minister believes it is in the public interest to do so. Specifically, the minister can direct the Export Wheat Commission to investigate a matter relating to any of the following, as set out in section 5DC(2):

(a) the operation of a pool mentioned in section 84;

(b) the provision of services to nominated company B, where those services relate to:

(i) the operation of a pool mentioned in section 84;

(e) the provision of services to a person other than nominated company B, where those services relate to the export of wheat;

(g) an alleged or suspected contravention of this Act.

Any or all of those provisions appear to be relevant in relation to the recently announced AWB Ltd 2007-08 National Pool EPR and Services Agreement. As I said, we have legal advice which suggests potentially serious problems will arise from the heads of agreement for the 2007-08 pool services agreement. There is also a case, based upon the need for transparency and accountability, for the minister to investigate. Certainly growers have a right to know the extent of AWBI’s finalisation costs, if they are to be charged against the 2007-08 pool, before they commit their grain to that pool. Currently, the heads of agreement for the 2007-08 pool services agreement provides scope to incorporate massive costs associated with the winding up of AWB International into the cost structure for the pool and for the activities of AWBI in managing previous pools to be included in the cost structure for that pool.

Let me draw the Senate’s attention to aspects of the heads of agreement document that I am referring to. It requires AWB Services to estimate costs that will be incurred in finalising the 2007-08 pool but it is not required to do so prior to the growers agree-
ing to supply the pool. It provides for AWB Services to incorporate 'any residual exposure of AWB Services to third parties in respect of contracts or arrangements entered into for the purpose of the 2007-08 pool or providing services under any previous services agreement'. I will say that again: or providing services under any previous services agreement with AWB International.

The legal advice I have suggests that this means that losses from previous pools can be carried into the 2007-08 pool, and that could include massive hedging losses that occurred late in 2006. This matter in particular needs urgent clarification because, if that is allowed to occur, there is the potential for a significant reduction in grower returns for the pool about to come into effect. It also allows AWB Services to recover the costs incurred in connection with AWBI's finalisation as a company, including in connection with its winding up. The legal advice suggests that the heads of agreement and the grower contracts are inconsistent with section 84 of the act, which is explicit in requiring costs to be borne by each pool. I refer to the Wheat Marketing Act, section 84(2), which says:

The purchase price must be calculated by reference to the net return for the pool in which the wheat is included.

It appears that the heads of agreement, but not the act, allows costs of winding up AWBI and for the costs of previous pools to be accepted by growers in the matters that they need to take into account.

Others in the industry have detailed their concerns as well. A submission has been put to me which indicates that the new agreement sets out a timetable for the demise of AWB International and the departure of AWB from the management of the wheat monopoly. Section 3.1 of the agreement schedules 30 April 2009 as the final closing date for the 2007-08 national pool. Parties critical of AWB can only hope that the announcement on the structure of the company is accurate—more accurate, indeed, than those which surrounded the ill-fated and aborted AWB International demerger.

Section 3.3 indicates that the agreement will be in place until 30 September 2008 and that there is a specific cost to the pool of either $35.5 million or $4 a tonne, whichever is the higher, plus $1 a tonne for contracts made prior to 31 October 2007 for wheat supplied to AWB—and we could see six to eight million tonnes in that arrangement. However, it has been pointed out to me that the sting for growers will be delivered after 30 September 2008. An additional $3.5 million will be paid for AWBI's management costs and a range of unquantified liabilities due to AWB Services for 'costs incurred to third parties', 'residual exposure for contracts, including services provided under any previous service agreement' and 'a pool finalisation fee that includes costs related to AWB Services ceasing to be the services provider and the cost of winding up AWBI'. All of those matters will be additional to the $35.5 million quoted pool management fee, which is the minimum fee that will be charged for that period up to 30 September 2008. So from October 2007 to April 2008 pool participants will be slapped with a monthly invoice, for which I understand AWB International will tender for additional and unquantified costs.

This service agreement is supposed to have done away with the previous break fee arrangement. However, the effect of section 3.5 of this document is the same as having a break fee, only this time there is no specified amount for the break fee. It is an open-ended fee. So growers are entitled to ask—and indeed they are—the cost that they will face as a result of closing down AWB's management of the export monopoly and they are wonder-
ing whether and fearful that the fee that they will face will be additional or higher than the break fee that the agreement purports to do away with.

It is good that AWB has released some detail, but there is still a lot about the national pool services agreement that is not transparent and I am certain that growers and other pool participants will want to know this information before they can confidently commit any grain that they have in this very varied season. Some growers will have grain to sell, and perhaps in the western side of the country there will be an amount of some significance going to export, although I doubt that there will be too much in eastern Australia going to export. But I think the growers are entitled to have more information than they now have before they are required to make a decision about committing their grain, and that is why I have continued to call upon the minister, Mr McGauran, to exercise his powers under the act and to direct the Export Wheat Commission to inquire into this matter, to report expeditiously and to make that information available to growers. Until that happens, there must be massive uncertainty about the fees that growers will face.

While I am on my feet, I want to ask a couple of other questions about this government’s administration of export wheat marketing, particularly in relation to the Cole inquiry. What has happened to the task force? The Attorney-General announced in December last year the establishment of a task force to implement Commissioner Cole’s recommendations. He said at the time that that indicated the government’s ‘continued commitment to get to the bottom of the matters’ raised by the Cole inquiry in relation to misbehaviour by individuals and companies in our trade with Iraq. What has happened? When will we hear about that? This government is about to call an election some-time over the next couple of weeks. It has now been more than nine months, approaching 10 months, since that announcement was made. When are we going to hear about it? Or were those just empty words by the Attorney-General?

The other matter which I think growers are entitled to be made aware of is the contents of the very secretive Ralph report. Mr Ralph was commissioned to consult with growers about export wheat marketing arrangements and report to government. The report was provided to the government many months ago. The report is supposed to be the basis of the government’s amendments to the Wheat Marketing Act but the government has refused to reveal it to growers or the community. What is in the report that requires the government to conceal it from the general public? If indeed it supports the actions that the government has taken so far in relation to wheat marketing, then why is it concerned about revealing it? What has this government got to hide in relation to this?

We know the government has created massive uncertainty for growers by the measures that it has put in place, and we hear now that the Wheat Export Marketing Alliance is saying that even the measures that the government has put in place will not be sufficient to allow it to do what it wants to do. It is proposing to the government that there be further amendments to the legislation. I must say, the growers were given an Everest-like challenge in bringing into effect a new body by 1 March. But at least we should all see what Mr Ralph reported to the government before we make a final determination, before growers are required to make a decision about this government’s performance in relation to wheat marketing. At the moment, you would have to say it is a failure. Growers are facing massive uncertainty. There are massive problems being faced and the govern-
ment has provided no meaningful assistance on this issue to Australians. *(Time expired)*

**Sitting suspended from 1.57 pm to 2 pm**

**QUESTIONS WITHOUT NOTICE**

**Broadband**

Senator CONROY (2.00 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Will the minister confirm that the contract with OPEL for $958 million of taxpayers’ money has been signed and, despite the fact that she cannot reveal the technical specifications of the network, including where the 1,316 new towers will be built, how the OPEL network will reach 99 per cent of Australians? What will the minimum broadband speeds be, what will the maximum retail price be and how much money is OPEL contributing? How can the minister award one of the largest single government grants to a private company in Australia’s history without being able to reveal the most basic requirements of the agreement?

Senator COONAN—I thank Senator Conroy for his usual misconceived question. It is very good to see the Labor Party taking such a strong interest in this nation-building broadband initiative, because this comprehensive plan—the Australian Broadband Guarantee and the OPEL contract—will ensure that all Australians will be able to access fast broadband regardless of where they live. More and more Australians are getting the message that within two years fast broadband will be a reality and, unlike Labor’s fraudulent proposal, Australians will not have to wait until 2013 to receive improved services. Unlike the Labor Party, our plan covers all Australians regardless of where they live, instead of leaving out three million households and the most needy Australians.

This is a complex piece of technology with a complex contract that is being rolled out. As I said the other day, the implementation will be subject to a detailed implementation plan together with consultation with all stakeholders as to the optimum placement of towers for the rollout. This is in stark contrast to the Labor Party, which for the past five months has not even had a plan, has had no idea where any network would go and has been absolutely misleading about the capacity of its plan to deliver even to about three-quarters of Australians, let alone to all Australians. I can understand that it is agitating the Labor Party enormously that this government has been successful in being able to roll out a whole new independent network that has absolutely nothing to do with—

Senator Conroy—I rise on a point of order. Mr President, can you draw the attention of the minister to the question that I asked. I specifically asked what the minimum broadband speeds will be, what the maximum retail price will be and how much money OPEL will be contributing. This contract is already signed.

The PRESIDENT—I am listening carefully to the minister’s answer and there is no point of order.

Senator COONAN—Under the new initiative, 1,361 new WiMAX sites will be built, 426 very fast ADSL2+ exchanges will be enabled, about 15,000 kilometres of backhaul will be built, and that will deliver approximately a 30 per cent reduction in the wholesale price of backhaul. The speeds have been well and truly publicised and were put out again in my press release. I do not know whether Senator Conroy is having trouble reading, but it has now been said ad nauseam that the speeds will be 6 to 12 megabits by 2009 and that retail metropolitan prices will be between $30 and $35 to $60. The Labor Party does not have any prices at all. This is a farce on the part of the Labor Party. They are asking questions about
a delivered, costed contract when all they have is a flimsy piece of paper.

Senator CONROY—Mr President, I ask a supplementary question. Given that the minister cannot reveal the most basic requirements of an already signed agreement, how can government MPs continue to mail out fraudulent propaganda like this which misleads the Australian public? Can the minister confirm that these maps show a 20 km radius around the tower but OPEL have admitted that the range is only in the order of 6 km from their towers, slashing your claimed coverage in these fraudulent maps that you are distributing?

The PRESIDENT—I remind Senator Conroy of standing orders and the waving of documents in the chamber.

Senator COONAN—I realise that this has hit a real raw nerve for the Labor Party, and I again repeat my challenge to Mr Rudd and the Labor Party: what are you hiding, what are you afraid of? Come clean with your costings, your coverage maps and your technical details about your broadband proposals for the full scrutiny of the Australian public. We all know that Mr Rudd cannot stand up to the states, cannot stand up to the unions and certainly will not be able to stand up to Telstra. He has absolutely nothing to offer the Australian public on broadband.

Veterans’ Affairs

Senator HUMPHRIES (2.06 pm)—My question is to Senator Ellison, representing the Minister for Veterans’ Affairs. I am aware that since forming government in 1996, the Howard government has shown a very strong commitment to Australia’s much valued veteran community. Is the minister able to advise the Senate today of recent measures announced by the Australian government to further assist our nation’s veterans?

Senator ELLISON—I thank Senator Humphries for what is a very important question in relation to a sector of our society who have done much by way of sacrifice in their own lives to make a contribution to this country. Last night, at the RSL National Congress, the Prime Minister announced a $330 million support package for Australia’s disabled veterans. This significant indexation measure will benefit 140,000 disability pensioners, including those on the special rate, the intermediate rate and extreme disablement adjustment. This is a very important package for Australia’s disabled veterans. All Veterans’ Affairs disability pensions will be indexed with reference to both the consumer price index and male total average weekly earnings, in the same manner as the veterans’ service pension, from March 2008. In addition, from March 2008, more than 13,500 veterans who receive the extreme disablement adjustment will receive a fortnightly increase of $15 to the above general rate component of their disability pension.

The Australian government also recognises that the general rate table for non-economic loss compensation for pain, suffering and loss of function resulting from an accepted service-related condition has not been reviewed for some time, other than to be adjusted in line with movements in the CPI. Therefore, the entire general rate table will be increased by five per cent from March 2008. This initiative will deliver above 100 per cent general rate recipients, including EDA veterans, a fortnightly boost of $20 from March 2008, also adjusted by the more beneficial indexation method. This acknowledges that while some veterans’ disabilities have not affected their capacity to work and earn a living, their disability has had an adverse effect on their quality of life.

It is important to recognise that the method of indexation of general rate disability pension has stood the test of time. But times are changing. The economic prosperity the Howard government has brought over the
past 11 years has produced unprecedented increases in wages at a time of low inflation. This has influenced the current arrangements for indexation of non-economic loss payments, and of course you have the flow-on benefits from that. More than any other group in our community, our disabled veterans deserve to share in this prosperity. The veterans community can also be assured that they will continue to enjoy the dedicated support of the Department of Veterans’ Affairs and, in particular, the continued operation of the Veterans’ Affairs Network offices in major population centres across metropolitan and regional Australia.

Opposition senators interjecting—

Senator ELLISON—The opposition might be interested to know this, because it is very important to veterans. I am not so sure the opposition are interested to know this, but others are. I note that the Leader of the Opposition was quick to support this initiative. In fact, compared with Labor’s proposals for disabled veterans, announced in May this year, the coalition’s 2007 budget initiatives go further by ensuring that these veterans will be $5,800 better off by September 2012. That is because the Howard government announced, in the 2007 budget, increases in the special rate and intermediate rate pension payments of $50 and $25 per fortnight. These increases took effect in July 2007, benefiting 29,000 veterans. That is something the opposition need to listen to very carefully. Rather than interjecting, they should listen carefully to these benefits which are now being delivered to Australia’s veterans.

Telstra

Senator LUNDY (2.11 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that she has appointed Clayton Utz and Mr Alan Sullivan QC to represent her in her legal stoush with Telstra about the Broadband Connect Infrastructure Program? Can the minister indicate if she will retain the same legal team for her latest legal fight with Telstra regarding CDMA licence conditions? Will the minister now inform the Australian people how much of their money she is spending on these two legal proceedings and what the potential cost would be of any findings against her?

Senator COONAN—Thank you to Senator Lundy for finally screwing up the courage to ask a question in this place—and not even in her shadow portfolio area.

Opposition senators interjecting—

The PRESIDENT—Order! Question time will not continue until we have order. Senator Coonan has not finished her answer yet.

Senator COONAN—Thank you, Mr President. I could not quite hear all of Senator Lundy’s question. My understanding is that she asked—

Opposition senators interjecting—

Senator COONAN—I still cannot hear, Mr President; I am sorry.

The PRESIDENT—Order!

Senator COONAN—Thank you, Mr President. My understanding of Senator Lundy’s question is: she asked the name of counsel who have been retained on my behalf as respondent to Telstra’s application for preliminary discovery. It is not actually an action that has materialised, but it is an application for preliminary discovery. I can tell her that Alan Sullivan QC is senior counsel; I cannot confirm junior counsel. With respect to any other counsel that may be retained, I am not in a position to inform the Senate. What I would say—

Senator Carr—How much is this going to cost?
The PRESIDENT—Order, Senator Carr!

Senator COONAN—Thank you, Mr President. This matter is where the government is a respondent to actions brought by Telstra. Of course, it is important under the circumstances that the government—who have very good and defensible answers to Telstra’s claims—should be in a position to defend the proceedings. I am sorry; I cannot hear, Mr President.

Opposition senators interjecting—

The PRESIDENT—Order! It is your question time.

Senator Chris Evans—I rise on a point of order, Mr President. The minister seems to complain that she cannot hear herself talking. I can hear her perfectly well. I do not see why the opportunity to ask questions in the Senate is held up because the minister keeps sitting down because she cannot hear herself.

The PRESIDENT—Order! If the minister, in answering the question, cannot hear herself think because of the interjections, she is entitled to wait until the interjections stop.

Senator COONAN—Thank you, Mr President. I can understand that the Labor Party are not interested in the answer, but the really important thing here is where proceedings are foreshadowed it is impossible to talk about time limits. It is certainly impossible to answer in a definitive way any of the other questions that have been posed by Senator Lundy. The proceedings in respect of the first action commenced by Telstra are being defended. That is a case that has not been heard yet.

Senator LUNDY—Mr President, I ask a supplementary question. Isn’t one of the minister’s costly legal disputes with Telstra a result of her incompetent and scandalous handling of the Broadband Connect Infrastructure Program? Didn’t the Auditor-General agree that the minister changed the goalposts—

Senator Abetz—I rise on a point of order, Mr President. There is no doubt that the assertion of ‘scandalous’ against a minister is a reflection and should be withdrawn.

The PRESIDENT—Senator Lundy, I think that is bordering on unparliamentary; perhaps you could choose your language more carefully.

Senator LUNDY—I will continue with my question. Didn’t the Auditor-General agree that the minister changed the goalposts in the middle of the tender process, before awarding OPEL nearly $1 billion of taxpayers’ money? Why should taxpayers have to foot the legal bill for the minister’s incompetence?

Senator COONAN—that does not arise out of the primary question and I decline to dignify it with an answer.

Opposition senators interjecting—

The PRESIDENT—Order! When your colleagues are quiet I will call you, Senator Conroy.

Senator Conroy—I rise on a point of order. It is quite clear that the question was relevant to the primary question. I ask you to draw the minister’s attention to the actual question and ask her to attempt an answer. It is quite clear that it arose from the first question.

The PRESIDENT—If the minister chooses not to answer, that is her prerogative.

Broadband

Senator NASH (2.15 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister please outline to the Senate any plans to extend broadband access for rural and regional Australians. Is the minister aware of any threats to the fu-
fure of telecommunications services in rural and regional Australia? Further, what action is the government taking to protect the future of these essential services?

Senator COONAN—I certainly thank Senator Nash for her question and for her continued strong advocacy and interest in ensuring that rural and regional Australians enjoy equity in telecommunications services. I am very happy to inform the Senate that we are now one step closer to flicking the fast broadband switch and welcoming the advent of a new world-class network for all Australians regardless of where they live.

Last week the funding agreement for a new national high-speed broadband network was signed with OPEL Networks, a joint venture between rural group Elders and Optus. The agreement captures all the commitments announced on 18 June 2007 and provides the foundation for a new $1.9 billion competitive broadband network that will extend high-speed broadband out to 99 per cent of the population at metro-comparable prices. OPEL will provide 12 megabits per second broadband services to thousands of rural and regional communities over the 1,361 wireless broadband WiMAX sites. Even faster speeds of up to 20 megabits will be available from the more than 420 ADSL2+ exchanges.

High-speed broadband is essential to overcome the isolation that many people feel in rural and regional Australia. The OPEL Networks will open up opportunities for rural businesses to reach new customers, to buy and sell equipment online and to access the latest information. OPEL has already commenced work on establishing its new scalable, state-of-the-art WiMAX, ADSL2+ and fibre wholesale network that is targeted for completion by 2009.

I have been asked about threats to the future of telecommunication services in rural and regional Australia. Unfortunately I have to report to the Senate that I am aware of a very big threat to the future of these services. That is the threat posed by the election of a Rudd Labor government. A Rudd Labor government has only one vague idea for broadband in Australia. It will leave 25 per cent of Australians stranded. It is an uncosted, untested and undeliverable plan that will simply leave many Australians out in the cold, as Senator Nash well knows. Worse still, $2 billion of its flimsy proposal is proposed to be funded by draining the Communications Fund that has been established specifically to protect the most needy Australians and the future of telco services in those areas.

There is no better example than the threat which a Labor government poses to regional and rural Australians and no better example than the fact that Labor simply does not understand the market. Labor would take money from where it is genuinely needed and pour it into a commercial network. Talk about failing basic economics 101. Now that the government has preserved this guaranteed funding, there is now of course a $2 billion hole in Labor’s flimsy plan to roll out broadband. The difference between the government and Labor could hardly be more stark. In contrast to the Labor Party’s neglect of rural and regional Australians, this government will continue its commitment to rural and regional Australians and will continue to deliver good services to them, regardless of where they live.

Parliamentarians’ Entitlements

Senator STERLE (2.22 pm)—My question is to Senator Johnston, the Minister for Justice and Customs. Is the minister aware of claims last night by the member for Moreton, Mr Hardgrave, that the Australian Federal Police were engaged in a high-level conspiracy with the Queensland government to bring him down? Doesn’t this follow Mr
Hardgrave’s statement last week that the AFP investigation into the use of his entitlements was a ‘total farce’? Does the minister endorse his Liberal Party colleague’s arrogant and politically motivated attack on the Australian Federal Police? Given the minister’s self-righteous answer to a question about the progress of the AFP investigation on 20 June, can he now indicate what specific action he has taken against Mr Hardgrave for his escalating attacks on the integrity of the AFP?

Senator JOHNSTON—The honourable senator discloses no understanding whatsoever of parliamentary privilege, but then again he has only been here such a short time that I would not expect him to. That matter has still to be resolved, and of course I am not going to run any form of commentary or adjudication on the investigative officers or their performance. Can I reassure the Senate that at all times the inquiry has been conducted entirely at arm’s length from the Howard government and indeed from me as minister, as it should be. The commissioner has my absolute confidence. If there are complaints to be made, there are well-established and reputable mechanisms which have the utility to receive and properly investigate such complaints. But, in short, to answer the senator’s questions: there has been no interference by me or by anybody known to me from the government. There has been no shredding of documents to emulate the Heiner affair or anything like that and there has been no withdrawal of charges at the eleventh hour, as happened to Joe McDonald in Western Australia. This investigation has been conducted transparently and with integrity, and I do not propose to say anything further.

Senator STERLE—Mr President, I ask a supplementary question. Was Mr Hardgrave just following the example of the minister himself, who, on 14 June 2006, attacked the Western Australia Police, labelling them corrupt and calling the police commissioner a fraud? Given the minister’s attack on the WA Police, who he claimed were singling out the Liberal Party, and his refusal to condemn Mr Hardgrave’s attack on the AFP, does that mean that he still thinks the police are all out to get the Liberal Party? Why is this minister defending Liberal Party colleagues who have interfered in police investigations rather than defending the integrity of the dedicated officers of the Australian Federal Police?

Senator JOHNSTON—It certainly was not me who called the Australian Federal Police Keystone Cops; it was in fact the Labor Premier of Queensland. And it wasn’t me who made allegations that he had not been informed about threats to Queensland buildings. I need to advise senators on the other side that over 200 Queensland police officers were involved in that inquiry and, if the Premier of Queensland was not advised, it was because his own police officers refused to tell him anything because he talks and talks about operational matters, which I have always refused to do.

Budget 2006-07

Senator FISHER (2.28 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the budget outcome for 2006-07 and is he aware of any reactions to this outcome? Will the minister further outline to the Senate the importance of running a strong budget surplus? Can the minister further inform the Senate of the latest figures relating to the budget positions of other levels of government in Australia?

Senator MINCHIN—I thank Senator Fisher for that good question. Just last month the Treasurer and I released the preliminary budget outcome for 2006-07. Those figures revealed that the underlying cash surplus for the year was $17.3 billion, which equates to 1.7 per cent of Australia’s GDP. It equals
about four weeks worth of government spending, and I note that it is about the same as BHP’s latest profit. The improvement of some $3.7 billion in the budget surplus since the May budget estimate was a result of the continued strength of the Australian economy. Company tax receipts were higher by around $1 billion and spending on a range of welfare programs was lower because of the strong labour market, in which more and more Australians are finding work.

The strength of the surplus clearly illustrates the government is running a very responsible fiscal policy. Our policy is taking pressure off interest rates and contributing significantly to national savings. Of course, the strong surplus has allowed us to make a number of important investments in Australia’s future. As senators know, we have already eliminated the debt of $96 billion that we were left by the Labor Party. From the latest surplus, we have been able to deposit a further $7 billion into the Future Fund. So, in addition to the second instalment of the Telstra proceeds, that deposit will mean that the Future Fund needs no further deposits in order to meet its long-term goal of matching the unfunded super liability by 2020—a fantastic outcome. Of course, it can only achieve this aim—that is, the Future Fund—if it is free from arbitrary raids by future governments and is allowed to reinvest its earnings. Both of those preconditions are put at risk by Labor policy. The surplus from last year also allowed us to deposit a further $1 billion in our new Higher Education Endowment Fund, which will soon be established in law. Another $2.5 billion will be placed in a new Health and Medical Investment Fund, with future earnings to be invested in important health technology for the benefit of Australia’s hospital system and Australia’s patients. So, the strength of the surplus has been a great result for Australia’s present, and indeed future, citizens.

Given that we hear so much from the Labor Party that their fiscal policy is actually the same as ours, it was a little surprising to see several Labor figures criticise the government for running such a strong surplus. Tasmania’s Labor Treasurer said the surplus showed the federal government’s disregard for the needs of the Tasmanian community. And Queensland’s Labor government suggested that, instead of running surpluses, we ought to be spending more money on the states for them to waste on their projects. Of course, we are not surprised at all by criticism from these state Labor governments.

I draw to the Senate’s attention that, just two weeks ago, the Bureau of Statistics released its government financial estimates for the next financial year, 2007-08. They showed in their expectations that the federal government is on track to run a fiscal surplus of $11.9 billion in this financial year. The Labor states, according to the bureau, are on track to run a combined $5.8 billion deficit. So, the combined state Labor deficit is going to cut in half the federal government’s contribution to national savings. We know Labor’s position on government budgets—they run deficits when they are given the chance to govern, whether it is at the state or federal level. We run surpluses and then they criticise us for being too conservative and not spending all the money, then at election time they try to pretend they can be trusted with the finances of the nation. The Labor Party stands condemned, both by its rhetoric and its actions on the issue of financial management.

Human Rights

Senator BARTLETT (2.32 pm)—My question is to the Minister representing the Minister for Immigration and Citizenship. Can the minister confirm that the government has been endeavouring to immediately deport a Chinese man back to the People’s
Republic of China, despite the fact that the United Nations Human Rights Committee have requested that deportation not occur until they have completed an investigation into this case? Is it the case that this man is today in a Sydney hospital following a serious attempt at self-harm? Can the minister also confirm if this person’s Australian visa was cancelled as the result of an arrest warrant from Chinese authorities, and is the Australian government absolutely confident that this arrest warrant is genuine? Can the minister indicate if it is true that this Chinese man in question is Christian and has a family from a Christian background? Is the Australian government confident that religious persecution has ceased in China, and that there is no prospect of the man being persecuted if he is returned to that country?

Senator ELLISON—I can confirm that there is a Chinese national in custody, and I note that Senator Bartlett has not identified him, so I will proceed on that basis. A Chinese national has been in custody since 2004, and that is as a result of his visa not being granted, and, as he has no lawful reason to stay in Australia, he will be deported. I should say at the outset that I understand he has had the opportunity of having his situation reviewed. There was a last minute request from the UNHCR—it was an interim measures request—asking that he not be removed and that is being considered. The department deferred those removal arrangements for that to be dealt with. It provided no new information and, as a result of that, the plan is to deport this Chinese national today, subject to a medical assessment of his situation. This person has been in custody since February 2004. There were a number of issues to be considered during that time and various avenues that this person had pursued by way of appeal. Also, there has been an arrest warrant in China for some time for this person for very serious charges relating to alleged kidnap and murder.

Of course, the death penalty is an issue between the two countries of China and Australia and a period of time has been taken up in obtaining the necessary undertaking from the Chinese authorities that, on return of this person, if there was a conviction, the death penalty would not be carried out. That has now been obtained. That accounts for the effluxion of time for this person being in detention. There has been adequate opportunity for him to canvass his position. This has been exhaustively reviewed under Australia’s international obligations under the Convention against Torture and the International Covenant on Civil and Political Rights. I am advised that the issue of this person’s religious beliefs is not a factor in this case.

Senator BARTLETT—I ask a supplementary question, Mr President, and thank the minister for that answer. Can the minister clarify whether there is still an investigation underway by the United Nations committee, or is it the case that the government has simply acknowledged that but is choosing to act to deport this person anyway, despite the fact that the investigation has not concluded? And is that not a departure from what is normal practice in regard to immigration deportations? Given the minister’s comments on discussions with the Chinese authorities about sending this person back in regard to particular charges, can the minister indicate whether this process has followed the normal level of independent assessment that would apply with an extradition matter, with all of the safeguards in place, or is this basically being done solely at a government-to-government level?

Senator ELLISON—I will reiterate that the department deferred removal arrangements while the interim measures request was considered; it provided no new informa-
tion beyond that which had been extensively examined; and the action to deport this person is consistent with the government’s policy on dealing with United Nations commission requests for the removal of unsuccessful asylum seekers—and that was announced in the year 2000. I do believe, and I will check this to make sure that it is right, that the Australian government has written to the UNHCR indicating its knowledge of this request, providing information on the extensive process undergone in Australia to consider this gentleman’s claims and inviting any views or considerations which the UNHCR might want to offer. But the government believes that its actions are consistent with the policy it announced in 2000 and that there has been, over the period since 2004, adequate opportunity for independent assessment of this person’s situation.

Crime

Senator PARRY (2.38 pm)—My question is to the Minister for Justice and Customs, Senator Johnston. Crime is a serious concern in the Australian community, and the Australian government has an impressive record of ensuring cooperation between jurisdictions on crime prevention. Noting that statement, will the minister advise the Senate what role the federal government and law enforcement agencies throughout the country have played in establishing a national DNA profile-matching database that is binding for all states?

Senator JOHNSTON—I thank Senator Parry for that important question and acknowledge his longstanding interest in law enforcement as a former police officer in the state of Tasmania, and I congratulate him on all of the work he did in terms of community policing. What we are saying and dealing with here is that Australian citizens have had enough of people who rob our houses, steal our cars and target defenceless victims. I attend a number of crime forums around Australia from time to time, and the No. 1 issue is: people want to feel safe in their homes. Of course, we all know that the Commonwealth does not have direct responsibility for community policing; that is the job of state police. Notwithstanding that, the Commonwealth seeks to assist and play a role. We try and assist state police in any way we can, particularly on a technical level, in the fight against vandals, burglars, sex offenders and generally thugs who want to disturb and ruin the day-to-day harmonious lives of people in our community.

For all of these reasons, the Howard government has sought to establish—and I want to pause to pay tribute to my friend and colleague Senator Ellison for this fight—a national DNA database for some seven years now. The government is and always has been firmly committed to bringing about effective DNA data matching in the investigation of crime and for other appropriate purposes—for example, victim identification and the identification of missing persons. CrimTrac was established specifically to achieve this goal, at a cost of some $50 million initial funding plus running costs allocated to see it do its job. DNA data matching using a national criminal investigation DNA database is a powerful weapon in the fight against crime. A national DNA database allows data collected by various states and territories to be compared, thus reducing the ability of offenders to avoid justice by simply moving interstate. In other words, the Commonwealth has sought to facilitate a situation where, if somebody commits an offence in the Northern Territory and is subsequently arrested in Tasmania for a similar offence that involves their DNA, we can also prosecute them at a subsequent time for what they did back in the Northern Territory.

To highlight the effectiveness of this database, it was yesterday revealed that in Victo-
ria, in the first two weeks of matching—and they have just started matching, with South Australia, Western Australia and Tasmania—they were able to establish close to 1,900 matches of known criminal offences across the nation. That is absolutely outstanding—and more power to the Victorian police and other states’ law enforcement officers now to go and investigate those. But this has come about because the Commonwealth has consistently sought to bring the state police ministers and attorneys-general to the table to match DNA across the nation. Rather than have something like more than 20 bilateral agreements, we sought one agreement facilitated by the Commonwealth. Queensland, Western Australia and the Northern Territory have been exchanging data for four years, and in Queensland recently a rapist who was convicted and sentenced to seven years was also found, through his DNA, to have committed an offence some 10 years previously in Western Australia. Imagine the closure that the victim in that matter in Western Australia, the young woman, had.

I must say, Mr President, I have had to drag the states, as Senator Ellison had to, kicking and screaming to agree to nationalise the DNA data exchange. To their credit—I give them credit—we have done it at last, and law enforcement is much the better for it. People can now take some comfort in the fact that, if there is an offence committed in Queensland and it cross-references to one in Western Australia, we will catch it.

Belvedere Park Nursing Home

Senator MOORE (2.43 pm)—My question is to Senator Ellison, the Minister representing the Minister for Ageing. Is the minister aware that a report on the Belvedere Park Nursing Home in Melbourne in August this year found it failed 42 of 44 care standards, putting residents at serious risk? Didn’t that audit of the nursing home find that it failed to provide the residents with appropriate nursing and clinical care, medication management, nutrition, hydration and infection control? Didn’t the audit team observe that the foul stench permeating the facility impacted on the quality of life of residents and made visiting relatives vomit? Given this nursing home repeatedly and seriously failed care standards in 1998, 1999 and 2000, can the minister now advise whether there were any inspections between 2000 and 2007; and, if so, how many of them were unannounced?

Senator ELLISON—On 16 August 2007, the Department of Health and Ageing imposed sanctions on the operator of Belvedere Park Nursing Home in Sydenham, Melbourne, revoking its approval as a provider of aged-care services and its allocation of residential care places. The Administrative Appeals Tribunal has made an order which has stayed the operation and implementation of the department’s decision to impose sanctions on the operator of that nursing home, pending a full hearing of the matter. The AAT has ordered that Saitta Pty Ltd can continue to operate as an approved provider of aged care and will be able to admit residents to the home as long as it appoints an administrator approved by the department who has the clinical expertise to make decisions about the operation of the home and the care of residents.

The department has advised that, as of today, it has approved the administrator nominated by the approved provider. The department has only very limited avenues of appeal in relation to the order of the Administrative Appeals Tribunal. The department has, however, instructed its lawyers to seek an urgent hearing with the AAT to finalise this matter. I am advised that the last resident left Belvedere Park at 6 pm on 22 August 2007. All 25 residents are now relocated in other homes. The department and the Aged Care Standards and Accreditation Agency are continuing to
monitor the home to determine if new residents are admitted. If this occurs the department and the agency will monitor the care and services provided at the home.

The department imposed the original sanctions because the provider failed to meet 42 out of 44 accreditation outcomes as recommended by assessors of the Aged Care Standards and Accreditation Agency. A review audit conducted by the agency between 6 and 10 August 2007 found that the home had serious and widespread problems both in relation to the provision of care and the overall living environment.

The other part of the senator’s question was in relation to the accreditation history of the home. In relation to Belvedere Park, I can say that it has had a history of serious noncompliance from 1998 to 2002 in response to which the department imposed sanctions on five occasions. From August 2002 until the end of 2006 the agency monitored Belvedere Park but it did not find noncompliance. The recent very serious noncompliance was identified in an unannounced visit by the agency on 23 July 2007 following the receipt of a complaint by the department. Some noncompliance was identified by the agency and the home was placed on a timetable for improvement.

In a subsequent visit on 3 August 2007 the agency was not satisfied with progress and conducted a full review audit. During that audit widespread noncompliance was identified. The agency determined that there was a serious risk to residents and of course referred this matter to the department and the department took immediate action and imposed sanctions. As for previous accreditation from 2002 to the end of 2006, there was monitoring of the home and I believe that prior to 2002 previous sanctions were imposed on five occasions between 1998 and 2000—(Time expired)

Senator MOORE—Mr President, I ask a supplementary question. We are interested in the process of the monitoring that you identified between 2002 and 2006 and, specifically, the number of visits that took place. How many of these spot checks visits were unannounced? Given that the findings of the subsequent audit that you mentioned described a complete breakdown in care standards, clinical records, staff training and process, isn’t it clear that the breach of care standards had been going on for sometime? On what grounds can the government claim that the failures were only recent when its own report indicates an entrenched and systematic failure to provide proper care to failed residents in the facility?

Senator ELLISON—I was going on to say that between 2002 and 2003 there were nine unannounced visits by the agency, as I mentioned earlier. Also in 2001 and 2002, as well as in 2005, accreditation site visits were conducted. I had previously mentioned that there were sanctions imposed on prior occasions and that there had been noncompliance over the period of time. This is a situation which has been taken very seriously and the department and the agency have taken appropriate action.

Heritage: Preservation

Senator SIEWERT (2.49 pm)—My question is to the Minister representing the Minister for the Environment and Water Resources, Senator Abetz. My question relates to the application by the Wong-Goo-Tt-Oo Native Title Group under sections 9 and 10 of the Aboriginal and Torres Strait Islander Heritage Protection Act for both an emergency declaration over Pluto area B on the Burrup and to have the area declared a significant Aboriginal area. When does the minister intend to make a decision relating to the application? Will the area be protected while the minister is making a decision?
Senator ABETZ—In flicking through the briefs that I have been given, I did not come across one that was headed Pluto area B, so I indicate to the senator that undoubtedly, because she has a keen interest in the matter, I will seek advice from my colleague, the relevant minister, and will come back with an answer for her.

Senator SIEWERT—Mr President, I thank the minister for that and ask a supplementary question. I am disappointed that the department does not think that the Burrup is significant enough to provide a brief on. I ask him then to take a question on notice. Is the minister aware that the WA EPA has given permission for preliminary works to be undertaken on Pluto area B and that this could start any day? Will the minister ensure that any work that is undertaken does not affect cultural material on Pluto area B until after his deliberation in respect of sections 9 and 10 applications?

Senator ABETZ—I should not have been surprised that the honourable senator would ask me about Pluto because the Greens spend most of their time in outer space. Having said that, I will seriously take the supplementary question on notice and get back to her with an answer in relation to that as well.

Belvedere Park Nursing Home

Senator McLUCAS (2.51 pm)—My question is to Senator Ellison, the Minister representing the Minister for Ageing. Can the minister confirm that Mr Graeme Menere, who runs Belvedere Park Nursing Home, previously operated Kenilworth Nursing Home? Wasn’t Kenilworth labelled the worst nursing home in Australia in 2000 by the then Minister for Ageing, Mrs Bishop, when it was shut down for failing to properly care for residents? At the time, didn’t the government give Mr Menere a reprieve on Belvedere Park, which had repeatedly failed to meet care standards, putting residents at serious risk through 1998, 1999 and 2000? Wasn’t it revealed at the time that Mr Menere had been convicted of stalking one of his staff? Given this history, can the minister explain to residents and their families why Mr Menere remains a part-owner of Belvedere Park despite his appalling record of failing to provide proper care for elderly residents?

Senator ELLISON—I can confirm that Mr Graeme Menere was one of a number of key personnel in Neviskia Pty Ltd, the approved provider for Kenilworth nursing home. Kenilworth nursing home was a home of continuing concern due to certification issues. The conduct of Mr Menere and the approved provider’s continued noncompliance with accreditation standards was of concern. Of course the department imposed sanctions in relation to a number of issues relating to residents in March and September 2000. These decisions, however, were set aside by the AAT in December 2000. Kenilworth nursing home was not accredited by 31 December 2000. As a result of this, the approved provider ceased to be eligible for Commonwealth subsidies in relation to Kenilworth from 1 January 2001.

In relation to Mr Graeme Menere, I understand that he was convicted of an indictable offence in May 1998. Amendments to the Aged Care Act 1997, which commenced in January 2001, make it an offence for a person who has been convicted of an indictable offence to be one of the key personnel of an approved provider. I believe that one of the reasons that the Department of Health and Ageing had imposed sanctions revoking the approved provider status of Saitta Pty Ltd—and this is in relation to the Belvedere home—was because it believed that a disqualified individual, Mr Graeme Menere, was involved in making executive decisions on behalf of the company.
If I have anything to add or clarify on that I will get back to the Senate on that.

Senator McLUCAS—Mr President, I ask a supplementary question. How can residents and families have any faith in the government’s aged care system when Mr Menere won an appeal in the AAT staying the government’s attempts to close the facility? Doesn’t this leave open the possibility, as claimed by Mr Menere, that the nursing home may reopen? Eleven years after introducing its new aged care system, why hasn’t the government ensured that vulnerable, frail Australians are safe from Mr Graeme Menere?

Senator ELLISON—As I mentioned, in relation to this particular matter there was a conviction of this gentleman—an indictable matter, and the law was changed to make it an offence for a person who has been convicted of an indictable offence to be one of the key personnel. This matter is currently being dealt with—as I have outlined in the previous answer that I gave to the Senate. In relation to the decision made by the department some time ago, that decision was dealt with by the AAT—an independent tribunal. We cannot interfere with the tribunal’s decision; that decision is made independently. But I can assure you that the situation at Belvedere, and the involvement of this man, is being taken very seriously.

Investing in Our Schools Program

Senator FIFIELD (2.56 pm)—My question is to the Minister representing the Minister for the Department of Education, Science and Training, Senator Brandis. Will the minister update the Senate on the success of the Australian government’s Investing in Our Schools program. Is the minister aware of any alternative policies or the approaches of other Australian governments?

Senator BRANDIS—I am delighted to be able to inform Senator Fifield of the current state of the Investing in Our Schools program. Senator Fifield, as the chairman of the government members policy committee, takes a deep and sophisticated interest in educational issues, as all honourable senators would be aware. The Investing in Our Schools program is yet another example, of which there are many, of the Howard government taking up the slack to compensate Australian families for failed, negligent, inefficient state Labor governments. The program allows for school communities, principals and parents, among others, to identify and prioritise the needs of schools and make applications for Australian government funding on a school-by-school basis. It cuts out the inefficient ‘politburos’ of state education departments, who have failed—

Senator Carr interjecting—

Senator BRANDIS—You would know all about politburos, Senator Kim Il Carr. The politburos of state education departments have failed to meet the basic infrastructure needs of Australian schools. I can inform Senator Fifield and honourable senators that the Australian government has invested $1.2 billion in Australian schools through the Investing in Our Schools program. On 28 August the government announced the fourth round of the Investing in Our Schools program, in which we will allocate $49.2 million to New South Wales schools, $6.6 million to schools in the Northern Territory, $23.5 to schools in Victoria, $26.6 million to schools in Queensland, $8.6 million to schools in South Australia, $6.7 million to schools in Tasmania and $17.4 million to schools in Western Australia. So far, the Investing in Our Schools program has provided more than $795 million to state government schools around Australia, funding more than 20,000 projects in almost 7,000 state schools. Let me give you two examples of the Investing in Our Schools program: the provision of shaded structures...
to the Nundah State School in the electorate of Lilley, and across the Brisbane River in the electorate of Griffith the provision of improvements to play areas for the East Brisbane State School.

Those two examples I have given were not taken at random; they are, of course, respectively in the electorates of Mr Swan, the shadow Treasurer, and Mr Rudd, the Leader of the Opposition—both significant Labor Party figures in Queensland. You would think, would you not, Mr President, that, if anybody could persuade the Beattie government to invest in Queensland schools it would be Mr Rudd and Mr Swan—but no way! Whether it is the Nundah State School in Mr Swan’s electorate or the East Brisbane State School in Mr Rudd’s electorate, it has taken the federal Liberal government to come to the rescue of those schools to provide the infrastructure that they need.

Senator Fifield asked me if I am aware of any alternative policies or policy approaches. I suppose the most obvious alternative policy of which I am aware is the Australian Labor Party’s policy, manifested by its state governments, to underfund and underinvest in Australian schools—something that the Australian government will not do. I would point out to Senator Fifield, in particular, an article in last weekend’s *Sunday Telegraph* by Sharri Markson, which points out the scandalous underinvestment in New South Wales schools by the Iemma government. *(Time expired)*

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS
Heritage: Preservation

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.01 pm)—I have an answer for Senator Siewert in relation to the matter that she raised during question time. Woodside’s proposed Pluto project, including onshore and offshore construction, was referred under the EPBC Act. In deciding whether or not to approve the project, the minister will take into account any conditions placed on the project by the Western Australian environment minister.

The minister has recently received applications for both emergency and long-term protection under sections 9 and 10 of the Aboriginal and Torres Strait Islander Heritage Protection Act in relation to site B on the Burrup, part of the Woodside Pluto gas project. The minister will of course give careful consideration to their application according to law. In the case of the section 10 application for long-term protection, this will include considering a report from an independent person on the matters required under the act.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Answers to Questions

Senator CONROY (Victoria) (3.02 pm)—I move:

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

What we are seeing here is a government flailing around desperately trying to cover up the deliberately misleading information it is providing about its 17th and 18th plans. That is right; in case you have not counted them, these are the federal government’s 17th and 18th broadband plans in 11 years.

Government senators interjecting—

Senator CONROY—You are so deluding yourselves that you are sending around information in pamphlets like the one I have here issued by Ms Fran Bailey. While you are in the chamber, let me take you through
some of your self-delusions. The pamphlet starts off by saying:

Did you know?

Labor says its plan to roll out fibre to every home—

that’s funny; I thought we were rolling out fibre to the node—

will cost taxpayers $4.7 billion.

However, South Korea—a country half the size of Victoria—used the same system, but it cost $50 billion.

As Senator Coonan continually says—and accuses us of doing—Labor is rolling out fibre to the node. Labor has no plan to roll out fibre to the home, but that has not stopped Fran Bailey from distributing this nice, colour brochure.

She then goes on in her brochure to talk about all the wonderful things about the WiMAX product. There is only one problem with that: you bought an obsolete version of WiMAX. You bought fixed wireless. The brochure tells us that WiMAX chips will be incorporated in a whole raft of electronic devices, such as computers and laptops. That is true: WiMAX chips will be incorporated in those devices. But there is one problem: you bought an obsolete version of WiMAX. Not one computer or laptop in this country produced today or that will be produced in the future will actually receive your dog of a product of OPEL—not one laptop. You will not be able to take it for a walk down to the shed, like Senator Coonan told you in the party room. I am sure she said, ‘Don’t you worry; we’ll be able to pick up a laptop and walk down to the shed.’ It is not true. Not one laptop will receive it. And of course there are those very colourful maps that you all had distributed. I note that not all of you have taken the option of posting them out, like Fran Bailey has. Some of you probably looked at them and said, ‘Umm, that can’t be right; that can’t possibly be true.’ Let me be clear: this government is offering Australians, particularly the millions and millions of Australians who live in regional, rural and outer-suburban Australia, a second-class plan designed to lock them into an outdated, obsolete technology that they will not be able to upgrade from in their lifetime.

But let us go back to the issue of coverage. I will read from the government’s panel in Australia Connected, as distributed by you and by the minister, which says:

Coverage—Proven to reach 100% of the population.

Actually, the minister is only claiming 99 per cent. So that is the first mislead. The second is:

Speeds—12-50 mbps.

I know it may seem like the words ‘up to’ are not important but, if a company was not using the words ‘up to’, it would be fined by the ACCC. WiMAX, particularly the OPEL fixed wireless, cannot deliver 12 megabits. OPEL themselves have admitted that actual speeds will be less due to distance and traffic. If you want 12 megabits you will need to be standing underneath the tower at midnight on a Saturday and praying that you are the only person using it. That is the only way that you are going to get 12 megabits out of this dog that you have bought. But I will continue quoting. The next point is ‘Radius from each site’. The maps in the brochure are particularly important at this point. The nice green circles are around base stations. What did the government claim? The government claimed:

Minimum 20km from base station.

What does Mr Peter Ferris, the General Manager of Technology and Planning for Optus, say about the reach of the OPEL product? He says that the systems trial by Optus requires line of sight—and I will come back to that—connection between tower and

CHAMBER
user and then six kilometres from the towers.  

(Time expired)

Senator BERNARDI (South Australia)  
(3.07 pm)—It is always entertaining to listen to Senator Conroy talk about truth in advertising and in supplying the facts. It is a very strange form of entertainment. Perhaps it is better for me to listen to it than to have my children suffer nightmares after watching Senator Conroy on the TV, as they did the other day. They rang up and asked, ‘Dad, do all senators behave so badly?’ I say to the 80,000 listeners today that I am very disappointed you have heard that spray from the Labor Party. They criticise a very good initiative to roll out broadband to 99 per cent of Australia, to give access to 99 per cent of Australians to fast, efficient broadband at a cost which is a fraction of the cost of this mythological program which the Labor Party purports it will roll out.

Senator Conroy talked about how we have had a number of approaches to supplying broadband to people in this country in as efficient and cost-effective a manner as is possible. Of course we have had a number of approaches because the technology has been changing over the entire duration of this government, and it will continue to change. The Labor Party are suggesting that their answer is the only answer. It is going to cost $4.7 billion. They are going to raid the future posterity of this country, taking money from our children and taxpayers to pay for a technology that will not be delivered for probably a decade or more, if they manage to honour their promises.

The Labor Party have a history of not honouring their promises. We deliver on our commitments and they know that over there. I am really disappointed that they cannot acknowledge that we are using taxpayers’ money in an efficient manner to deliver results that are going to be far superior to any-thing they are offering. But that is the Labor Party way: they oppose for opposition’s sake.

I would like to put a couple of things on the record. We are aiming to reach 100 per cent of the Australian population with broadband and 99 per cent of the people with high-speed broadband. The Labor Party are claiming they will reach 98 per cent, and I give them credit for that, but they are likely to reach only 75 per cent. They are talking about 12 megabits per second; we are talking about between 12 and 50 megabits per second. We are doing it with a range of technologies to speed it up. We are talking about extending coverage as new technologies come out. This is an incremental program to ensure that we are always at the very forefront of technology. Let us have a think about this. The Labor Party are going to charge $4.7 billion to the taxpayers of Australia. That is simply not right. And they are going to do it to provide an undisclosed service to consumers. They are not prepared to talk about a commercial operation with companies making a contribution as well.

We are putting $600 million into the Broadband Connect Infrastructure Program. We are allocating a subsequent $358 million to guarantee affordable and comparable prices for all Australians. And what is important is that we are starting on this immediately. When are Labor going to start? In the never-never. We do not know because Labor’s promises are all spin, all style and no substance, and they are designed to deliver in 2050, 2035 or 2020. There is no meaningful policy debate or contribution; it is all about clichés and trite attacks on the government because they are paid to be outraged. Every time we have tried to take a step forward in this country, it has been opposed by the Labor Party. They become increasingly hysterical with their shrieking. They try to alarm the general populace, the voting public, but they will not swallow it. They cannot believe the
Labor Party because they have broken every single promise they ever made.

You talk about economic conservatism, yet you vote against it all. You talk about prudent fiscal management; it is simply not true. We hear it time and time again. The Australian public will not believe the Labor Party. The country cannot afford to believe the Labor Party. The Labor Party have destroyed economies in three years or less. We cannot take the risk. Look at Whitlam. Look at Keating. Look at Hawke. They destroyed the Australian economy in less than a term of government. We cannot afford to go back to Labor. The Australian public cannot afford to go back to Labor. We know that the Labor Party cannot deliver. *(Time expired)*

**Senator CROSSIN** (Northern Territory) *(3.12 pm)*—What this country cannot afford is to re-elect a government that has no vision or plans for the future. Let’s face it, when Kevin Rudd, on behalf of the Labor Party and with Senator Conroy, announced our broadband plan early this year it was because there is a vision for the future and some foresight in the Labor Party. It was announced because this government fails the test of the future. After dithering around for 11 long years and not getting on the program when it comes to keeping up to date with telecommunications and the infrastructure, finally this government is forced to react and come up with something. It has come up with a half-baked idea which is a concoction between SingTel, Optus and Intel. If you have a look at the substantive nature of this infrastructure, you see that it buys out old technology, when young kids, businesses and the families of our nation want not today’s technology but tomorrow’s technology today. This certainly will not deliver it.

I think this government is hoping that the general public will be dazzled by technology words and IT concepts that they will not understand. When people go to their computer to access the internet, they want real-time, fast service. I notice a suggestion that this OPEL deal will access 99 per cent of the population—Senator Bernardi suggested 100 per cent just now in his reply. In fact, that is absolute piffle.

If you have a look at the copy of the map that I have in front of me of the OPEL coverage for the Northern Territory—and I will seek leave to table this map—compared to what Telstra already delivers commercially, you will see that all it is simply going to do is affect Darwin and Palmerston. Funny about that: Darwin and Palmerston happen to be in Solomon. The rest of the Northern Territory has no black dot marks or circles anywhere on this map. Of course the rest of the territory happens to be in Lingiari. But the issue of whether this is perhaps going to be rolled out in marginal seats is a debate for another time. If you are not living in Darwin or Palmerston and you live somewhere else in the Northern Territory, what do you get out of this deal? Zero; nothing. If you live in Jabiru or Katherine, let alone Borroloola, Tennant Creek or even Alice Springs, you get absolutely nothing out of this deal. This map proves it. This map has only two little dots on it, over some of Darwin and over some of Palmerston. Anywhere else south of those lights at the Palmerston Centre you will get absolutely nothing, nothing at all, out of this deal.

Mr Howard’s plan is for a high-speed service but only if you are in one of the major capital cities in the states. You will get a low-speed service if you anywhere else in this country and absolutely no speed if you live in the Northern Territory outside of Darwin and Palmerston. Our plan is worth $4.7 billion; the government’s plan is worth $900 million. The reason that our plan costs a lot is that it will actually roll out fibre optic to the node, not just in the capital cities—and in
marginal seats—but beyond the capital cities and into rural, regional and remote Australia. Territorians are being held back, and our options are even more limited because we do not have the level of internet access that is acceptable in the 21st century. I put it to you that if you live in the heart of Melbourne or Sydney then your internet access needs are not as crucial as those of someone who lives on a cattle station, out bush or in a remote community because the people out there are now relying on internet services for their day-to-day access to information.

The OPEL network that the government is suggesting is based on obsolete technology. It has fixed wireless WiMAX with connection speeds that are shared and the more users on the network the slower the speed. In fact, industry experts have indicated that the network is on average capable of delivering only 512 kilobits per second at twice today’s average speed. I have already mentioned that Optus have admitted that wireless will have only a six-kilometre penetration and it will be less behind hills—not 20 to 50 kilometres as the minister stated in her press release in June. So the Howard government is proposing an antiquated, back-to-the-past broadband connection. (Time expired)

Senator BIRMINGHAM (South Australia) (3.17 pm)—We have heard today yet another great spiel from Senator Conroy attempting to flog his dead horse of a policy, and I am being generous by even calling it a policy. He is trying to flog his dead horse of a press release, a press release that he likes to call a policy, which he and the Leader of the Opposition pretend is a policy statement. It was nothing more than a headline-grabbing media stunt earlier this year. I applaud them for their success in grabbing the headlines at the time but since then it has been demonstrated that the policy, the media release, lacks substance, any substantive follow-up and—as the government has outlined with its far more comprehensive plan to deliver broadband services to the people of Australia—it is flawed as well.

Senator Conroy spoke of taking the laptop down to the shed. I am wondering whether he has been spending a little too much time in the shed and not enough time actually out there talking to people in industry, talking to small businesses and talking to the community about the flexibility that is required to deliver appropriate broadband services. Perhaps, rather than sitting in the shed, Senator Conroy should in fact be calling the Broadband Now service set up by the Minister for Communications, Information Technology and the Arts, Senator Coonan, and the government recently. He should be checking it out on the web to see the sorts of services that are available that will ensure Australians get access to the type of wide-ranging, high-speed broadband that they require.

Under this government, 4.3 million households and small businesses have already accessed high-speed broadband. Our plan is to ensure that it is rolled out to be accessible by 99 per cent of Australians—no ifs and buts but the right blend, the right mix, of technology to ensure that that is available to that 99 per cent. To do so, we firstly start with the OPEL network. I particularly welcome the OPEL network, a combination of a consortium involving both Optus and Elders. I know that Senator Wortley would join me in welcoming the hundreds of jobs that that successful consortium, based in the home state of Elders, will create in our home state of South Australia—great news for South Australia. The importance of the inclusion of Elders in this consortium is not only that it creates jobs in Adelaide. Most importantly, it provides shopfront services right around Australia—a pre-established network of services for this wholesale product that will be used by Elders as well as other ISPs in the delivery of the broadband service.
OPEL will be operational with six megabits per second increasing to 12 megabits per second by 30 June 2009. Contrast that with Labor’s fibre-to-the-node plan which, whilst reaching fewer people, will be fully operational to that smaller number of people no earlier than 2012. Knowing that it will be a publicly funded infrastructure rollout of the type that we have seen state Labor governments—and federal Labor governments of the past—operating, no doubt we can be confident that the cost will blow out and the time will drag out and the technology will be outdated by the time they even get around to finishing it.

So we have the OPEL network as the first important part of the package. It is not the only part of the package. We are also looking to establish a network within the cities, looking to ensure that, in addition to that, we provide, through the Australia Connected program, broadband that goes beyond just OPEL and actually provides a mix of ADSL2+ and fibre technology as well as the WiMAX technology used under that contract that has been signed. This will ensure that we are using the right range of technologies for different areas. Contrary to what we have just heard, Labor’s fibre-to-the-node plan will actually leave many people in regional areas worse off. It will ensure that they do not get the services that can be offered by the flexibility of WiMAX where there are not nodes to which to deliver the fibre. That is why this is an important policy. Instead, we are seeing from Labor old-style policy investing billions of dollars of public funding to deliver something that the private sector, working in tandem with government, can deliver for much less, ensuring that we on this side of the house reach 99 per cent of the people with high-speed broadband, compared with an opposition policy that will not— (Time expired)

Senator WORTLEY (South Australia) (3.22 pm)—I rise to take note of answers by the Minister for Communications, Information Technology and the Arts, Senator Coonan. We have had 11 long years of the Howard government, and it is without doubt that the state of telecommunications infrastructure and services across Australia has suffered as a result. Senator Birmingham, let me say that I have spoken to people in our home state of South Australia about their ability to get high-speed broadband. I have spoken with small businesses which can no longer compete because they cannot access high-speed broadband, and I have met with students who have thrown in the towel on accessing lessons on the internet because it was just too unreliable, too difficult, too time consuming and too frustrating. As it stands, our nation’s lack of high-speed broadband is hurting and holding back Australian families and small businesses. We lag a long way behind the countries we consider to be our international peers, yet the coalition has sat on its hands for years, only cobbling together a plan in the shadow of a looming federal election. Even now the result is unsatisfactory on many levels.

The federal government has thrown $958 million of taxpayers’ money at the problem in the lead-up to an election. The trouble is that this $958 million, awarded to the Elders consortium OPEL, is going towards building a second-class broadband system. Having had 17 previous attempts at devising a broadband plan for Australia, the Howard government’s 11th hour effort has raised more questions than answers. Perhaps the minister does have the answers to these questions but will not reveal them because she knows the answers are not palatable. It certainly is not due to the lack of opportunity.

Today, the minister responded to specific questions from Senator Conroy by saying that the government has a comprehensive
plan. There were no answers, just a sweeping statement. Here we have one of the largest government grants to a private company in our history and yet three months on there remain so many unanswered questions. These questions are as basic as what the real minimum broadband speeds will be, what the technical specifications of the network will be, where the 1,361 new towers will be built, what the maximum retail price will be and just how much money OPEL will in fact be contributing. The fact is that the government made the announcement that it would award OPEL the job in June this year. So, surely, it is not unreasonable to expect that in September, some three months on, Australian taxpayers be provided with at least some of the answers. After all, it relates to $958 million of taxpayers’ money being spent.

When the government announced that it had awarded the tender to OPEL, its purpose was to build a broadband network for underserved areas—those who had long been ignored. However, those people living in such areas, which include but are not limited to rural, regional and remote Australia, are going to be let down under this proposal. The network, which is based on the obsolete technology fixed wireless WiMAX, will not reach the claimed 99 per cent of Australians. Optus has admitted six-kilometre penetration from the base station, not the 20 to 50 kilometres stated by the minister in her release in June. OPEL states that its network will serve 3.7 million phone lines in underserved areas, but there are in fact only two million phone lines. So this statement by OPEL appears to be completely false and misleads the Australian people. OPEL does not own the transmission spectrum. The Department of Communications, Information Technology and the Arts has admitted that actual coverage will not even be known until the network is turned on.

Adding to the coverage conundrum are the fraudulent maps being mailed out by the government without the disclaimer issued by the department. The disclaimer reads:

The Department of Communications, Information Technology and the Arts makes no guarantee about the suitability of these maps for any purpose by any person whatsoever.

Along with the deficiencies in the coverage by the government proposal come disappointments in the area of speed, a basic requirement of an appropriate broadband network. *(Time expired)*

Question agreed to.

Human Rights

**Senator BARTLETT** (Queensland) (3.27 pm)—I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Ellison) to a question without notice asked by Senator Bartlett today relating to immigration and the deportation of a Chinese national.

My question went to a single, individual case. Most of the time in question time there are questions about broader policy issues or questions with a broader sweep, rather than questions about an individual case. But the individual case in question is one that is concerning, both because of the specific individual circumstances and because of the wider situation and reality that it goes to. The question relates to a Chinese national, a man who has been in detention in Australia for some time since his visa was cancelled. The visa was cancelled as the result of an arrest warrant provided by Chinese authorities.

There are a couple of aspects of this that are concerning. The most overarching concern that the Democrats have is that the United Nations Human Rights Committee is investigating this person’s case. That is a process that is open to anybody in any country where that country is a signatory to and has ratified the human rights convention, as
Australia has, and other relevant human rights conventions. It is therefore completely appropriate and reasonable for people who have concerns to seek to have their case examined by the human rights committee at an international level.

It is a matter of great concern to the Democrats that the federal government is still adopting an approach which basically means that the immigration minister is prepared to ignore the fact that a case is still being examined by a human rights committee and will remove a person from the country to a potentially dangerous situation regardless. This should be a concern because the Australian government has spent many millions of dollars on a lot of propaganda talking about a cultural change in the immigration arena. There has been a lot of departmental restructuring and a significant amount of money spent on modifying the so-called cultural problems—the self-described cultural problems—within the immigration department. But the cultural problems stem back to the policies of the Australian government and the laws of the Migration Act. Those things are not changing and this case is a clear example of that.

It cannot be denied that there are serious human rights problems in China. It also cannot be denied that there are serious problems with the integrity of the justice system in some cases in China. In any other circumstance when a person in Australia is sought by the Chinese authorities for a criminal case there would be an extradition process in place. I note with interest that the Attorney-General has recently indicated his intention to adopt a more formal extradition procedure with China. Before such an agreement is adopted it should be, and I hope will be, thoroughly examined by the parliamentary committee on treaties.

The problem with Australia’s Migration Act is that those safeguards, even if we did have a solid comprehensive extradition treaty in place, do not apply because it is simply open to the minister to cancel somebody’s visa if an arrest warrant is provided or if suitable information is provided to make the minister decide that this person’s visa should be cancelled. Then the issues that are normally considered in extradition—whether it is safe to send people back, whether they will get a fair trial, whether there is substance to the charges, whether the identification is correct and it is not a case of mistaken identity, which is certainly a factor in this case as far as I am aware—can be considered. None of those things are considered by an independent body or court. It is simply a matter of the minister making a decision and then determining to try and remove somebody. That is what is happening here.

We had a Senate committee inquiry into these sorts of issues back in 2000. The committee’s report, A Sanctuary Under Review, examined precisely these sorts of cases—that is, people being put at risk of deportation while the government ignores the fact that their case was being examined by the human rights committee. Very serious injustices occurred, including people being deported to China. I have mentioned the case of the Chinese woman who was deported back to China and had her 8½ month old pregnancy forcibly aborted after she was returned. It seems like those sorts of lessons have not been learnt at all. The same risks are being run again.

Question agreed to.

PETITIONS

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

Migration
To the Honourable President and Members of the Senate in the Parliament assembled.
This petition of the undersigned citizens of Australia draws the following to the attention of the Senate:

The unfair legal treatment and public vilification of Dr Mohammed Haneef by the Howard Government has demonstrated that Australia’s Migration Act has totally inadequate protections against abuse of process and violation of basic rights. It is a fundamental principle in any democracy that a person should only be imprisoned following the use of a fair and transparent process, free of political interference.

We the undersigned therefore call upon the Senate to urgently implement necessary reforms to the Migration Act 1958 to ensure proper independent oversight of the use of ministerial powers and to provide adequate protections against politically motivated decisions, violations of natural justice, due process and the presumption of innocence.

by Senator Bartlett (from 106 citizens)

**Defence: Involvement in Overseas Conflict Legislation**

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

The Petition of the undersigned calls on the members of the Senate to support the Defence Amendment (Parliamentary approval for Australian involvement in overseas conflicts) Bill. Presently, the Prime Minister, through a Cabinet decision and the authority of the Defence Act, has the power to send Australian defence force personnel to an overseas conflict without the support of the United Nations, the Australian Parliament or the Australian people.

The Howard Government has been the first Government in our history to go to war without majority Parliament support. It is time to take the decision to commit our defence force personnel to overseas conflict out of the hands of the Prime Minister and Cabinet, and place it with the Parliament.

by Senator Bartlett (from 31 citizens)

Petitions received.

**NOTICES**

**Presentation**

Senator Bartlett to move on the next day of sitting:

That the Senate—

(a) notes that the week beginning 2 September 2007 was National Child Protection Week;

(b) urges all levels of government to commit to making the prevention of all forms of child abuse a priority; and

(c) urges the Government to:

(i) take the lead with a national strategy into child protection involving all levels of government and child protection organisations across Australia,

(ii) establish a national office for children and young people overseen by a national commissioner for children, and


Senator Bartlett to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to provide for ex gratia payments to be made to the stolen generation of Aboriginal children, and for related purposes. Stolen Generation Compensation Bill 2007.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes that California, Washington, Oregon, Arizona, New Mexico and British Columbia, as part of North America’s Western Climate Initiative, have:

(i) agreed to cut greenhouse gas emissions by 15 per cent by 2020, and

(ii) committed to designing an emissions cap and trade scheme by August 2008;

(b) congratulates the leaders of these states and this province for taking action rather than waiting for the federal administration to deal with this serious threat to the environment.
and economy of the United States of America; and

(c) urges Australian state premiers to do likewise, but to aim for a 20 per cent reduction by 2020.

Senator Carr to move on the next day of sitting:

That the Senate—

(a) acknowledges the critical place of manufacturing in the Australian economy, particularly its contribution to business research and development, innovation and exports;

(b) understands that innovation is the key to enabling Australia’s manufacturing sector to compete in a challenging and rapidly evolving international marketplace;

(c) condemns the Howard Government for its failure to sustain the high rates of growth in manufacturing exports and research and development achieved under the former Labor Government; and

(d) calls on the Howard Government to show leadership on this critical issue, end the blame game and work with the states and territories, industry and the research community to build a comprehensive national innovation system in Australia.

Senator Colbeck to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend legislation relating to lands acquisition, and for related purposes. Lands Acquisition Legislation Amendment Bill 2007.

Senator Coonan to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the law relating to communications, and for related purposes. Communications Legislation Amendment (Miscellaneous Measures) Bill 2007.

Senator Abetz to move on the next day of sitting:

That—

(a) the government business orders of the day relating to the Tax Laws Amendment (2007 Measures No. 4) Bill 2007 and two related bills and the Tax Laws Amendment (2007 Measures No. 5) Bill 2007 may be taken together for their remaining stages; and

(b) the government business orders of the day relating to the Judges’ Pensions Amendment Bill 2007 and the Federal Magistrates Amendment (Disability and Death Benefits) Bill 2007 may be taken together for their remaining stages.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) the New South Wales Government is openly canvassing the privatisation of its electricity industry, despite going to successive elections with a promise to keep the industry in public hands,

(ii) electricity generation is responsible for 37 per cent of greenhouse gas emissions from New South Wales,

(iii) public utilities in New South Wales employ 24,000 people,

(iv) privatisation of the New South Wales electricity industry will have serious, irreversible and negative effects on Australia’s response to climate change, employment in regional Australia and government revenue, and

(v) the New South Wales Government was forced to abandon its plan to privatise the Snowy Mountains Scheme by a concerted community campaign; and

(b) calls on the New South Wales Government to also abandon its support for privatising the electricity industry either by sale or lease.

COMMITTEES

Selection of Bills Committee

Report

Senator PARRY (Tasmania) (3.34 pm)—I present the 15th report of 2007 of the Selection of Bills Committee.

Ordered that the report be adopted.
Senator PARRY—I seek leave to have the report incorporated in Hansard.
Leaves granted.
The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 15 OF 2007
(1) The committee met in private session on Tuesday, 11 September 2007 at 4.55 pm.
(2) The committee resolved to recommend—
That the provisions of the Social Security Amendment (2007 Measures No. 2) Bill 2007 be referred immediately to the Employment, Workplace Relations and Education Committee for inquiry and report by 18 September 2007 (see appendix 1 for statements of reasons for referral).
(3) The committee resolved to recommend—
That the following bills not be referred to committees:
• Families, Community Services and Indigenous Affairs Legislation Amendment (Child Disability Assistance) Bill 2007
• Sydney Harbour Federation Trust Amendment Bill 2007.
The committee recommends accordingly.
(4) The committee deferred consideration of the following bill to its next meeting:
• Privacy (Data Security Breach Notification) Amendment Bill 2007.
(Stephen Parry)
Chair
12 September 2007
Appendix 1
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Social Security Amendment (2007 Measures No.2) Bill 2007
Reasons for referral/principal issues for consideration
The bill is being referred in order to give members of the community the opportunity to provide advice to the Senate on how the bill will affect them. As the bill affects Social Security recipients, who are some of the most vulnerable people in our community, it is important that they have the opportunity to voice their opinions. In particular, there is concern as to how the bill affects people with a disability.
Possible submissions or evidence from:
Australian Federation of Disability Organisation, Australian Council of Social Services, National Welfare Rights Network
Committee to which bill is to be referred:
Employment, Workplace Relations and Education Committee
Possible hearing date(s):
14/9/07
Possible reporting date:
19/09/07
(signed)
Ruth S Webber
Whip/Selection of Bills Committee member
NOTICES
Postponement
The following items of business were postponed:
Business of the Senate notice of motion no. 1 standing in the name of Senator Milne for today, proposing the reference of a matter to the Environment, Communications, Information Technology and the Arts Committee, postponed till 13 September 2007.
General business notice of motion no. 884 standing in the name of Senator Bartlett for today, relating to the Tarkine wilderness in Tasmania, postponed till 13 September 2007.
COMMITTEES
Foreign Affairs, Defence and Trade Committee
Extension of Time
Senator PARRY (Tasmania) (3.35 pm)—by leave—At the request of the Chair of the Foreign Affairs, Defence and Trade Committee, Senator Payne, I move:
That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Committee on the examination of annual reports tabled by 30 April 2007 be extended to 20 September 2007.

Question agreed to.

Community Affairs Committee
Extension of Time

Senator PARRY (Tasmania) (3.36 pm)—At the request of the Chair of the Community Affairs Committee, Senator Humphries, I move:

That the time for the presentation of the report of the Community Affairs Committee on the cost of living pressures on older Australians be extended to the last sitting day in March 2008.

Question agreed to.

DAME ANITA RODDICK

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.36 pm)—I move:

That the Senate—

(a) notes the death of Dame Anita Roddick, founder of the Body Shop, award-winning businesswoman, and campaigner against poverty and for the Earth’s environment; and

(b) while celebrating her work, her generosity and her life, expresses its condolences to Dame Anita’s family and her friends and colleagues in the United Kingdom, the United Nations and around the world.

Question agreed to.

INDIGENOUS COMMUNITIES

Senator SIEWERT (Western Australia) (3.37 pm)—I move:

That the Senate—

(a) notes the Australian Public Service Commission’s Management Advisory Committee report Connecting Government: Whole of government responses to Australia’s priority challenges and the Social Justice Report 2006; and

(b) requests the Australian Public Service Commissioner to conduct a confidential survey of staff in Indigenous Coordination Centres to identify current issues in the implementation of the whole of government approach to Indigenous affairs and the challenges being faced in achieving whole of government coordination and service delivery.

Question negatived.

CLIMATE CHANGE

Senator BARTLETT (Queensland) (3.37 pm)—At the request of the Leader of the Australian Democrats, Senator Allison, I move:

That the Senate—

(a) notes the figures released by the Climate Institute, which show that:

(i) from June 2004 to February 2007, greenhouse pollution from the energy sector in Australia increased by more than 22.5 million tonnes, despite high petrol prices and the switch in some power generation from coal to gas due to water shortages,

(ii) 22.5 million tonnes of greenhouse pollution is the equivalent of adding more than 5 million cars to the road or increasing the national car fleet by approximately a third,

(iii) emissions from diesel and aviation fuel continued to grow and rose 0.6 per cent and 0.5 per cent respectively in August 2007,

(iv) consumption of petrol and liquid petroleum gas declined in 2006 but has levelled out and increased 0.3 per cent in May 2007, and

(v) overall, Australia’s emissions, by May 2007, were just 4.5 million tonnes below Australia’s Kyoto target for 2010;

(b) calls for decisive and urgent action to:

(i) put in place an energy efficiency trading scheme to achieve reductions in electricity consumption of 2 per cent a year, and

(ii) substantially increase the availability of alternative and renewable fuels through
abandoning the proposal for excise on these fuels; and

(c) notes that the Mandatory Renewable Energy Target (2010) has effectively been reached and calls on the Government to immediately lift the target to 10 per cent by 2012 and 20 per cent by 2020.

Question negatived.

(Quorum formed)

MATTERS OF PUBLIC IMPORTANCE
Belvedere Park Nursing Home

The PRESIDENT—I have received a letter from Senator McLucas proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The fact that the Government has failed, over 7 years, to protect the health, safety and wellbeing of frail, elderly residents of Belvedere Park Nursing Home.

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

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

The 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 McLucas (Queensland) (3.41 pm)—It is with a very strong sense of disappointment and anger that I propose this matter of public importance. I have a strong sense of disappointment because, once again, public trust in our residential aged-care system has been tested and it has tested badly. I have a sense of anger, and it arises from the fact that this situation could and should never have occurred. The report of the assessment undertaken from 6 to 15 August 2007 is the most appalling and distressing description of what is clearly not care for the residents of Belvedere Park Nursing Home in Victoria. It is the most distressing report I have read in my almost three years of being the shadow minister for ageing.

Whilst not wanting to dwell on some of the findings from the assessment committee, I do think it is important that people understand how bad this facility has been to the 25 residents who live there. Residents and relatives stated to the assessors that the stench in the visitors toilet was so overpowering it made them vomit. Staff had attempted to camouflage the oppressive odour with the use of aromatherapy oils. The living room is filthy, the carpet is frayed, reeking of urine, and furniture is ripped and stained. There is built-up grime on the walls and floors, and an offensive odour permeates the home. A resident was consistently urinating in a handbasin in the community areas. There is delay to call bell response. Some residents call out loudly to attract the attention of staff. However, these calls were observed by the assessment team to go unanswered. A resident requiring palliative care was not receiving pain management. Seven of the 25 residents had lost significant amounts of weight over the last few months. The evening meal commenced at 4.30 pm, meaning that if residents did not have supper they had nothing to eat until 8 am the next day—some 15 hours later.

The assessment team found that a hot water tap delivered only cold water after nine o’clock in the morning. Both of the lifting machines that are used for showering were rusty; one was completely rusty. This line completely appals me: activity resources for residents included childish puzzles, such as Thomas the Tank Engine; activity centres for babies; card games for children; and soft toys. Taped music for children was played for the residents. The recording invited the ‘children’ to sing along with the song. This
was the most distressing report that I had ever read, and then I got to this finding:

One resident was observed in a semi-recumbent position with the over bed table over his head. The resident was attempting to eat the meal and was observed eating with his/her hands.

The person was in bed with a table sitting across their lap. They had slumped to the point that their head was under the over table and they were so hungry that they were attempting to take the food off the plate so that they could eat. This happened this year in an aged-care facility in Victoria. As I said, this could have been avoided.

The company that owns this particular facility has a track record of poor performance in the provision of aged care in Australia, and this government knows that. This man, Graeme Menere, lost the ability to be a key personnel member at an approved provider back in 2000. The facility that he was a part-owner of, Kenilworth, was closed because the then Minster for Aged Care, Mrs Bronwyn Bishop, called it the worst aged-care facility in Australia. You would think this government would have had a bit of an eye to a facility that had been sanctioned, I think, four times between 1998 and 2000 but continued to provide so-called care at Belvedere, clearly without the appropriate monitoring that our older people deserve.

Mr Graeme Menere operated two nursing homes in Victoria: Belvedere Park and Kenilworth Private. Mr Menere operated the facilities under different corporate structures. As we heard in question time today, Mr Menere received a suspended jail sentence in May 1998 for stalking a nursing home employee. Rightly, the government said that this was not a person who should be running an aged-care facility in Australia. Rightly, he lost his status as an approved provider. Rightly, he could no longer be a key personnel member under the act. But we know, from the reports in the media and from commentary that we have heard, that Mr Graeme Menere continued to provide those services by managing Belvedere.

One journalist said to me that he rang up to speak to Mr Graeme Menere and was told, ‘Ring back at lunchtime; he’ll be back then.’ This is a person who is not meant to be near the aged-care facility, but he is continuing to manage the day-to-day operations of this place. Back in 1998 the federal opposition brought Mr Menere’s conviction to the attention of the minister at the time. It was through our actions that we have kept this government watching and making sure that its own Aged Care Act is being complied with.

In 1998, 1999 and 2000, Belvedere Park Nursing Home was found not to be meeting aged-care standards. In January 1999, residents were found at serious risk in relation to 17 separate aspects of their care. From June 1999, Kenilworth Private Nursing Home was found not to be meeting standards. Five sanctions were applied during 2000 and then funding was cut in 2001. The provider appealed the sanctions to the AAT and won. That has just happened again. Hasn’t the government learnt anything about how to ensure compliance with AAT principles when they are ensuring that their act is being complied with?

As I said, the nursing home was widely reported by Mrs Bishop to be the worst nursing home in Australia. In 2001 Kenilworth went into receivership and was closed.

Senator Humphries—By this government.

Senator McLUCAS—By that government—yes, exactly. That is my point, Senator Humphries. You knew back then that this operator needed to be monitored closely. I need to confirm this with Senator Ellison, but from answers given in question time to-
day it seems quite clear to me that from 2003 through to 2007 there has been one unannounced spot check. That is what I learnt at question time today. If that is incorrect, I really do ask you to correct it, but if there has only been one unannounced spot check from 2003 to 2007 the government need to tell us what they have been doing to ensure the wellbeing of the residents of Belvedere Park.

On 15 August 2007, following that very lengthy audit, Belvedere Park was found not to be meeting 42 out of 44 outcome areas. I have never seen a report that was that bad—hence my anger. This government has known that this facility should have been monitored far more closely. As you know, Mr Deputy President, the government is responsible for the standards of care in Australia’s aged-care facilities. I have called on Minister Pyne to explain how the conditions of this facility could be so bad despite the fact that the government has known since at least 2000 that Mr Graeme Menere had an appalling record for aged-care provision. These problems have not occurred just overnight. A showering seat does not become rusty in a short period of time. These things take time and require appropriate monitoring to ensure that the residents’ welfare is paramount.

How many spot checks has Belvedere had since it was sanctioned three times in 2000? What measures did the government take to ensure that Mr Graeme Menere, a disqualified individual, was not involved in the day-to-day running of Belvedere? Has Mr Menere been involved in the day-to-day running of the home? How many complaints has the government received about the home? When were they and what did the government do about them? When did Saitta, the company which owns Belvedere, receive its approved provider status? That is very important. And will Minister Pyne rule out Mr Graeme Menere operating nursing homes in the future? I asked those questions almost a month ago. Minister Pyne has declined to answer them.

Confidence in Australia’s aged-care system has been severely threatened. We have to be absolutely sure that all aged-care facilities are providing the quality of care that Australians expect of our 3,000-odd aged-care facilities. The concern is very much felt by many aged-care facilities which are doing the very best that they can to provide quality care. Quality aged-care providers hate it when something like this is exposed because, in the community’s mind, trust in our aged-care system generally is questioned. Everybody is concerned that the level of care which is being provided in all of the other aged-care facilities is up to scratch. So it is in the interests not only of those older people who live in aged-care facilities; it is also in the interests of the community at large and the aged-care sector that we have an efficient, effective and quality management and monitoring system. It is in all our interests that poor aged-care providers are weeded out. That is what we have to ensure so that confidence in aged care can be restored.

Unfortunately, this is not the only example we have had where an individual who is an approved provider has been operating aged care outside of the act. In 1999 Kerry and Malcolm Bishop, Queensland aged-care providers, were convicted of defrauding the Commonwealth of $139,000 in aged-care subsidies and were jailed. Today they are operating nursing homes in two states of this country and receiving almost $16 million every year in subsidies. When those two individuals were jailed, they simply transferred the ownership of the companies, the approved provider status and the key personnel status to their children. But it is alleged that Mrs Bishop, in particular, is still operating aged-care facilities in Australia. This government has to be drawn to account with respect to these two cases—not just the case in
Brisbane, which is of concern, but on behalf of the 25 people who have been living in what can only be described as horror in that aged-care facility in Victoria. This government has a responsibility to ensure that all of the almost 170,000 people who live in aged care—and their families—are confident that they are receiving the sort of care we all expect they should receive.

Senator HUMPHRIES (Australian Capital Territory) (3.56 pm)—I am pleased to contribute to this debate on a matter of public importance. It needs to be put on the record, unambiguously, that the Australian government does not in any way support or condone or seek to downplay the significance of the kind of neglect and maladministration which Senator McLucas referred to in her speech. Clearly, what has occurred at Belvedere Park Nursing Home is unacceptable and an example of practices which should form no part in the aged-care industry. Although we can agree on that much, Senator McLucas has attempted in this debate to employ, by implication, the argument that, first of all, there is a more widespread problem than there is at places like Belvedere Park and previously at Kenilworth—another facility operated by the same operators; both of them have now been closed down by the federal government—in the broader aged-care industry in Australia. That is a matter which Senator McLucas, with great respect, has not established, and she can only attempt to do so by using an extremely broadbrush approach to tar many other, reputable operators with the actions and omissions of Belvedere Park.

She also suggested that this government has failed by not being aware of the issues going on at Belvedere Park and has failed to act on them. Today in this debate I want to comprehensively indicate that that is simply not the case. Since the connection between Belvedere Park and Kenilworth became evident to the Department of Health and Ageing because of an overlap in persons involved in both organisations, comprehensive steps have been taken by the federal government to ensure that an extremely close eye is being kept on Belvedere Park. I want to outline some of those steps.

It is worth acknowledging, first of all, that the government needs to operate in the context of the administration of the law with respect to aged-care facilities. The laws have been greatly strengthened in the last few years by virtue of reforms undertaken by this government to ensure that higher standards are in place in Australian aged-care facilities—standards which could not have been applied before because there were no such laws underpinning those standards. But, despite that, the government has faced the battle of enforcing standards when there are rights built into laws, appropriately, for persons affected by government decisions to appeal to courts.

I want to come back to the issue that, by implication, Senator McLucas is raising—that the government and its agencies, particularly the Aged Care Standards and Accreditation Agency, must somehow accept responsibility for attempting to enforce standards in respect of these areas and being knocked back by the Administrative Appeals Tribunal on a number of occasions.

Senator McLucas interjecting—

Senator HUMPHRIES—No, on a number of occasions, Senator McLucas, and I will come back to that in a moment. With great respect, you are not well-informed about the background of this matter.

Senator McLucas has asked whether there were any unannounced checks of the Belvedere Park facility between 2003 and 2007. I want to give an answer to that question. There has been a long history of the department monitoring this particular facility.
between 1998 and 2002, there have been five separate occasions when the Department of Health and Ageing has imposed sanctions on Belvedere Park. During that period there were frequent unannounced visits. In fact, on 12 June 2002, there was an unannounced visit; on 7 October 2002, a further unannounced visit; on 15 November 2002, an unannounced visit; and on 12 December 2002, an unannounced visit. Again, in 2003 on 6 June, on 18 June, on 31 July, on 10 September and on 11 November there were unannounced visits. The operators of this facility could not have been under any mistake that they were being very closely watched by this department and its accreditation agency.

In 2004 there were some changes in personnel and an apparent attempt by the home concerned to try to lift its game. However, the agency continued to ensure that there were spot checks on this particular facility. An unannounced visit occurred on 19 January 2005, another on 21 January 2005 and one on 10 February 2005 as well. On 16 and 17 November 2005 there was an accreditation site audit over a two-day period—a comprehensive examination of how well this particular facility was attempting to lift its game. On 28 April 2006 there was a site visit in response to a complaint, where some of the things that Senator McLucas has referred to were raised, and it resulted in a number of actions being taken by the agency to press the particular provider to lift its game. There was a further support contact visit to the home in November 2006, and there was a further visit on 3 July 2007. There is no question and it is simply untrue to suggest that the government has failed to act in respect of this particular home. Comprehensive, repeated actions have been taken to monitor the activities of that home. This indicates great pressure put on these providers to lift their game.

Senator McLucas raises the additional question of the way in which Mr Graeme Menere was involved with this facility, and the suggestion is that Mr Menere’s involvement as an active participant in the administration of this home has been ignored in some way by the department. Again, this is not true. Of course, under the system of health care standards that we inherited, there was no capacity for the department or the accreditation agency to prevent a provider from being accredited if a person with an indictable offence to their name was involved in the administration of that facility. We fixed that in legislation in 2000, effective as of January 2001. The trouble is that, unfortunately, Mr Graeme Menere’s involvement has not been a formal involvement on the record in that home. He has not been a director of that home; he has not been on the board of management of that home.

Senator McLucas interjecting—

Senator HUMPHRIES—Yes, he was involved, Senator McLucas. But the problem that you face in bringing this case against the government is that mere suspicion of those things is not sufficiently strong evidence to convince bodies like the AAT, the Administrative Appeals Tribunal, that we should disqualify this particular provider from operating that home in circumstances where we cannot prove the involvement of Mr Menere in its activities.

Senator McLucas—Because you were not monitoring it!

Senator HUMPHRIES—We were monitoring it. Senator McLucas, please! Nine spot checks in 2002 and 2003; another three in 2005; further site visits in 2006 and 2007. To say that we were not monitoring the facility is the grossest exaggeration, I think, you can possibly come up with.

Senator McLucas—There were no spot checks from February 2005 until this year.
Senator HUMPHRIES—No, there were further checks. You said there were none between 2003 and 2007 before; now you can see that there were some in 2005. There were further checks during that time on the basis of a continuing operation to monitor the activities of this home subsequent to that, and the fact is that it has continued throughout this period. There have been both spot checks and announced visits. It has been comprehensive over several days. The fact is that it has placed enormous pressure on this agency.

However, I want to make one other point. You are obviously claiming that we are too slow to act; that we have not done enough to get this particular provider off the scene. I note that, on 28 August in the North West Advocate, a paper in Melbourne, the state Labor MP, George Seitz, condemned the federal government for the haste with which it closed the home and suggested that it did not follow due process. So, what is it: are we going too fast or going too slow? Are we doing too much or doing too little, Senator McLucas? This government has been proceeding in accordance with the framework of the law; it has acted appropriately and promptly; and the fact that this home has been closed is a testament to the standards that we have put in place to ensure that aged care standards in this country are maintained to a high level. (Time expired)

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.06 pm)—It is disappointing that we are again having a debate about a nursing home which has had to be closed down for appalling treatment of the elderly. Listening to the list of visits, checks and monitoring that the government has been engaged in since 1998 makes me wonder just what the government found when it went to this place and whether the situation which finally caused it to act decisively was not apparent at those other visits. If it was apparent at that time, one wonders why the situation was allowed to go on. It seems to me that if the AAT knocked back perfectly reasonable efforts on the part of the government to sanction the operators then there has to be something wrong with the law. It is clearly too indulgent of those nursing homes which are doing the wrong thing. They are a tiny minority, as we know, but every time something like this comes up it shatters confidence in the sector as a whole. It is one thing to come in here and suggest that there has been enormous pressure put on this agency, as Senator Humphries just said, and another to demonstrate that the government has not been simply indulgent with the aged-care provider in this case.

We want better. We expect those standards to be upheld. I acknowledge that this government brought in those standards and they were missing with the previous government. There is no question about that. I had quite a bit to do with Senator Bishop at the time that she brought them in. I congratulated her then, and I do now, but it seems to me that the government have dropped the ball a bit on this issue and they are not as vigilant on aged care as they might have been back when Senator Bishop began this reform process.

I think we need to look more broadly at aged care, however. There are ongoing concerns about the quality of care available to residents in many nursing homes and hostels, and the government needs to be more vigilant, as I said, to make sure that residents receive the quality of care they are entitled to expect. A number of people of my generation are now unfortunately having to place their parents in aged-care facilities and they are deeply troubled by this process. Some find an aged-care facility which is very good and they are pleased and enormously relieved, but others are deeply anxious about the process because they do not have confidence. It is
incumbent on the government, having subsi-
dised the industry substantially, and rightly,
to provide the best quality care and ensure
that we do not have shysters, such as we
have heard about today, taking advantage of
older people and obviously taking that
money and not using it in those facilities.

There is a history of failing assessments
over years, and we need to get to the bottom
of it, but it is also the case that the com-
plaints monitoring and accreditation system
could be much more transparent and much
more independent of government than it is.
We need more resources to monitor our
aged-care facilities so that they are not sim-
ply glossing over the problems so that they
are not seen to be to blame.

There are major problems looming for fu-
ture governments when it comes to aged
care. With the number of people 80 years and
over set to increase from the level of 680,000
in 2002 to 2.6 million by 2045, there is going
to be a massive increase in demand for aged-
care services and aged-care workers. The
number of people with dementia will in-
crease more than threefold over the next 50
years unless there are effective methods of
prevention and treatment found. Some 65 per
cent of residents in aged-care homes are es-
timated to have some degree of dementia,
and dementia will progressively become the
biggest disability driver of demand for aged
care. We may have solved the problem of
accreditation and standards to some extent,
but there are bigger issues looming. It is dis-
appointing that the government has not
turned its reformist zeal—if I could put it
that way—to some of the problems that are
already with us but are looming as greater
problems into the future.

We need a system that is transparent, takes
into account capital, staffing and operating
costs and can respond to those future needs.
We also need to ensure the money is there to
provide dementia-specific care for people
with challenging behaviours, including fund-
ing for training for all nurses and care staff,
and we need additional supplements to pro-
vide care for residents—(Time expired)

Senator MOORE (Queensland) (4.11
pm)—It is sad that we are back here discuss-
ing this issue, but in some ways it gives us a
chance to work through the particular issues
that must come out of yet another aged-care
home being publicly exposed as not meeting
the standards that have been imposed and
that we have also grown to expect. On the
Department of Health and Ageing website—
and I do look at the department website;
sometimes I think they do not think I do—
are probably the most damning couple of
sentences I have seen on a department as-
sessment. I think it sums up where we are.
On the background to the Belvedere Park
experience it says:

Belvedere Park has the most significant number
of non-compliance outcomes in the history of
accreditation, with 42 out of 44 expected out-
comes under the Accreditation Standards.

In taking this strong action—
that they were taking at that time, which was
the closure recommendation—
the department recognised the significant level of
non-compliance and the immediate and severe
risk to residents.

The department determined that the non-
compliance is widespread, deeply-rooted and
intractable, demonstrating a fundamental break-
down in systems and care delivery.

That would have to be a fairly clear assess-
ment of a total failure of what was happening
at that home.

It is interesting that, while we are talking
about the system of accreditation, the spot
check process and exactly how the depart-
ment are aware of what is going on in the
facilities for which they are responsible—
which we have been asking for many

CHAMBER
years—the department have claimed in the assessment that they have exposed these is-

sues by their standard process. I question whether you can claim to have exposed a

system which is ‘widespread, deeply-rooted and intractable’ in August 2007 when you

look back at the number of visits and discus-
sions that have taken place in the previous
two years, which we have heard Senator

Humphries expose recently. Senator McLu-
cas has pointed out that these are not new

issues with the ownership of this home and

Belvedere itself. There have been alarm bells

ringing. In fact, the same facility in 2002 had

significant failures and suffered as a result of

those, under the then system. They were

found not to have met the requirements of
effective aged care and were punished under
the system.

In the period from 2004 until now, there
has obviously been some changing and some
ongoing discussion. Senator Humphries

proudly claimed it to be ongoing monitoring. I
ask: how can you be confident in ongoing
monitoring which has led to this debacle? I
do not like to use emotive language, because
that does not help the issue, but I am sure
people saw the media coverage of those
stressed elderly residents and their families,
lost and frightened at the exposure that they
were suffering—in the opening of the
wounds and having the home where they
live, where they were expecting care, ex-
posed as not only not providing care and
support but actually being dangerous to their
health. When I saw the television coverage
of those poor, frightened people being taken
away from their home, I asked: is this system
working?

We are not claiming that this process is
widespread across the country, but if in July
2007 we had asked a question about what
was happening in Belvedere we would not
have heard the answers about the problems
there. It was not until August 2007 that the
failure, which was widespread, deeply rooted
and intractable, demonstrating a fundamental
breakdown in systems and care, was discov-
ered. This is the issue. We have accreditation
systems. We have spot-check systems. I can-
not begin to remember, Senator Polley, the
number of Senate estimates questions we
have gone through trying to establish exactly
how it works, when it happens, what stimu-
lates the visits. We want to know what hap-
pens next.

The fact is that for over seven years this
aged-care facility has continued to operate—
people have lived there, families have vis-
ited—and we have now had an assessment
which is the most damning in accreditation
history. What has happened after the visits
that have occurred up until now? How on
earth can the issues, which have been identi-
fied in the audit report which is now on the
departmental website, continue to exist?
They did not happen in a two-, three- or four-
month period. These problems are so estab-
lished and so intractable that they have been
going wrong for a long time. How then can
you have faith in a system when, as Senator
Humphries has pointed out, a facility such as
this has had visits over that time? What kind
of proof, what kind of evidence, what kind of
legal commitment has there been between
the people who have been giving information
about what has been going on behind the
closed doors of Belvedere over last few
years?

Senator Humphries pointed out that in
2004, after they were previously punished
for not meeting standards, there was some
kind of change in personnel and things
seemed to get better. That was a small win-
dow. I do not know the residents who are
living there but one of the things we do know
is that residents who seek support in aged-
care facilities often live there for a long time.
So I wonder whether any of the residents
who have had to find a new home now be-
cause of the outrageous conditions in which they were living were there when the previous process occurred. How much disruption has been going on for those people and their families?

We also know—and you, Mr Acting Deputy President Barnett, have been at inquiries where this has been discussed—that there is not widespread availability of aged-care facilities in many parts of Australia. In Melbourne itself it is not that easy to find a facility where you are comfortable and where you can visit your family easily. It is a difficult and confronting situation. We do not want to run a scare campaign but we want to understand how we can ensure that the system that is in place—and we can read pages of what happens in the system and how it works and all those things—is working properly. In the case of Belvedere, it has not worked. I wonder how anyone could have any faith that it was going to work in the future.

In terms of statements about the government being responsible, it seems to me that if the government can claim success and claim responsibility for the things that are going well, it should acknowledge reality when things do not go well. As we consistently read in the media, when anything is positive and good the government is very quick to get out there with the media opportunity and claim a marvellous success. When things in the same system do not go as well, I think that it is only appropriate that the same government with the same responsibilities acknowledges that it has not gone well. Everyone can talk for minutes on this issue about all the things that are supposed to happen. For the people who were residents at Belvedere Park those things did not happen—and what is going to happen next?

Senator BOYCE (Queensland) (4.19 pm)—This is a very sad motion. The content of the motion is sad, as I think is the attempt by the Labor Party to suggest that the government should have 20/20 hindsight in all conditions. I find it unacceptable that the residents of Belvedere Park had to exist in the conditions that they did. The Labor Party, Senator McLucas and Senator Humphries—all of us—find it unacceptable that that happened. The minister, Christopher Pyne, has said that he finds it unacceptable that those people existed in those conditions. But that does not mean that this government is going to get it 100 per cent right 100 per cent of the time.

If you look at the number of residential aged-care facilities in Australia—and there are more than 4,000 of them—currently 14 of them have sanctions imposed on them. That number of 14 is not acceptable to me, to the minister or to anybody else, but it is a reality in our world. The Labor Party seem to be suggesting not only that the government should be using 20/20 hindsight to ensure that we never, ever have one failure in any way within aged-care residential facilities but also that we should just ignore the rule of law when we do so. It has been pointed out that, yes, the Administrative Appeals Tribunal overturned the sanctions on Belvedere Park imposed by the agency. I do not quite know what anyone living in a democracy, where the rule of law is meant to be of primacy, would suggest we should do to ensure that that cannot happen in the future, that people cannot appeal against decisions made against them. This has to be allowed to happen. I think we should be looking at and concentrating on the fact that this was picked up, that the accreditation and spot-check systems actually picked up Belvedere Park and the problems that it had.

Perhaps we should also look at what has happened in the past. Right now the care and safety of residents in aged-care facilities in Australia is the government’s highest priority. But if you look back to the records in
Victoria, in particular, you can start with the 1994 Gregory report which said:

- 13% of nursing homes did not meet the relevant Fire Authority standards.
- 11% of nursing homes did not meet the relevant Health Authority standards.
- 70% of nursing homes did not meet the relevant Outcome Standards.
- 51% of nursing homes residents were living in rooms with three or more beds.

This was 1994. Let us move on to the Victorian Auditor-General’s report in August 2006, which was extremely critical of the Bracks-Brumby government’s management of the nursing home structure in the public sector. It is worth noting here that Victoria is one of two states that have very strong public sectors of aged care provision—over 6,000 beds in that sector.

Let us now turn to the current situation, where we have expenditure that has gone from $3.1 billion in 1995-96 to more than $10 billion—established, expected—for 2010-11. Senator Allison pointed out that some planning was needed in this area. There has been some planning: there has been a massive increase in the amount of spending in the aged-care area. We no longer have the situation that we had when Mrs Bishop became the minister, where over 200 homes were closed down almost immediately because they were in an appalling condition; there were not any standards for those homes to meet. This has all been established by our government in the last 11 years. Yes, there should not be one failure, ever, in an aged care facility—we are talking about vulnerable people who need every protection we can give them—but that is not going to be reality. The situation has been found, these people are now in better facilities and, as far as the law will allow, the government is currently doing its best to ensure that this cannot happen again.

Mr Menere is certainly not someone that any government in its right mind would want to let back near aged care residents. But the government must operate within the law. Van Diemen’s Land is not there anymore, unfortunately—it would have been a nice option.

Senator Colbeck—It is; it is just called something else.

Senator BOYCE—It is still under the same rule of law. Another area that has changed radically in the past 11 years is the number of aged-care community places. If you look back, you will find that there were virtually no community care places 10 years ago. We now have the situation where the government will spend $1.9 billion on aged care community places over this financial year. That is a growth of more than three times what it was 11 years ago. We have got 42,000 places, as of June 2007, that were available so that people could stay in the community. More and more people are telling us that they do not want to be in institutions any more than necessary—this relates back to the sorts of comments that Senator Ellison was making: let’s change that balance from people being in residences to people being in their own homes with our support.

We have also increased the spending through the National Respite for Carers program from $19 million in 1996-97 to $185.4 million over 2007-08—again providing a chance to support people to do exactly what they want, which is stay in their own homes.

The other area that I think we should mention is the spot check area. This has been strengthened and developed and improved radically. It is now a requirement that every home will receive at least one unannounced visit every year—the current average is 1.75 unannounced visits every year. There will be more than 5½ thousand unannounced visits to homes over the next 12 months. This has
to begin to give us some security in this area. The other point is that unannounced visits had to be legally provided for. *(Time expired)*

**Senator POLLEY** (Tasmania) *(4.27 pm)*—I rise to speak today on aged care as a matter of public importance. In particular, I will focus on the horrors of Belvedere Park Nursing Home. Like other speakers here today, I am disappointed to think that we are once again talking about the negative side of an industry that, overall, has a good reputation.

We could not go through debate today—not even on nursing homes—without government senators getting into the blame game. If all else fails, when they want to take the credit—as Senator Moore said—they will take the credit for all the good things that happen; they are out in the media. But, when it comes to taking responsibility, they run a mile.

Our aged-care system faces a number of long-term challenges. It is estimated that the number of Australians aged 70 or over will double over the next 20 years. A shortage of aged-care workers is also a major problem. Ultimately, the Howard government has done nothing for aged care, except make hollow promises, for the time they have been in government—a long 11½ years.

The sector has suffered for far too long. This is evident in the problems that are emerging within the sector now. Our elderly deserve the right to live in a safe and caring environment. The community needs to be assured that our mums, dads and grandparents are secure and well cared for. Labor believes that healthy and positive ageing must be an achievable goal, because older Australians deserve the best our nation can provide. The Australian Labor Party is concerned about the quality of Australia’s aged care system. Reflecting this, Labor’s election policies will be based on respecting and valuing the enormous contribution to our society by older Australians.

Over the last few months, we have heard of the shocking treatment of the residents at the Belvedere Park Nursing Home. The *Herald Sun* reported on 23 November that at Belvedere Park investigators found faeces smeared on equipment, undated food in the fridge and pathology specimens stored with medicines. Auditors also revealed that there was a sickening stench in the toilets and a lack of incontinence hygiene. This could have been detected earlier if the government had unannounced spot checks. We have heard from government senators about things back in 2002 to 2005 but, if those unannounced spot checks were actually working, we would not be here having this debate now.

There was serious, widespread, systematic noncompliance at this aged-care facility—and that was reported at the AAT hearings. The *Age* also reported that Belvedere Park failed 42 of 44 aged-care standards. Inspectors found that, amongst other things, the home had failed to properly manage residents’ medication, nutrition and hydration. Their families had complained that they were not given access to basic toiletries, such as toothpaste, toothbrushes and soap. Other reports claim that staff at the Belvedere Park aged-care home had no effective infection control system in place, medicine cabinets were left unlocked and medicine administration lists were signed off before being given to residents.

Confidence in Australia’s aged-care homes has been seriously eroded due to the Howard government’s inept monitoring of aged-care facilities. What I find most upsetting after reading the horror reports of the Belvedere nursing home is the indignity the residents were faced with. We are talking about people’s homes. The residents were
literally treated like small children and given childish puzzles, including Thomas the Tank Engine, activity centres for babies, card games for children and soft toys. Furthermore, tape music for children was also played for the residents. The recording invited the children to sing along with the song. This is completely unacceptable. Our elderly are not a burden and they deserve the very best care that we can provide. In fact, we have a responsibility to ensure that they have the best possible care. Labor’s policies recognise that elderly people are vulnerable to abuse, including neglect, financial exploitation, psychological manipulation and physical and sexual abuse.

Labor is firmly focused on the long-term future of aged-care provision—not just from one election to another. Labor is acutely aware of the workforce shortages constraining Australia’s aged-care sector. Attracting and retaining aged-care workers, including nurses, is a looming crisis which must be addressed. Caring for older family members is also complex. Access to services such as community and respite care that can assist frail older people is essential. In 11½ years the Howard government turned an 800 aged-care bed surplus in 1996 into a 4,613 shortfall by June 2006—what a record! Labor is committed to providing a guaranteed, universal and integrated retirement incomes system that is secure, stable, simple and fair. Labor will develop high-quality care standards for aged-care providers so that they deliver high-quality outcomes.

As has been said by other speakers from this side of the chamber, it is regrettable that we are once again here talking about aged care and the neglect of our elder Australians. Unfortunately, when this is raised in the media, it reflects across the whole industry—though we know that the majority of those who work in the industry use world’s best practices and do the best that they can and with the respect that older Australians deserve. We should be providing the highest quality care—as I said, it is our responsibility. The Howard government, for a variety of reasons, has not accommodated this. I think this once again clearly demonstrates how the Howard government is out of touch with the community, with what is expected and with what our obligations are as elected members.

The blame game is once again the fallback position for government senators here today. If all else fails, they blame a state Labor government or even go back through history—go back to 1994. We are in 2007, and this government has to take responsibility for its failings. (Time expired)

Senator ADAMS (Western Australia) (4.34 pm)—I would say in reply to those on the other side of the chamber that I think it is important for you to note—and this is not about the blame game—that, in 1996, there was no independent oversight of the quality of aged-care homes. Now there is an independent agency, the Aged Care Standards and Accreditation Agency, which accredits every aged-care home—and all homes will receive at least one unannounced visit every year. I too am very disappointed with what has come up from the investigation into the two aged-care homes, which my colleagues, Senator Ellison in answering a question in question time today, and those opposite have described very adequately.

I think it is important for me to be positive about where we are going and what is available at the moment. This government has certainly recognised the failings. It is very upsetting to know that these things happen in some of our aged-care homes. We have put different measures in place to ensure that these things do not happen but, if they do, that they are rectified very, very quickly—as has happened with this last incident. As at the end of June 2006, almost 3,000 residen-
tial aged-care homes had been accredited. The Australian government has acted to protect people in aged-care homes from sexual and serious physical assault. The Australian government’s response to abuse allegations totals more than $100 million over four years. With legislation passed this year, we have also strengthened protection for accommodation bonds paid by aged-care residents, which I think is a very important issue—and it also prevents abuse.

The Australian government has in place a quality framework for residential aged-care homes which includes accreditation, building certification, the Aged Care Complaints Investigation Scheme and user rights programs. Residential aged-care services are required to be accredited to receive subsidies from the Australian government. As at 30 June 2007, only 2.9 per cent—85 homes—were identified as having some noncompliance. Aged-care homes are monitored by the department and the agency.

In 2006-07, a total of 6,329 visits were undertaken by the agency, including 3,627 unannounced visits—otherwise known as spot checks. The agency makes at least one unannounced visit to each home every year. Issues of concern are acted upon promptly and monitored until compliance is achieved. Poor care is never acceptable whatever the circumstances and in these cases sanction action may be taken. We have had a number of examples of that from earlier speakers.

There are currently sanctions imposed in respect of 14 residential aged-care homes out of a total of nearly 3,000 aged-care homes around Australia. The care and safety of residents at all aged-care homes remains the highest priority for this government. Concerning increased protections, recent amendments to the Aged Care Act 1997 put in place a more robust aged-care complaints investigation process and established a new independent Aged Care Commissioner from 1 May 2007. They also require compulsory reporting of incidents of sexual and serious physical assault in residential aged care, with protections for approved providers and staff who report from 1 July 2007. It is important that those opposite understand the new Aged Care Complaints Investigation Scheme, which has the scope to investigate any possible breach of an approved provider’s responsibilities and take action where approved providers fail to meet their responsibilities.

On 1 May 2007, the Minister for Ageing appointed a new Aged Care Commissioner, Rhonda Parker, who will provide an independent review mechanism. I know Rhonda Parker personally. She is from Western Australia. She has a very long history in aged care and in her former employment was as a minister in the Court government covering the portfolio of Families and Children’s Services, Seniors and Women’s Interests. We could not have a better person to act as the commissioner. As the new Aged Care Commissioner, she has the capacity to examine complaints about decisions of the department under the investigation scheme and, as a result of a complaint or on her own initiative, the department’s processes for handling matters under the investigation principles. This is very important. This system is certainly going to improve any problems we have had in the past.

Also, on 21 December 2006, the Australian government amended the Aged Care Principles 1997 to give effect to police check arrangements that require approved providers to ensure that certain staff and volunteers in Australian government subsidised aged-care services who have unsupervised access to care recipients are screened every three years for any criminal history. This is certainly a big improvement too.
We go on to compulsory reporting and whistleblower protection. From 1 July 2007, approved providers must have systems in place to ensure staff report allegations of sexual and serious physical assault to the approved provider. Providers are required to report this information to the police and to the Department of Health and Ageing.

The Australian government is providing an additional $8.6 million over four years to increase the number of spot-check visits by the agency. Since 1 July 2006, every home has received at least one unannounced visit a year and the average number of overall visits was increased to 1.75 visits per home per year. I do believe that this government is doing the right thing for aged care. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Order! The time for consideration of the matter of public importance has expired.

COMMITTEES
Foreign Affairs, Defence and Trade Committee: Joint Reports

Senator PAYNE (New South Wales) (4.42 pm)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present two reports of the committee, together with the Hansard record of proceedings and submissions received by the committee, and move:

That the Senate take note of the reports.

On behalf of the Trade Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I wish to make some brief comments on the committee’s report: Australia’s trade with Mexico and the region.

Since the commencement of diplomatic relations in 1966, Australia and Mexico have developed a modest but important economic relationship. Mexico is Australia’s largest trading partner in Latin America and our 33rd largest trading partner overall. Australia sits as Mexico’s 26th largest trading partner.

In examining the state of economic relationships between Australia and the other nations of the region, the committee noted the growth of trade and investment ties, albeit from relatively small bases. Encouraging expansion potential and progress has been identified in areas such as energy, mining, agribusiness, food commodities and the provision of professional services, but there is not a lot of conclusive data about movement in this area.

Increasing imports and a burgeoning education sector have seen the Australia-Mexico bilateral relationship grow significantly in recent years. In May 2006, the Hon. Alexander Downer MP, Minister for Foreign Affairs, and his Mexican counterpart established a joint experts group to explore possible directions for economic relations, including the possible negotiation of a free trade agreement, and that has reinforced the importance of this relationship to both nations.

Australia’s main exports to Central America are dairy products, in particular milk, cream, butter and cheese. Whilst still modest, two-way merchandise trade with Central America has increased significantly over recent years.

In summary, the committee has concluded that, despite the challenges of distance, poor transport links, language and cultural differences and unfamiliar business environments, there is still significant potential within the Australia-Mexico trade relationship and the trade relationships between Australia and the region. As such it did become clear to the committee that a free trade agreement with Mexico is a highly desirable outcome to the
quest of both governments to progress and strengthen this relationship.

There are challenges involved for both countries in pursuing a free trade agreement. Agriculture, for example, continues to be a sensitive area, and the committee has recommended that issues relating to agriculture should be determined at an early stage of any negotiations. The committee also acknowledges that current political and business conditions in Mexico are perhaps not what you would describe as ideal for an FTA and there may be some time needed to develop conducive conditions.

In conclusion on this report, the committee would like to extend its sincere thanks to all of the officials of the Australian Embassy in Mexico City that assisted the delegation with the visit by the trade committee to Mexico. I was not part of that delegation but I understand from my colleagues who were that it was a very productive engagement. It proved very successful in terms of contacts made, opportunities identified and challenges addressed. The committee also wants to acknowledge and thank the officials and business people in Mexico for their hospitality and input.

In closing, the committee is grateful to all those who gave evidence to the inquiry. I also want to place on record that in tabling this report I do so on behalf of Mr Baird, the member for Cook, who is the Chair of the Trade Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. I note that he has provided exceptional service in his role as chair of that subcommittee and that he retires from parliament in this round of elections. I think his contribution should be noted.

I commend the report to the Senate.

The second report of the Joint Standing Committee on Foreign Affairs, Defence and Trade is the report of the inquiry into Australian Defence Force regional air superiority. It is a quite different report in nature from the preceding one.

The matter of Australia’s regional air superiority has been the subject of both considerable discussion and commentary since 2000. The strategic guidance which is outlined in Defence 2000: our future Defence Force, which is of course known as the Defence white paper, and the acquisition and phasing out of equipment proposed in the Defence capability plan 2004-2014 have provided the basis for much of the debate amongst those key stakeholders.

The Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade first examined the issue of Australia’s air combat capability in its Review of the Defence annual report 2002-03. Further to that inquiry, in June 2005 the Senate resolved that the Joint Standing Committee on Foreign Affairs, Defence and Trade: ...

inquire and report into the ability of the Australian Defence Force to maintain air superiority in our region to 2020, given current planning; as well as any measures required to ensure air superiority in our region to 2020.

Although the committee has not made recommendations in this report, the report examines the various issues and the very diverse views presented during the two public hearings and indeed in the 41 submissions received during the term of this inquiry.

Strategic considerations, both global and regional, underpin Australia’s future regional air superiority. Concepts such as a balanced force structure, asymmetric threats, and an assessment of regional military capabilities are key drivers in developing a balanced ADF. Importantly, the committee does note that Australia must continue to monitor developments in the region when considering new and improved air combat capabilities.
The ADF’s current capability planning is guided by the white paper and subsequent defence policy updates released in 2003 and 2005. In examining the existing guidance and the planning for a future air combat capability, the committee notes the introduction of a new platform is underpinned by strategic policy, cost-effective delivery of capability and the constraints of providing a well-balanced ADF.

A key decision in transitioning to a new air combat capability is the withdrawal from service of the F111 in 2010. A number of commentators have indicated that they believe this retirement date is premature, and the report discusses the aircraft’s technical and maintenance issues in extending its in-service life past 2010. The report does conclude that industry could support the F111 until 2020 but there are risks, including the ability to sustain critical skills amongst the current workforce. Further, the committee notes the increasing severity of the risk profile in extending the F111 beyond 2010.

The ADF’s future capability planning is examined in the report, with particular attention being given to the acquisition of the Joint Strike Fighter, or JSF. The unique nature of the JSF project, and Australia’s decision to join the international program, provides opportunities for Australian industry that would not be available if a more traditional capital acquisition strategy had been undertaken.

However, the committee notes that any delay in the Joint Strike Fighter project would be unacceptable. We also note the government’s decision to purchase the Super Hornet aircraft to address any potential capability gap which may arise during the transition to the JSF.

The committee concludes its report with a comparative analysis of the Joint Strike Fighter and the FA22 Raptor covering issues such as capability, availability and cost. Irrespective of whether the FA22 Raptor is available for export sale to Australia, the committee notes the purchase of the JSF is considered by Defence to provide the most effective and efficient air combat capability whilst maintaining a balanced ADF.

In conclusion, again I want to thank all of those who contributed to this inquiry through submissions and discussion with the committee. I would also like to thank committee members and the secretariat staff for their efforts throughout the inquiry process and, in addition, the Defence representatives at the most senior levels for their assistance with this particular inquiry.

I commend the report to the Senate.

Question agreed to.

Migration Committee Report

Senator POLLEY (Tasmania) (4.51 pm)—On behalf of the Joint Standing Committee on Migration, I present the committee’s report Temporary visas ... permanent benefits: ensuring the effectiveness, fairness and integrity of the temporary business visa program, together with the Hansard record of proceedings, the minutes of proceedings and documents presented to the committee. I move:

That the Senate take note of the report.

The 457 program has been somewhat in the news recently, due to various events, so it is an opportune time for us to be tabling this report and providing a number of recommendations to improve the program. The temporary business visa program—they are more commonly referred to as 457 visas—was established to address areas of skills shortages within Australia. No-one can deny that there is a skills crisis in this country. A serious lack of investment by this government has created a situation where the 457
visa program is required to deal with the shortages.

The problem comes when a program is managed in a manner that leaves it open to abuse by those seeking a source of cheap labour rather than a means to fill a skills shortage. The 457 visa program should never overshadow the need to invest in the training and skills of working Australians. That is why Labor has set out a broad-ranging program investing in an education revolution that will help relieve the skills shortage. From trades training schools in high schools to $111 million to encourage more maths and science teachers, Labor understands how important it is to address future skills shortages while at the same time ensuring that we are able to deal with the current skills shortage.

From the outset, let me say that Labor agrees broadly with the report that has been tabled. Labor supports the recommendations detailed in the report, although we feel that some have not gone far enough and too many of them should have been in the original 457 program. The lack of an explicit recommendation requiring migrants to receive market rates of pay is the most glaring omission. That the 457 program can still be used to undercut local market rates of pay and conditions rather than to fulfil legitimate skills shortages is bad for visa holders and bad for Australian workers. Ultimately, it has the effect of driving down wages and conditions and potentially taking jobs away from working Australians, and that is something that this program should be avoiding.

Whilst this report recommends many improvements, it is very important to point out its shortcomings. A mechanism for ensuring market rates of pay for workers on 457 visas would address the most pressing shortcomings that we feel exist in the current scheme. It is striking that there is no reference to market rates of pay, because the principle of equal pay for equal work is a fundamental one. The 457 program is still not operating under this principle; indeed, it makes it easier for employers to underpay their 457 workers, compared to Australian workers. A simple requirement that employers pay their 457 employees the same as an Australian working in the same position would rectify this.

It is extremely concerning to us that there have been widespread reports in the media about the abuse of 457 visas. The workers coming here on 457 visas have the potential to be exploited, and a number of cases of abuse have been reported in the media. This is unacceptable. I will use the example of Filipino farm supervisor Pedro Balading, who was working in the Northern Territory. It is alleged that he died after being thrown from the vehicle he was riding in. It is further alleged that he was brought to the country under false pretences to work in a job that was not the one he was told he would be working in. He then faced the indignity of having his wages garnished for his living expenses—something that should never have occurred. Mohammed Nayem, from Singapore, was forced to work a 50-hour week, yet was paid for only 38 hours. As well, he had $100 deducted from each pay packet for his living arrangements—that is, to share a converted office with five other men.

These men do not deserve to be exploited like this. It is these abuses under this program that most concern us, and this report does not go far enough in addressing them. I believe that, for the 457 program to operate effectively and to ensure that the workers coming over here are properly protected, a much stronger oversight capacity needs to be exercised. As I mentioned earlier, the recommendations in this report are welcomed, but some do not go far enough. Labor is worried about the reported abuses, and we are
also concerned that there is little scope for adequate oversight in the 457 program. That is why we are pleased to see the committee has recommended that a comprehensive complaints mechanism be available for 457 workers so that they can confidentially report concerns about their employment conditions. It is of the utmost importance that individuals can lodge a complaint without the fear of retribution from their employer. This simple facility should have been part of the original scheme, but it was not. Whilst this recommendation is good, a complaints mechanism is useless unless it is widely available so that 457 workers are fully aware of their rights and responsibilities before they start their job. A complaints mechanism would allow workers to record any instances of employers abusing their employees and provide a greater degree of safety for employees.

So what is Labor’s answer? Under a federal Labor government, employers would be required to pay market rates of pay to their employees. A fair system would ensure that 457 visas were used for genuine areas of skills shortage—which, after all, is the main aim of the program. It would also ensure that employers sponsoring 457 workers are not undercutting Australian wages and conditions. Australia needs a temporary work visa program, but it has been deliberately poorly managed by this government.

The skills shortage, as I mentioned earlier, is a real issue for many industries, and the 457 visa program can help address this in the short term. However, in the long term, nothing can substitute for large-scale investment in training. The existing 457 program has the hallmarks of the Howard government: it is unfair and poorly thought-out. Labor would make the changes that I have laid out in my speech to make this program beneficial not only to all the Australian employers who need a skilled workforce but also to migrants hoping to establish themselves in Australia.

We commend this report to the Senate because it addresses a number of concerns that have been expressed with regard to 457 visas, but we point out that it does not go far enough. Also, I believe that a large number of these concerns should have been addressed in the original program rather than waiting until this report was completed to point out the shortcomings.

I thank all those who provided submissions to the inquiry. We were well able to gauge the mood of the public throughout the course of our hearings and we heard a wide range of opinions. I thank the committee secretariat for all the work that they have done in helping get this report together. I also thank the other members of the committee who contributed to the final report. I hasten to note that, during the hearings, witnesses made statements which we could not have verified because the witnesses felt too intimidated to appear before us. I commend the report to the Senate.

Senator BARTLETT (Queensland) (4.59 pm)—As a member of this committee—indeed, I think I have been a member of this committee since I first came into this chamber 10 years ago—I welcome this report, which is a unanimous report. There are two paragraphs of additional comments from the Labor members of the committee, but it is a unanimous report. It is also a comprehensive report, and one that I certainly endorse as the Democrat representative on the committee. I think it is a valuable contribution to the debate around 457 visas and, indeed, temporary business and skilled migration in general. For people who are interested in the substance of the issue, as opposed to the politics of it, I recommend they read the report to get the full detail of the reality of how the program works, the reality of the requirements that currently apply, some of the changes that have been put in place in recent times and the facts, basically, about the 457 program.
I would like to make a few key points on the issue. Let me start, though, by expressing my regard for the work of the committee as a whole and the secretariat. The issue of 457 visas is of course a politically contentious one. Skilled migration in general, temporary migration and migration across the board are always politically contentious. The fact that the committee, particularly this close to an election, managed to come up with a unanimous report and a constructive contribution to this issue does reflect very well on the committee—and, indeed, on the chair, Mr Randall, the Liberal Party member for Canning in Western Australia. I think it should be noted that the committee approached the issue constructively. The report is a constructive one. It is a unanimous one, as I said, and given the politically contentious nature of the topic, that is to be acknowledged and welcomed—particularly, I might say, given the potentially divisive nature of the topic, that is to be doubly welcomed. And it should be reinforced: it is a unanimous report.

The report contains 25 recommendations on how the program could be improved with regard to the 457 visas and the temporary business visa program in general. Those recommendations are to be welcomed, and they are ones that I endorse. But it reinforces the core point. It is one the Democrats have tried to make, and I have tried to make repeatedly whenever concerns have been raised about 457 visas and temporary skilled migration, that there needs to be a more rigid enforcement of the program to prevent exploitation of vulnerable people. Temporary migrant workers are potentially extremely vulnerable in some circumstances, not least because of the wider powers the minister has under the Migration Act. That is a wider matter but, as Dr Haneef’s case showed, being here on a temporary skilled visa does not necessarily give you a lot of protection if you get caught up in political point-scoring opportunities for the minister and the government of the day. That is a wider problem with the Migration Act and the extreme discretion and powers that go to the immigration minister. It is not unique to the 457 visa program, or any other visa for that matter—temporary or permanent. Anyone here on any sort of visa is subject to little protection if they get caught up in a minister wanting to throw their weight around or score some points.

As with any area, if you look at the core aim of the program, there are problems there. We should work at fixing the problems, not using them as an excuse to attack the whole program. My view has certainly been that temporary skilled migration makes a valuable contribution—indeed, it currently makes an essential contribution, not just to the Australian economy but to the adequate provision of services for people in the Australian community and to the continual, very dynamic and changing nature of the Australian social fabric.

I had been concerned with some aspects of the debate, and some of the concerns raised about 457 visas and temporary skilled migration, that it has been used as a Trojan horse to attack any sort of migration program that brings people over here to work. There is a long history in Australia, including from sections of the labour movement going back to the 19th century, of seeking to play on community fears about migrants and attack migrant workers as driving down wages and conditions as a matter of automatic consequence. Certainly, if there are not adequate protections in our workplace laws or not adequate enforcement of them, then there is that risk that it can be used as a deliberate way of undercutting labour costs. But that is an argument for ensuring proper protection of basic employment conditions; it is not an argument for not allowing migrant workers to come here.
The committee itself, in the report’s introduction, specifically emphasises its unanimous view that the 457 visa is a skilled visa and it should remain a mechanism for skilled workers; it should not be used to meet unskilled labour shortages. I have views, as I have expressed in this chamber—which are not necessarily shared by others in my party, let alone in other parties—that labour shortages in some regions are such that we should be looking at programs to bring in unskilled labour, particularly from Pacific island countries. There is a separate committee report into that matter, which you would be well aware of, Mr Acting Deputy President Barnett. If we are talking about specific, regionally based or market based gaps in unskilled labour that are not able to be filled by other mechanisms, I think we should be examining a program looking at unskilled labour from people in our region. But we should not be using the skilled visa program as a backdoor way of filling those market gaps—not least because it breaches the actual conditions of the program and it encourages lax enforcement of the program.

One of the reasons there has been a spate of more problems with the 457 visa program has simply been the massive increase in the numbers. I do not have a problem with a massive increase in numbers per se if the demand is there. I believe migration has been of massive benefit to the Australian community economically, socially and culturally. I totally repudiate any of the suggestions that migration of any size, such as migration up to the current levels, is some sort of economic or social negative to Australia. If the programs are managed properly, if we provide adequate settlement assistance and other support for migrants when they come here—and that includes their families—then there is no doubt that it is a net benefit to Australia.

The simple fact is that there has been a huge increase, a huge leap, over the last 10 years—particularly in the last two or three years—in the numbers coming in on these visas, and the figures on page 15 of this report show that. This is particularly so when you count the secondary visas, which is partners or spouses, which have gone from 33,000 in 2001-02 to over 70,000 in 2005-06 and the numbers are even greater than that in 2006-07. This is a huge leap in a very short space of time, and it is not surprising in that circumstance that there has been an increase in the number of unscrupulous employers who ignore their conditions and requirements under the program and seek to exploit people.

The solution is, as this report provides through its recommendations, to close the loopholes, prevent exploitation, ensure proper enforcement, ensure adequate protections and maintain the program. That is what this report recommends, and it in no way should be seen as excusing a great failure on the part of this government in allowing the skills shortage to develop. It is a disgrace that that has happened through underinvestment in higher education and in skills and training development across the board. The Democrats have continually condemned the government for that over the past 10 years, and we will continue to do so. We will use our role in the Senate to maintain that pressure on whoever wins the next election. However, that should not be used as an excuse to attack migration per se. It is a dual role: we need to constantly strengthen the skills of those who are here, including those recently arrived migrants, whilst also enabling a vibrant migration program to assist in continuing to develop economic prosperity in a balanced way.

This is a positive report and one that the Democrats endorse. I strongly support the contribution of migrants, permanent and
temporary, to the Australian society and its economy. If no-one else is going to speak on this document now, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Community Affairs Committee

Additional Information

Senator NASH (New South Wales) (5.09 pm)—On behalf of the Chair of the Community Affairs Committee, Senator Humphries, I present additional information received by the committee in its inquiry into the provisions of the Health Insurance Amendment (Medicare Dental Services) Bill 2007.

Legal and Constitutional Affairs Committee

Additional Information

Senator NASH (New South Wales) (5.09 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 inquiries into the provisions of the Migration Amendment (Sponsorship Obligations) Bill 2007 and Indigenous stolen wages.

Senator BARTLETT (Queensland) (5.10 pm)—I move:

That the Senate take note of the documents.

Although I spoke on this issue only yesterday, I want to take every opportunity to repeat the key points I made then. Fresh information has been tabled. I do not have that information before me, but I understand that it is correspondence relating to one of the recommendations in the Legal and Constitutional Affairs Committee report. I want to keep emphasising the issue of stolen wages at every opportunity in this chamber because of its significance and urgency.

The Legal and Constitutional Affairs Committee tabled its report into Indigenous stolen wages in December last year. It was a unanimous report and contained just six recommendations. It was backed by Democrats, Greens, Liberal and Labor senators. I want to repeat the fact that the federal government has yet to respond to those recommendations, despite their being very small in number and very simple to implement. Even if the government does not want to implement the recommendations, it would be very simple for it to come to a decision on how it felt about them.

I want to express my gratitude for the comments made by Senator Brandis yesterday, as the duty minister in the chamber at the time. As a former member of the committee who was a member when the inquiry into stolen wages was undertaken, he said that he would personally follow up on a response from the government and get it provided as soon as possible. I acknowledge that and thank him for that undertaking, which he was not required to do by any means. It is because of his participation in this inquiry and his shared concern about the gross injustice that was revealed through it that he undertook to follow up, as a matter of urgency, where the federal government’s response was. So I welcome that.

I am using the opportunity of presentation of further information—which is, in effect, a response of sorts from a ministerial council—to repeat and reinforce this request: where is the federal government’s response? It is nine months since the report. It is not good enough that a response has not appeared yet. The correspondence that the committee received from the ministerial council is in response to one of the committee’s recommendations, that that ministerial council take an overview role on the progress of various state governments in examining their potential exposure to, or involvement in, Indigenous stolen wages. Frankly, it was a pretty poor response.
However, I am pleased that they considered the committee’s recommendation—that is good to see—and that they saw fit to respond to the committee about it. That is welcome and I acknowledge that. They have basically decided that it is a matter for individual governments, not for the ministerial council. That is unfortunate because I think there is an opportunity here for members of the ministerial council to keep each other honest, to monitor progress in each area and to take some overarching leadership on an issue that should be of concern at a national level. Be that as it may, it has not happened. At least it has meant that, via the ministerial council, all governments have been made more aware of the issue and have been given some extra incentive as individual governments to look at the issues raised by the Senate committee report and its recommendations.

I believe that, wherever the opportunity arises, it does need to be repeated that the issue of stolen wages is a grievous injustice. The Senate committee report into Indigenous stolen wages has detailed this injustice. It was an injustice perpetrated over many decades. Its consequences are still being felt today. If you work for a lifetime or even for a decade and are not given access to some or significant components or all of the wages you were entitled to, not surprisingly, you are a lot less well off than you would otherwise have been. Impoverishment is something that is passed on. The disadvantage that flows from it is passed on to your descendents as well. Lost life opportunities, intergenerational transfer of disadvantage and impoverishment occur. So the consequences are still being felt today, and the knowledge of the injustice is certainly still being felt today.

I think it is particularly apt that as a Queensland senator I take the opportunity to comment on this today, when we are seeing the next step being taken in the formal transfer of responsibility from the outgoing Queensland premier, Mr Beattie, who I wish well in his retirement, to the new Premier, Ms Anna Bligh, who I wish well in her new responsibility. This is an opportunity for a new administration, a new broom, to fix up some of the areas where the previous Premier fell short of the mark. Indigenous stolen wages is definitely one area where the Queensland government fell very, very far short of the mark—possibly not as far short of the mark as some other state governments, who have barely moved on the issue at all, but still far short of what any credible assessment would show as a just and fair response to what the state government has acknowledged was a grotesque and outrageous injustice in the misappropriation of vast amounts of the wages and entitlements of Aboriginal and Torres Strait Islander Queenslanders. I urge Ms Bligh to show that there is a new broom and a willingness to fix up past mistakes and address unfinished business. Acting on this issue would be a very significant way of demonstrating that—and I would also suggest it would be a politically easier one. The injustice is absolutely clear-cut. The extent of it, whilst unable to be demonstrated down to the last dollar and cent, is certainly very, very large. The mechanisms for making restitution are available. It can be done and it should be done. I urge her to take the opportunity to do that.

I also remind the Senate that the federal government have a role here, not least in having the simple courtesy to respond to the Senate committee’s recommendations which, nine months down the track, they have yet to do. I think it bears repeating every single time when it is appropriate that it is actually a requirement under standing orders for governments to respond to Senate committee reports within three months—not nine months—and particularly when the recommendations in reports are small in number.
and very simple. It is not good enough whenever the government falls short; it is certainly not good enough on this issue where the response is simple and the injustice is major and urgent. So I repeat my plea to the federal government and the minister to respond as quickly as possible. To re-emphasise that point, I also remind the Senate that it unanimously passed a motion that I put forward back in June—on the 21st, from memory; so we are now nearly three months on, even from that point—that requested the federal government to respond to the committee’s recommendations by the first sitting week in August. The government have not only not done that, and are now a month overdue from that extra deadline; they have not even bothered, as far as I am aware, to inform the Senate why not.

I think that displays the depth of the federal government’s contempt for the Senate. Even though they control it, they show no respect for it. Their own senators supported that motion that requested the federal minister to respond to the Senate committee report by the first sitting week in August. It is not particularly common—in fact, it is quite uncommon in my experience over the last 10 years in this chamber—for the Senate to pass a specific motion formally requesting a response to recommendations by a specific date. Yet, as I said, that is what the Senate unanimously did. Not only did the minister not respond, but he did not even see fit to bother explaining to the Senate why he had not or to give an indication of when the response might appear. That is simply unsatisfactory. The lack of courtesy to the Senate I can live with—I am getting very used to it after the last couple of years. But I am not prepared to accept the lack of courtesy and respect shown to the Indigenous Australians whose life experiences are detailed in this report and who have been the victims of such gross injustice, also detailed in the report. The minister must respond. And I repeat my request, indeed the Senate’s request, that he do so as a matter of urgency.

Question agreed to.

Scrutiny of Bills Committee Report

Senator STERLE (Western Australia) (5.20 pm)—At the request of the Chair of the Senate Standing Committee for the Scrutiny of Bills, Senator Robert Ray, I present the committee’s ninth report of 2007. I also lay on the table Scrutiny of Bills Alert Digest No. 11 of 2007, dated 12 September 2007.

Ordered that the report be printed.

Senator STERLE—I move:

That the Senate take note of the report.

I seek leave to incorporate Senator Robert Ray’s tabling statement in Hansard.

Leave granted.

Senator ROBERT RAY (Victoria) (5.20 pm)—The incorporated statement read as follows—

In tabling the Committee’s Alert Digest No. 11 for 2007 I would like to draw the Senate’s attention to a concern that the Committee has in relation to the exemption of legislative instruments from the disallowance provisions of the Legislative Instruments Act.

The Higher Education Endowment Fund Bill 2007 provides that a number of Ministerial determinations or authorisations are legislative instruments but are not subject to disallowance under section 42 of the Legislative Instruments Act. The bill also provides for the making of Maximum Grant Rules which, while a legislative instrument, will not be subject to disallowance. The explanatory memorandum to the bill provides no justification for the exemption of these instruments from disallowance. It simply states that this is a policy decision which ‘has the approval of the Attorney-General’.

Similarly, as outlined in the Committee’s Ninth Report of 2007, in response to a query from the Committee about the exemption of instruments
from disallowance in the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007 the Minister for Families, Community Services and Indigenous Affairs indicates that ‘the Attorney-General has granted an exemption for these determinations from the Legislative Instruments Act.’

The Committee is perplexed by these assertions. The Legislative Instruments Act provides for the Attorney-General to issue a certificate determining whether an instrument is a legislative instrument or not, but it makes no provision for the Attorney-General to exempt an instrument from the disallowance provisions of that Act. It is therefore unclear to the Committee under what authority the Attorney-General may grant such exemptions or approve policy decisions that provide for such exemptions.

The Committee takes the view that Parliament is responsible for determining whether a legislative instrument should be exempt from the disallowance provisions of the Legislative Instruments Act, not the Attorney-General or Minister. Where provisions express a policy intention to exempt instruments that are legislative in character from the usual tabling and disallowance regime set out in the Legislative Instruments Act, the Committee expects to see a full explanation in the explanatory memorandum justifying the need for the exemption. Only with this information at hand can Senators make an informed decision about the instrument that they are being asked to exempt from Parliamentary scrutiny.

The Committee has sought advice from the responsible Ministers in respect of these provisions. Pending that advice, I draw these provisions to the attention of Senators, as they may be considered to insufficiently subject the exercise of legislative power to parliamentary scrutiny.

Debate (on motion by Senator Bartlett) adjourned.

Public Works Committee
Report

Senator TROETH (Victoria) (5.21 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present report No. 9 of 2007, Proposed Fit-out of new leased premises for the Australian Customs Service at the Circuit, Brisbane Airport, Queensland. I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—


This report relates to a proposal by the Australian Customs Service to undertake a fit-out of new leased accommodation at Brisbane Airport.

By way of background the Australian Customs Service currently occupies leased accommodation in the Brisbane CBD and at Brisbane Airport. The lease on these properties is due to expire in mid-2009, and Customs is using the offer of a purpose built building to be constructed by the Brisbane Airport Corporation within the precincts of the Brisbane Airport as an opportunity to rationalise staff at both the Brisbane CBD office and offices at the airport.

The new building will include a number of features not currently available at the existing office accommodation sites. It will improve client services, and offer greater security and ease of access for customs offices to the airport.

According to the evidence given by Customs officials during the course of the Committee Inquiry, the new office accommodation will enhance operational efficiency of the Australian Customs Service presence at Brisbane Airport and contribute to the greater overall effectiveness of the Customs enforcement role.

The new building also offers the scope to provide accommodation for additional staff over the pe-
period of the lease, the fit-out of which is included in the estimated project cost.

The Committee was informed during the Inquiry that extensive consultation with staff had occurred, and in general the responses from staff were favourable, although some issues relating to transport are yet to be resolved. As part of this process, Customs had established a ‘transport working group’ to examine what measures could be taken to ensure adequate staff access to vehicle parking, for example. Customs has also been in discussion with the Brisbane Airport Corporation in support of its negotiations with the company operating the ‘Airtrain’ service between the airport and the Brisbane CBD for an additional railway station at Brisbane Airport.

Similarly, Customs has explored the availability of child-care arrangements for staff transferred from the Brisbane CBD to the airport, and has been assured by the Brisbane Airport Corporation that facilities will be available in proximity to the new building, that will be operated on a commercial basis.

Mr President, in overall terms, the Committee is satisfied that the proposed fit-out of the new accommodation will meet the current and future needs of the Australian Customs Service. By rationalising existing accommodation into one single building, at an operational site, Customs would not need to renegotiate existing leases thereby avoiding the likelihood of an escalation of rental payments that in the context of the Brisbane CBD are at a premium.

The proposed works, estimated to cost $15.84 million are expected to commence in October of the current year, with a completion date scheduled for December 2008. Customs will begin occupancy of the building from January 2009, with all staff being finally being relocated by June 2009.

In concluding Mr President, I would like to thank all those who contributed to this Inquiry, including my fellow Committee members, officials of the Australian Customs Service and for the assistance of the Committee Secretariat.

Mr President, I commend the Report to the Senate.

Question agreed to.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 2) 2007

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT AMENDMENT (OHS) BILL 2007

First Reading

Bills received from the House of Representatives.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.24 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.24 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 2) 2007

This Bill will give the force of law to the renegotiated double tax Agreement between Australia and Finland, which was signed on 20 November 2006. The Bill will insert the text of the Agreement with Finland into the International Tax Agreements Act 1953. This is a prerequisite to the new tax treaty’s entry into force.

The Bill repeals the schedules to the International Tax Agreements Act 1953 that give the force of law to the existing tax treaty with Finland.
The Agreement will broadly update the taxation arrangements between Australia and Finland.

The Agreement will substantially reduce withholding taxes on certain dividend, interest and royalty payments in line with those provided in our tax treaty arrangements with the United Kingdom and the United States, and more recently with France and Norway. This will provide long-term benefits for business, reducing the cost for Australian-based business to obtain intellectual property, equity and finance for expansion.

The Agreement will assist trade and investment flows between Australia and Finland, and further demonstrates the Government’s commitment to update Australia’s tax treaty network as recommended by the Review of Business Taxation and the Review of International Tax Arrangements. The treaty will strengthen our economic relations with Finland. Further, it will provide a positive economic environment for Australia and contribute to a larger and faster-growing Australian economy.

The new Agreement achieves a balance of outcomes that will provide Australia with a competitive tax framework for international trade and investment, while ensuring the Australian revenue base is sustainable and suitably protected.

The Agreement includes rules to prevent tax discrimination against nationals and Australian businesses operating in Finland and vice versa.

The Agreement serves as another step in facilitating a competitive and modern tax treaty network for companies located in Australia. The Agreement will also satisfy Australia’s most favoured nation obligations under the existing treaty with Finland.

Finally, I note the Agreement will facilitate improved integrity aspects of administering and collecting tax from those with tax obligations in either or both countries. The Agreement reflects the Government’s decision to incorporate enhanced information exchange provisions which meet modern OECD standards and to provide for reciprocal assistance in collection in future tax treaties where appropriate.

The Government believes that the conclusion of the Agreement will strengthen the integrity of Australia’s tax treaty network through bi-lateral cooperation between countries to help ensure taxpayers pay their fair share of tax.

The Agreement will enter into force after completion of the necessary processes in both countries and will have effect in accordance with its terms.

In accordance with those processes, the treaty was tabled in this place and referred to the Joint Standing Committee on Treaties. The Committee has recommend that binding action be taken.

The enactment of this Bill, and the satisfaction of the other procedures relating to proposed treaty actions, will complete the processes followed in Australia to bring the treaty into force.

Full details of the amendments are contained in the explanatory memorandum.

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT AMENDMENT (OHS) BILL 2007

This Bill reinforces the Government’s commitment to improving the occupational health and safety (OHS) performance of the building and construction industry.

In 2002-03, when Commissioner Cole reported on the Royal Commission into the building and construction industry, the industry was one of the most dangerous to work in. There were 37 compensated fatalities in the industry, which comprised almost one fifth (18 per cent) of all compensated workplace fatalities for the year. The industry also had the third highest incidence of workplace injuries with more than 12,500 compensated injuries, or 34 injuries per day.

Commissioner Cole concluded that improvements in OHS performance must be brought about through cultural and behavioural change. As a major client and provider of capital to the construction industry, the Australian Government is well positioned to drive such change.

The Government has wholly committed itself to this role through the enactment of the Building and Construction Industry Improvement Act 2005 (the Act) and by establishing the Federal Safety Commissioner. Through the Commissioner’s work, this Government is fostering a culture where work must be performed safely as well as on budget and on time.
Under the Act the Federal Safety Commissioner is tasked with promoting improved OHS in the construction industry and administering the Australian Government Building and Construction OHS Accreditation Scheme (the Scheme).

The Scheme has proven to be a major development in OHS for the construction industry. The Scheme ensures that only head contractors who have effective OHS management policies and systems in place can contract to undertake building work for the Australian Government. This Government does not want to do business with builders who do not take health and safety seriously.

Since the Scheme commenced on 1 March 2006, 64 builders have achieved Scheme accreditation and more than 170 safety audits have been conducted. Additionally, 23 new Government construction projects, worth $1.44 billion, are covered by the Scheme.

In his recommendations Commissioner Cole also noted that the Government has an opportunity to further improve OHS in the industry by utilising its influence as a provider of funding to state and territory governments and private industry. The Government agreed to take full advantage of this opportunity by implementing a second stage of the Scheme in 2007. This Bill will fulfil the Government’s commitment to this approach by facilitating the application of the Scheme to builders contracting to undertake building work on projects where the Government has contributed significant funding.

In keeping with the intent of the Scheme to only apply to builders who actually perform building work, this Bill will enable the exclusion of contractors on construction projects who do not perform building work. This includes contractors who provide support and pre-construction services such as project management and environmental assessments.

The Bill will also clarify the intent of the Scheme that accredited builders remain accredited while undertaking building work covered by the Scheme.

To assist the Federal Safety Commissioner in effectively administering the Scheme the Bill will also simplify the process for engaging Federal Safety Officers, who undertake audits of builders to assess their initial and ongoing eligibility for accreditation.

To further assist the Federal Safety Commissioner to promote health and safety in the construction industry the Bill will allow the Commissioner, and persons working in the Commissioner’s Office, to disclose information under certain circumstances on the OHS performance of accredited contractors to me.

Occupational health and safety is a significant issue for all of us. It affects us, our families and our friends. The construction industry has traditionally been a poor performer in the area of health and safety. This Government has taken the opportunity provided it to change this.

Debate (on motion by Senator Johnston) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

**HIGHER EDUCATION ENDOWMENT FUND BILL 2007**

**HIGHER EDUCATION ENDOWMENT FUND (CONSEQUENTIAL AMENDMENTS) BILL 2007**

**First Reading**

Bills received from the House of Representatives.

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.24 pm)—I move:

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

Question agreed to.

Bills read a first time.

**Second Reading**

Senator JOHNSTON (Western Australia—Minister for Justice and Customs) (5.24 pm)—I move:

That these bills be now read a second time.

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

The speeches read as follows—

HIGHER EDUCATION ENDOWMENT BILL 2007

This Government has now eliminated previous government debt, has delivered successive budget surpluses, and through its strong economic management, can now make a $5 billion investment in the future of the Australian Higher Education Sector. You cannot invest for the future if you are saddled with debt and running budget deficits.

Higher Education builds opportunities for young Australians. It is the fundamental, essential and enduring building block for Australia’s ongoing prosperity.

As a nation, through the Australian taxpayers, the Australian Government is promoting excellence in our higher education sector. The Higher Education Endowment Fund represents an unprecedented investment by Government in this sector.

The Higher Education Endowment Fund Bill describes the two separate governance processes which are required to bring into operation the Higher Education Endowment Fund. The first relates to the investment of the $5 billion of capital the Australian Government will inject into the fund from the 2006-07 Budget surplus. The second relates to grants which will be directed to building world-class facilities.

It is the first of two bills that I will introduce today. The second bill, the Higher Education Endowment Fund (Consequential Amendments) Bill, which I will introduce shortly, describes supportive amendments that will be required to the Future Fund Act 2006 and Income Tax Assessment Act 1997.

I will first describe the aspects of the Higher Education Endowment Fund Bill which support the $5 billion capital investment.

Investment in HEEF

The Endowment Fund, established by this bill, will substantially enhance the funds that are available to be invested in the Higher Education sector.

This $5 billion investment will effectively double all the existing financial investments and endowments currently held in the university sector.

The investment of the Endowment Fund will be managed by the Future Fund Board of Guardians, with operational support provided by the Future Fund Management Agency.

The Endowment Fund will be a true endowment fund with a requirement in the legislation to maintain its real value. Further, the legislation requires that only accumulated returns are made available each year for payment to higher education institutions.

This will create a legacy, established by this Government that will benefit generations of Australians.

The Board will be guided in its activities by an Investment Mandate set out by the Treasurer and the Minister for Finance. Work will soon commence on developing the investment mandate for the Higher Education Endowment Fund.

The practices for the management of the investment of the Higher Education Endowment Fund will mirror those currently in place for the Future Fund. The Future Fund Board will be accountable to the Treasurer and Minister for Finance and Administration for meeting its obligations to invest the Endowment Fund in accordance with the requirements of the Act and the Investment Mandate directions.

Importantly, the Endowment Fund Bill sets out limitations of the Endowment Fund Investment Mandate. The aim is to ensure that the Endowment Fund is not invested in a way that is inconsistent with the Endowment Fund’s objectives.

The Minister for Finance and Administration, through his responsibility for the Future Fund legislation, will also have administrative responsibility for the expanded functions of the Future Fund Board in relation to investment of the Endowment Fund.

Capital and research facilities

My responsibilities under this bill relate to making grants of financial assistance to the higher education sector. The purpose of these grants will be to support activities in relation to capital expenditure and research facilities.

These grants will promote excellence, quality and specialisation in Australian universities for years to come.
to come, which will allow more world-class institutions to emerge.

Grants will be strategic in nature and reflect long term goals of the higher education sector. It will not be a source of recurrent funding as some have suggested.

The Endowment Fund builds on substantial investment by this Government in infrastructure for the Higher Education sector including an estimated $607 million over the last 11 years through the Capital Development Pool and an estimated $1.5 billion over the same period for Research Infrastructure Block Grants. The Australian Government has also invested over $59 million in universities through the Major National Research Facilities Programme. In addition the Government will spend an estimated $540 million from 2005 until 2010 on the National Collaborative Research Infrastructure Strategy.

The Endowment Fund investment is in addition to existing programmes and serves a very different purpose.

The total amount I can spend on grants to the higher education sector in any financial year, the maximum grants amount, will be calculated by the Future Fund Board of Guardians. They will make this calculation in accordance with rules specified by the Treasurer and the Minister for Finance.

In determining these rules the Minister will ensure that the maximum grant amount does not exceed accumulated nominal earnings, and have regard to the need to retain the real value of Government contributions to the fund and moderating volatility from year to year. Their deliberations will be informed by external advice from an asset consultant. This approach reflects international best practice for endowment funds.

As is evident from these requirements, and the bill itself, the Endowment Fund will deliver returns to the sector which will be intrinsically linked to its performance and, in turn, the market.

International experience suggests that in using such a strategy over the medium term - around five years - the level of grants that can be made from the fund should become predictable. However, in the short term there may be some volatility.

In the interest of securing a long-term and stable funding base from the Endowment Fund for the higher education sector this is a reality that the Government will manage for and I encourage the higher education sector to appreciate.

To enable me to allocate grants in a manner which best enhances the sector I will be supported by a Higher Education Endowment Fund Advisory Board established by this bill.

An interim Advisory Board will assist me with designing programme guidelines for capital expenditure and research purposes. It will also propose terms of reference for the permanent Board.

**Eligible institutions**

The Act defines eligible higher education institutions as those listed under Table A and Table B of the Higher Education Support Act 2003.

The interim Advisory Board, supported by my Department, will consult widely with the higher education sector over the coming months to determine the most appropriate programme design for grants from the Endowment Fund.

As part of this consultation process I will also ask the Advisory Board to explore whether there is a desire among higher education institutions to have their own institutional endowment funds managed as part of the Endowment Fund. I will consult with the Board of Guardians about how we might practically expand their functions to manage this aspect. Following careful examination of this issue it may be that we will introduce amendments to this legislation and the Future Fund Act in the future.

**Philanthropy**

The Endowment Fund should serve as a signal to the community that it should provide greater philanthropic support to universities.

Our higher education institutions have not been as successful as their counterparts overseas in attracting philanthropic donations. In fact, in Australian universities, less than 2 per cent of income is derived from philanthropic donations. In comparable universities overseas it can be as high as 15 or 20 per cent.

With this bill the Government has created a legacy, a perpetual investment in the future of higher education.
With the Endowment Fund the Australian Government is providing a significant further means to develop a diverse higher education sector with truly world-class institutions.

We also create a new avenue for business and the general community to make philanthropic donations to the sector.

The bill will allow the Future Fund Board to accept gifts of money to be included as part of the Endowment Fund.

Gifts will be treated as tax deductible under the Income Tax Assessment Act 1997 as a result of the Higher Education Endowment Fund Consequential Amendments Bill which I will introduce in a few moments.

In the first instance, gifts to the Endowment Fund will only be able to be accepted on an unconditional basis.

The Government indicated at the time the Endowment Fund was announced that contributions could be earmarked for particular universities and could be managed along with that endowment. This issue will require careful consideration in light of both the design of the programme and how the Board of Guardians might manage this requirement. I will ask the interim Advisory Board to deliberate on this matter and provide me with advice. The Government may then consider amendments to this legislation.

**Broader context of government’s education agenda**

I would like to reflect briefly on the Government’s broader goals for education as they are strongly linked to the establishment of the Higher Education Endowment Fund.

We must aim for higher standards in education to support Australians in their quest to learn, to discover and to innovate. We must ensure that universities are well governed, are responsive to student and industry demand and accountable to the taxpayers who continue to provide the majority of funding to the sector. This year the Australian Government is providing a further $9 billion investment in education, science and training, including the centrepiece of this year’s budget, the Higher Education Endowment Fund.

This builds on an investment of over $56 billion made by this Government in higher education, including research infrastructure for the sector. This financial year alone the Government will invest $8.8 billion in our universities, a 31 per cent real increase since 1995-96.

I expect the $5 billion Endowment Fund will play a vital part in realising the government’s vision of making Australian universities synonymous with excellence in research and education.

I commend the Bill to the House.
**Future Fund Act 2006**

**Expansion of the functions of the Board of Guardians**

Consequential amendments to the Future Fund Act make it clear that the Future Fund Board of Guardians will now have two distinct streams of work. This bill will alter the Future Fund Act to support the Future Fund Board of Guardians to take on the investment management function for the Higher Education Endowment Fund.

It will also make clear that each fund will have a separate investment mandate. As noted in my previous speech, work will soon commence on developing an investment mandate for the Higher Education Endowment Fund.

The Investment Mandate of the Future Fund, and the general operation of the Future Fund, will remain the responsibility of the Treasurer and the Minister for Finance and Administration, as supported by the Future Fund Act.

The Minister for Finance and Administration will remain responsible for the administration of the Future Fund legislation, including the expanded functions of the Future Fund Board for the investment of the HEEF.

**Ministerial Directions on Investments**

Responsible governance is a priority for this Government. This requires that we review and update legislation. This bill supports one such change to the Future Fund Act which is mirrored in the new legislation for the Endowment Fund.

This bill will ensure that investments made by the Future Fund Board of Guardians are determined by the Board, not by Ministerial direction, within the broad guidelines of the Investment Mandate.

Both this bill and the Higher Education Endowment Fund Bill, specify that the responsible Ministers cannot direct the Future Fund Board to use the assets of the Fund to invest in a particular financial asset, for example, shares in a particular company.

It also prevents the responsible Ministers from issuing a ministerial direction that has the effect of requiring the Board to use the assets of the fund to support a particular business entity, a particular activity or a particular business.

These amendments will ensure that the Board of Guardians deliver the best outcomes for the Government and for all Australians.

**Income Tax Assessment Act 1997**

The Higher Education Endowment Fund Bill will allow the Future Fund Board of Guardians to accept gifts of money to be included as part of the Endowment Fund.

To support this function, changes to the Income Tax Assessment Act are required. This change creates a new avenue for business and the general public to make philanthropic donations to the sector.

I commend the Bill to the Senate.

Debate (on motion by Senator Johnston) adjourned.

Ordered that the resumption of the debate be an order of the day for a later hour.

**THERAPEUTIC GOODS AMENDMENT BILL 2007**

**Returned from the House of Representatives**

Message received from the House of Representatives returning the bill without amendment.

**COMMITTEES**

**Standing Committees**

**Reports**

Senator NASH (New South Wales) (5.25 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports on the examination of annual reports tabled by 30 April 2007.

Ordered that the reports be printed.

**COMMONWEALTH ELECTORAL AMENDMENT (DEMOCRATIC PLEBISCITES) BILL 2007**

**Second Reading**

Debate resumed.

(Quorum formed)

Senator FORSHAW (New South Wales) (5.28 pm)—When I was making my remarks earlier today on this bill, I drew attention to
the continuous questioning by Senator Joyce of witnesses during the inquiry, where he was seeking to lead them to make a statement that they should all go out and support the National Party or the Liberal Party in the next federal election in Queensland. I was endeavouring to find a quote and I have found it during the break. I quote from the *Hansard* of Friday, 31 August. Senator Joyce asked a question of Councillor Brown:

Can you see any pressure points coming up on the horizon that may be exerted that may encourage people to be a bit more active in trying to support your cause, and where might those political pressure points be?

Councillor Brown—I dare say that there probably would be. What you want me to say is that it is probably the federal election.

Senator Moore interjected and said:

That is what he wants you to say.

Senator Joyce said:

I have never suggested anything.

We had a speech here for 20 minutes today in which Senator Joyce stated quite clearly that this is all about trying to get Queensladers who are upset with the state Labor government over forced local council amalgamations to vote for the coalition in the federal election. Yet he said during the inquiry, on the record, that he had never suggested anything of the sort! That is the nonsense that went on during this inquiry. The other point I was drawing attention to was the duplicitous position—and I use that word ‘duplicitous’ because it has been thrown around here a lot, as it was during the inquiry—of government senators attacking the Labor Party members in Queensland because, apparently, people in the Labor Party at the federal level have a different view from those at the state level. Shock! Horror! Fancy that ever occurring in the history of politics in this country!

When the committee was considering issues dealing with amending the federal Constitution to include recognition of local government, Senator Joyce stated:

I think the inclusion of local government in the Constitution is a great idea. I am all for that.

We pointed out to Senator Joyce at that time during the inquiry that he had actually voted against a proposition to that very effect last year. He could not remember it. When he finally had a look at the *Hansard* during the inquiry hearing he came back later and made a statement to the effect of: ‘I would like to clarify something, Mr Chairman. I have changed my mind, and it is a healthy thing to change your mind.’ Then we had the situation where I asked Mr Bruce Scott, when he appeared in Emerald:

What is your position and the National Party’s position on supporting a constitutional change to give recognition to local government in the federal Constitution? That would be a head of power that could be relied upon to put this legislation through and potentially to then enforce the results of plebiscites.

Mr Bruce Scott replied:

What you are talking about is recognising local government as a legitimate third tier of government in this country. Personally, my position is that I would support that.

Then, after a few more comments by Mr Scott, Senator Ian Macdonald interjected and said:

It is a view you have long held, if I remember correctly.

Mr Bruce Scott said:

It is indeed.

I said:

Is that true? You have long held that view?

Mr Scott said:

Yes.

I then said:

CHAMBER
Why did you vote against that very proposition in the House of Representatives last year, on 17 October?

Mr Bruce Scott replied:

What did I vote against?

He did not have a clue; he could not remember what his position was. Let us return to the bill before us, which deals with a specific situation that has arisen in Queensland as a result of state government legislation that would have prevented councillors and councils from holding local plebiscites on forced amalgamations. If they had done so, if they had supported those plebiscites, they would have been subject to serious penalties.

I do not support the actions of the Queensland government. The then Premier himself, Mr Beattie, acknowledged that it was an overreaction to the interference by the federal government. Mr Howard is on the record on at least two occasions as saying, ‘This legislation is not about amalgamations.’ He was not seeking to impose a view or make a statement about whether he supported amalgamations in Queensland.

Senator Fifield interjecting—

Senator FORSHAW—He said this was about responding to the Queensland government’s actions. What we need to remember is that the Australian Electoral Commission already has the authority, on the basis of a fee for service, to run local plebiscites. That is understood. During the inquiry some constitutional issues were raised, and the government treated the expert witnesses with contempt— (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Fifield, I want to remind you that it is expected you would interject from your chair, not as you come in the doors or walk in the corridors of the Senate.

Senator TROOD (Queensland) (5.33 pm)—I am sure Senator Fifield is usually a well-behaved member of the chamber. I welcome the opportunity to speak on the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. It is a bill of wide scope but it pays particular attention to the circumstances that have arisen in Queensland in recent times. In that context, as a Queensland senator I think it is a matter that deserves my attention and, as indeed has become the case, the attention of the Senate.

The now not-much-lamented, in my case, Beattie government proposal to amalgamate local councils in Queensland is one of the more disgraceful exercises in local government reform in Australia, from my perspective, and is certainly one of the more disgraceful exercises in local government reform in Queensland. It will almost certainly fail to achieve its objectives, in my view, as well as having dire consequences for the rights of Queenslanders, which they have been able to take for granted since the beginning of responsible government in Queensland.

At every turn the Beattie government has acted in a high-handed and dictatorial way to deny the democratic rights of Queenslanders. This dictatorial manner of acting reached its height, surely, when the final bill was rammed through the single chamber of the Queensland legislature early one Thursday morning, at a time when few Queenslanders were able to pay attention. All they could do was wake up to the consequences of the denial of their democratic rights greeting them early in the morning.

I am of the view that there was probably a case for reform of local government in Queensland. The existing system has certainly been in place for a long time. But the tragedy of this particular reform proposal is that it is a completely wasted opportunity. It proposed and achieved a simplistic solution to what are very complex problems of local
government reform. The tragedy of it is that, with greater creativity and with more attention to the possibilities, the Beattie government, as it then was, could perhaps have claimed the reform as a matter of some credit. The result is that the Beattie government at the time deserved and received a wide degree of public opprobrium for its actions, and what we have now is a bastardised system of local government in Queensland.

This saga began with the proposal for reform in 2005. The Local Government Association of Queensland began the size, shape and sustainability initiative, and 118 councils across the state participated in this program. I visited various councils throughout the state during this period. They were reassuring about the progress that was being made, and they were pleased to have had the opportunity to participate in the process. Shortly thereafter, there began a concerted campaign of violence against democracy by the Beattie government. The Premier decided to override the SSS initiative to impose his own agenda for reform on local government and to create his own Local Government Reform Commission. Then, something that could be regarded as the most outrageous foray into totalitarianism occurred: the government passed new legislation to bypass the Local Government Act 1993. In that act there was a right of individuals and councils to express an opinion about changes that might occur to council boundaries and a longstanding right to approve any changes to the local government boundaries in Queensland. The loss of that right is addressed very directly by the bill that is currently before the chamber. After the Beattie government had passed the act that took away these rights, it proceeded to the next stage of ‘de-democratisation’ when it rammed these provisions through the Queensland parliament in the face of widespread concern, expressed throughout the state, about these changes.

The question before us, and one that has been before Queenslanders all of this time, is why a government would do this: what is the rationale for trying to reform government in this way, and why would you incur such massive public opprobrium? Further, what public purpose is being served by these local government reforms? The answer—which, in my view, is not a particularly compelling one—that was given to the Queensland councils was that the purpose of the reforms was to provide a more efficient local government system. More particularly, they would provide the opportunity for these councils to meet the challenges of economic growth being experienced by my state. This is a challenge that is certainly true in the south-east corner of Queensland, but it is being reflected right throughout the state. So the argument before us was that local government amalgamations were necessary so that local government authorities could meet the challenges of economic growth that were before them. To that end, there was supposed to be an examination of the economic integrity of some of these councils.

The Queensland Treasury Corporation undertook an examination and produced a report, in which it rated 43 per cent of these councils as being in a weak or very weak financial position. This was a very curious report indeed, because it did not evaluate all 156 local government authorities in Queensland. It did not purport to go through the financial circumstances of every council—in fact, it dealt with only 94 of the 156 councils, so less than three-quarters of them. Thus we had an incomplete process of examination.

There was never any attempt to examine each council’s circumstances and then to propose public reforms based on the circumstances of councils right across the state. This was a half-baked effort to try to under-
stand the alleged problems of local governments and councils.

But then the process of reform became even more bizarre. After the proposals were examined and the report was released with the names of the councils that were alleged to be in various states of financial distress, the government proceeded with its program of reform. It set up the Local Government Reform Commission and, in due course, the commission produced a report. Peculiarly, the report failed to carry through the concerns that were reflected in the Treasury Corporation’s assessment and at least four of the so-called financially unstable councils were left alone by the amalgamations. Councils such as Carpentaria, Diamantina and Boulia were said to be very distressed, yet no attempt was made to reform those councils in the context of these changes. Even more peculiar is that some councils which were not thought to be financially distressed have been reformed and have been amalgamated with adjacent councils, such as Caboolture, Pine Rivers and Redcliffe.

So we have had a very peculiar process of the public examination of an argument for change, and it has produced some very peculiar outcomes. In the context of these very peculiar changes, it is hardly surprising that Queenslanders right across the state are offended by the consequences of these changes. They are offended by the speed and the determination with which the then Beattie government rammed through these changes and deprived them of their right to express an opinion about those changes, including the impact those changes would have on their lives, on the economic sustainability of their councils and on the sustainability of their democratic communities, which were well established across the state.

We now have a very peculiar situation where Queensland will have fewer councils than either Victoria or New South Wales. Queensland, a state several dimensions larger than Victoria and larger than New South Wales, will have fewer councils—73. I think the figure is 79 in Victoria and 152 in New South Wales. Here we have a huge state, growing rapidly and economically vibrant, and yet we now have fewer councils representing people across the state than exist in other states of the Commonwealth on the east coast.

What has been particularly disturbing and distressing to Queenslanders throughout this process has been the ripping away of the fabric of community and the way in which these reforms have been rammed through the commission and rammed through the parliament, with contempt—and that is the only word that can be used—for the concerns of the local government community and the consequences that this will have for democratic representation at local government level in Queensland. In places like Noosa, Redcliffe and Port Douglas, the anxiety, distress and annoyance is certainly overt. It will mean that people will now have to travel vast distances to meet their elected local government representatives. There are consequences that will follow from these reckless reforms.

I take you, Madam Acting Deputy President, to one example of the way in which democratic representation will be changed by these reforms. Take what will be the new Toowoomba Regional Council. The new council will have an area in the vicinity of 13,000 square kilometres. It amalgamates eight councils into one and brings together a population of 302,000 people whose representation prior to these reforms, on the collective eight councils, was 82 councillors. As a result of these reforms, there will be 11 councillors for these 302,000 people. In some of those old councils—the Millmerran council, for example—there was one coun-
councillor for every 223 people. That is, admittedly, an excellent council representation to population. But it varied across these councils. In some places—Toowoomba, for example—there was one councillor to 7,000 constituents. The consequence of these changes is that these 11 councillors will now each represent something in the vicinity of 19,000 people. So in places like Millmerran, where there has been an intimate relationship between the councillor and his constituents, it will now blow out to one councillor to 19,000 constituents.

What is going to happen with the Toowoomba Regional Council, in all probability, because these are now undivided councils, which means that each place will not be represented by its own individual councillor, is that many people in these small communities—Millmerran, Pittsworth and places like that—will be unlikely, because they do not have the population size, to gain representation in the council. Having gone from a position of great intimacy with their local councillor, they will essentially be deprived of the right to be represented in local council. How that will advance democracy and expand economic sustainability in Queensland I have no idea, and I suspect that the Queensland government has no idea either. It is one of the serious consequences and one of the reasons why this bill is necessary and why the Beattie government stands condemned for the way in which it has behaved on this matter. It is a shameful deprivation of representation, and it defies, from my perspective, any particular logic—certainly in relation to building sustainable communities, which I presume is part of the intent here.

We know that these kinds of reforms do not work. We know that in Victoria, for example, where amalgamation took place and there was an expectation of substantial cost savings, the result was that, instead of 20 per cent in cost savings, savings came down to something in the vicinity of 8.5 per cent. We know that, in South Australia, amalgamation reforms which were supposed to produce cost savings in the vicinity of 17 per cent produced savings in the vicinity of 2.3 per cent. Sensibly, the New South Wales government, having examined the consequences of reforms elsewhere, realised that this was a pretty dumb way to reform councils and that there must be a better way of trying to address the problem of economic weakness at a local government level, so they decided to avoid that course of action. From my perspective, that was a sensible action in public policy.

We should be asking ourselves whether there is anything in this barren landscape that can retrieve these proposals in relation to the proclaimed public objective, which is to provide sustainability. I looked at the various proposals and the documents which were produced at the time and I found there is a thing called a ‘local transition committee’ being set up. In the documents which were provided at the time, there is a statement about the composition of these transition committees. One would have thought that if these committees are about economics—producing economic sustainability and preparing local government for the challenges of economic growth—when you create them you might provide for someone to be on them who might know something about economics. Perhaps that would be a financial adviser, a local businessperson who has some experience in the field or someone with some economic experience. What do we find when we look at the composition of the local transition committees? We find a representative from the affected local governments, an interim CEO and, astonishingly, up to three union representatives. There will be up to three union representatives on these transition committees!
Where is the person who will make a contribution to improving the economic sustainability of these councils? Where is the person who will carry through, in some constructive, intelligent way, the kinds of aims that lie behind these proposals? The only conclusion one is justified in reaching is that this is not a reform that has anything to do with local government. This is not a reform that addresses itself to Queensland’s future economic needs. This is a reform which talks about the future of trade unionism in Queensland. All Australians, whether or not they happen to be Queenslanders, ought to reflect on that particular point when they are addressing their attention to the election later in the year. (Time expired)

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (5.53 pm)—I would like to make a brief contribution to this debate on the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. Listening to the debate today, I am not surprised one bit that we so often hear people talking about Australians being cynical and switched off from politics. You do not have to think too long before you realise that what has been discussed in the chamber today, under the guise of debate on this bill, has been extraordinary nonsense. More importantly, under this government we have seen every attempt to keep the public out of politics and to stop them from even wanting to be involved.

This bill is one step in the right direction. We support any means to improve the quality of our democracy. That means making it easier for people to find out what is happening in politics so that they can make informed decisions and communicate with their elected representatives. People should have a say in decisions that involve them, their local communities or the broader Australian community.

I will get back to what this bill is all about. The bill amends the Commonwealth Electoral Act 1918 to authorise the AEC’s use and disclosure of any information held by the AEC, including information contained in an electoral roll, for the purpose of conducting an activity such as a plebiscite. I should note, as several other senators have noted today, that this is a very short piece of legislation which contains no detail about what form such a plebiscite might take, so we need to be careful about not over-stating the impact that it might have.

The bill has been introduced in the context of the proposed forced council amalgamations in Queensland. Labor believes that these communities should have the ability to express their views on these proposals and that they should not be fined or sacked for doing so. For this reason we support this bill. We have been suggesting the use of plebiscites for some months now. They are just one example of measures that can be taken to get people involved in democratic processes. They are measures which can support politicians’ decision making.

The bill is about more than just Queensland councils. This legislation could pave the way for citizen initiated plebiscites on other issues, which we welcome in principle. When matters are deeply controversial in a local community, people should be able to have a mechanism to make their views on the matter heard. This is not to replace our system of representative democracy but rather is an important complement to it. Just last week, the Prime Minister of Britain, Gordon Brown, announced that he would be instituting citizens’ juries in the UK. We should be thinking about innovative ways to inform people and involve them in decision making, not engaging in the smoke-and-mirror obfuscation that characterises the way this government treats its citizens and electors.
It has become commonplace to say that Australians are cynical about politics and politicians. In the annual Roy Morgan poll, politics usually comes pretty low down on the list of trustworthy occupations—usually just above journalists and the car salesmen. People want politicians to represent their interests honestly, and they want to know what is going on. And these have not been features of the Howard government.

It would be wonderful if this legislation were an indication of some commitment on the part of the government towards improving democratic process in this country. I doubt that it is—not least because the government does not have much of a track record in this respect. Under the Howard government, the quality of our democracy has been significantly downgraded. The coalition have used their control of the Senate to diminish the role of the Senate committees—one of the most constructive, bilateral processes of our parliament, which is admired worldwide. The committee system allows ordinary people the right to have their say on issues that affect them.

The reality of our parliamentary system as it is working at the moment has been commented on by the Clerk of the Senate at a recent forum. He said:

Legislation framed by the executive alone is rammed through lower houses with the least possible delay and examination, scrutiny of government is severely limited lest it disclose matters embarrassing to government, and inquiries are limited to matters which cannot cause the executive any difficulty or embarrassment.

The role of the Senate in scrutinising legislation and allowing Australians to have some input into the process is important but the government has used its control of the Senate to hamstring the capacity of the Senate to provide scrutiny and transparency wherever possible.

This is a government that has shown little respect for the committee process and the effort that thousands of Australians put into making submissions and appearing before committee inquiries. The Democratic Audit of Australia pointed out that the latest six-monthly report on government responses to committee reports, presented to parliament in June this year, showed:

... the government had failed to respond to a single report within the required three-month period. Indeed, some are still waiting for a response after several years. Whilst in a few cases the government claims a response is pending, subject to developments, in the case of the report on A Certain Maritime Incident (tabled in 2002), the government is still deciding whether it is going to respond at all.

This shows a manifest lack of respect for the democratic processes of our parliament and for the ordinary Australians who put their neck out to be involved in it. The Howard government’s control of the Senate also enabled the government to put in place some radical, disturbing and worrying changes to the Commonwealth Electoral Act last year. That has to be the most brazen example of this government’s lack of commitment to improving Australia’s democratic processes. Under these laws, first time voters or those who are re-enrolling or updating enrolment details are required to comply with new proof of identity requirements. Voters will have to either provide drivers licence details, having prescribed documents witnessed by authorised persons according to the act, or have two enrolled people, whom they have known for at least a month, confirm their identity. With data showing that between 10 and 20 per cent of adults do not have a drivers licence, that will be a real problem for some Australians. We should be encouraging people to enrol to vote, not making it increasingly difficult for them to do so.
But more worrying than this, at this point in the electoral cycle, is the early closure of the electoral rolls instituted by the Howard government in that same piece of legislation. These changes close the rolls for new voters on the day the writs are issued or a minimum of 33 days before polling day. So existing enrollees are only given three days to correct their details. The rationale for this was to prevent electoral fraud, but the ANAO found no evidence that fraud was even taking place.

Australia has long been at the vanguard of democratic process and reform. But these changes actually put it behind developments in countries such as Canada and New Zealand, which have changed their legislation in the opposite way to make it easier to enrol and vote. Of course the early closing of the electoral rolls most seriously affects young people who are not yet on the roll. The Special Minister of State, Mr Nairn, admitted in July that, as of March, more than 400,000 eligible people were not enrolled to vote. These are the real people being defrauded by these measures. I should not need to point out that young people are so important to our country’s future. They should be given every opportunity to have their say and we should be encouraging them, rather than discouraging them, to be involved. But it is no great surprise that the coalition do not want more young people on the rolls. Young people who do not have mortgages are not key targets for the government’s endless and deeply monotonous scare campaigns on interest rates. Young people are those most vulnerable to losing conditions under Work Choices. Young people see the overcrowded lecture theatres in their universities and carry debts from their university days through to their working lives. Of course the coalition wants to prevent as many of these people as possible from getting on the electoral roll.

Last month the High Court struck down the amendment in the Commonwealth Electoral Act preventing prisoners who are serving a sentence of less than three years from voting in elections. That is important because, effectively, it led to the potential disenfranchisement of a great swathe of, in particular, Indigenous Australians. In addition, just to make this antidemocratic cocktail all the more potent, the 2006 legislation made it easier for corporations to make secret donations to political parties. Professor Marian Sawer pointed out:

Australia seems unique in legislating to make it easier for private money to influence the policies of elected governments, by removing many corporate donations from public scrutiny.

That is outrageous, but of course we should not be surprised. This piece of legislation which we are debating today is a welcome but entirely uncharacteristic development on the part of this government. I now leave it to my colleague Senator McLucas to reflect on Labor’s final position on the bill.

Senator McLucas (Queensland) (6.04 pm)—There has been a lot of bluster in both the conduct of the inquiry into the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007 and in the debate that we have had today. It is a lot of feigned anger and a feigned defence of this thing that we call democracy. It has been interesting for those of us in Queensland to watch the behaviour of some of the coalition senators, first of all, in the conduct of the inquiry—I think Senator Moore very eloquently put that on the record—but also during the debate that we have had today. Can I say, as every other Labor senator in this debate has said, that we support this legislation. We announced that support for this legislation when the legislation was proposed, because it actually reflects Labor’s position on the issue of forced amalgamations.
We need to go back over the history that brings us to this point. Late in 2004 the Local Government Association of Queensland adopted a policy to promote discussion on the need to consider reform to local government in our state to ensure long-term sustainability of Queensland’s local government. That resulted in what is called the Size, Shape and Sustainability process, which was agreed to by the Local Government Association of Queensland, supported by the state government and actually funded by the state government—funding of, I think, $25 million over five years. That was strongly supported by local government itself and also by constituents who live in those various local government areas. The reason for that support was that that process allowed for analysis of the financial situation of each council, it looked at opportunities for boundary realignments and for cooperative arrangements that would cross local government boundaries in order to save much-needed ratepayers’ funds. But, most importantly, there was strong community engagement at each step in the Size, Shape and Sustainability process. That process then progressed.

It is extremely unfortunate in my view that, on 17 April of this year, the government of Queensland abandoned what is called the SSS process. That engendered real concern in the community and real concern from local government that the process they had originally embarked upon was being shelved. Then, as we know, the Queensland government established the Local Government Reform Commission which was made up of a range of individuals from all walks of political life—people who had been in the state government from the National Party, the Liberal Party and the Labor Party—all of whom had some interest in local government. They brought down their report and recommended a considerable number of amalgamations in Queensland. The Queensland government, as we know, then adopted almost all of those recommendations and the process of forced amalgamations began.

On 17 May of this year, Mr Rudd, the leader of the federal Labor Party, made it clear that he did not support the process as adopted by the Queensland Labor government. He went to Townsville and spoke very clearly and very openly about why federal Labor was not supporting forced amalgamations in our state. Mr Rudd said, ‘I said to Mr Beattie it would be good if he reviewed his approach to this amalgamations process and put forward other ways in which economic and financial efficiencies can be achieved.

My view broadly is that local voice and local choice is critical when it comes to the future of local government across of Australia as well as here in Queensland. My other view is this,’ he said:

If we are going to come up with any amalgamation proposals, the important way forward is then to test them through the democratic process of a local referendum. I think that is a further second test which should be applied.

I remind the Senate that that statement was made on 17 May of this year. So, federal Labor has been consistent in its position in opposition to forced amalgamations. We then had, I think, a very unfortunate position where the Queensland government actually did bring in legislation to say that if any local government undertook a plebiscite, their tenure as a local government would cease and they would then not be involved in any of the preliminary and pre-amalgamation discussions, clearly to the detriment of their local government constituents.

So that is why we are here. The federal government said that they would bring in legislation that would ensure that plebiscites could be held and that they would be funded by the Commonwealth government so that a local voice would be known. We reiterated our support at that time for that process to go
forward. We also supported the establishment of the inquiry that was undertaken, and that was a useful thing to do. But I found it somewhat intriguing that this piece of legislation—a piece of legislation which is very simple, clear and not complex at all—warranted a three-day inquiry, whereas the intervention in the Northern Territory, which was a hugely expensive and life-changing proposal, warranted a one-day inquiry. We understand and support the need for the intervention in the Northern Territory to be quick and to happen quickly, but it is intriguing to note that the intervention in the Northern Territory, for example, warranted one day of inquiry, whereas this legislation of three full pages warranted a full three-day inquiry. But, having said that, I support the fact that we did it. I was pleased that the inquiry was able to travel to my home town of Cairns and we were able to hear evidence, particularly from people in the Douglas Shire, and people from the Northern Peninsula Area and the Torres Strait.

I was somewhat disappointed, though, that we only had a very short time to question the Australian Electoral Commission and the Department of Finance and Administration. Because other witnesses went over time, and that is fine, we did not have very long at all to speak with the AEC and to get an understanding of what their processes were, and would be, once this legislation has been passed. I was concerned in the short time that we did have to question the AEC that they indicated that the previously announced date for the plebiscite of 20 October was, to paraphrase the AEC, not achievable—essentially Mr Dacey said that that was certainly not going to be achieved. He indicated that, subsequent to the passage of this legislation through the parliament and royal assent being given, they would then wait for requests for ballots from various local authorities in the state of Queensland. Mr Dacey said very clearly that his priority was going to be the conduct of the federal election—that the federal election had priority. Whilst we are all very comforted by that, and we would not want to see the federal election processes compromised in any way, I am a bit concerned that people who live in the affected local government areas have an absolute expectation that this plebiscite will be conducted in a reasonable amount of time. There is no clarity—maybe Senator Fifield might be able to provide us with some—about when these ballots will be conducted. Mr Dacey did indicate that he expected, and it was his preference, that the most economical way and the way that he would like to conduct the ballot is through a postal ballot rather than an attendance ballot.

The other concern that I have is that I am unsure of what the process is going to be for the writing of the yes/no cases. Who is going to be asked to undertake that piece of work and how will they be vetted? We had some very good evidence from a past president of the Australian Local Government Association about the work they did for an amalgamation in his area. I hope that the AEC takes that advice on board.

I will now go to the effects of amalgamation and my concerns for my communities about what they might be. I will first turn to the Douglas Shire and quote from Councillor Mike Berwick, who is the Mayor of the Douglas Shire. He said to the committee:

"Part of Australia's heritage is regional and rural communities. Let's look after them. Let's keep them empowered. They have their own character; they are all different. Once you start joining us all together into big governments we start to lose our identity—and we are upset about it."

I concur with Councillor Berwick when it comes to the question of the Douglas Shire, but I need to place on the record that I am not opposed per se to amalgamations of local government. In fact, in February and March
of 1995 I stood for local government and was elected to the amalgamated Cairns City Council. The reason that I stood for that election was that I live in the former Cairns City Council area but the concerns I had about development and the impacts of development in my community were in fact happening in the old Mulgrave Shire. Once those two councils were amalgamated, there was an opportunity to influence the direction of development in my region. I supported the amalgamation of Cairns City and Mulgrave shire, stood for election and was in fact elected. So I am not opposed per se to amalgamations, but I think we have to be careful about what we do and the areas that we do pull together in amalgamations of councils.

When the Local Government Reform Commission looked at the Douglas Shire I think they made a mistake. In every principle, every respect and every one of the terms of reference that the Local Government Reform Commission was given, the answer should have been that Douglas Shire should not be amalgamated with the Cairns City Council. It is geographically isolated. I think many of us have driven the road from Cairns to the Douglas Shire. It is not connected and never will be—I hope—connected by an urbanised area. It has a completely different catchment area. It has pressures on potential development not experienced by the Cairns City Council.

I was so concerned, once the Local Government Reform Commission brought down its findings, that I wrote on 3 August this year to the Premier of our state—and I am happy to table the document. I gave a number of reasons that supported my position that the Local Government Reform Commission had erred in recommending the amalgamation of Cairns with the Douglas Shire. I reminded the Premier that the Douglas Shire’s planning instrument and the processes used to achieve it won the Planning Institute of Australia’s Queensland planning award. I reminded the Premier that the shire is home to a number of land uses which, if not treated appropriately, could be seen as conflicting. ‘It is a credit’, I said, ‘to the councils and its officers that the planning instrument has received the support of the community and the recognition of the institute.’ I made the point that the Douglas Shire has successfully promoted community engagement with its constituency.

The residents of the Douglas Shire are a very diverse group of people. We have a very important sugarcane industry and we have an extraordinarily important tourism industry. We also have the reality that the Wet Tropics World Heritage area of both the Daintree township region—which is the Daintree National Park—and the area north of the Daintree River, which is listed as a World Heritage area, require consistent and vigilant planning instruments to ensure that we do not lose the goose that laid the golden egg. The Douglas Shire, with all those seemingly conflicted constituencies, has been able to come up with a planning instrument which everyone agrees with—and that is no mean feat.

The final point I made to the Premier was that, if the ratepayers of the Douglas Shire were paying more for their basic services—for their roads, their rubbish collection and their water supply—it would diminish my argument. But the ratepayers of the Douglas Shire pay less than similar land users in the Cairns City Council area. I was concerned and I wrote to the Premier about it and I am still of the view that the Local Government Reform Commission erred when it came to the Douglas Shire.

I was pleased to see Queensland respond to the pressure from both the Noosa Shire and the Douglas Shire and to the concerns in their communities about the loss of their
iconic status. The Queensland government has spoken with Mayor Berwick and Mayor Abbot of Noosa Shire requesting them to input into what is going to be, as I understand it, legislation that will protect the iconic nature of both of those areas. But I can also say that I was fairly disappointed to read in the Port Douglas and Mossman Gazette last week that four of the councillors of the Douglas Shire have decided not to support involvement in this so-called iconic legislation. That is very disappointing, but it is interesting to note—given Senator Joyce’s very welcome defence of the environmental values of the Douglas Shire—that most of those four councillors who voted against involvement in the iconic legislation are aligned with the conservative side of politics, particularly the Liberal Party.

In the short time I have left I want to go to issues affecting the outer islands of the Torres Strait and the Northern Peninsula Area. There is strong opposition to amalgamation in that area, and I acknowledge that. I say, though, that there is a piece of work that has to be undertaken and undertaken quite quickly before amalgamations will occur, and that is to deal with the question of the ownership of enterprise. I am concerned with the loss of CDEP in the northern peninsula area that we have got two processes running in tandem that could end up in a disaster. Currently the five local government shires based in the Northern Peninsula Area all own enterprises and those enterprises are essentially staffed by CDEP workers. CDEP, as you know, is going to be taken away from those communities, and there is a real concern that those enterprises, viable only because of CDEP, will fold.

Finally, I commend Senator Kate Lundy for her work on constitutional recognition. In my first speech in this place I called on the government to recognise local government in the Constitution. I might see it happen if we get a Labor government, and I think that would be good for local government in Australia. I also commend Jim Turnour, who took the trouble to write a submission to the inquiry. I compare him to the Liberal Party candidate for Leichardt, who came along and grandstanded at the end without identifying herself as the candidate, rather than doing the right and proper thing and writing a submission to the inquiry. (Time expired)

Senator FIFIELD (Victoria) (6.24 pm)—I rise to speak on the Commonwealth Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007. The bill amends the Commonwealth Electoral Act 1918 to allow the Australian Electoral Commission to use and disclose information for the purpose of conducting an activity such as a plebiscite. The bill also addresses any state and territory law that seeks to prevent or punish any person or entity from taking part in such an activity and causes such laws to have no effect. In other words, the bill seeks to restore a right which Queensland legislation had removed.

I am pleased to have the opportunity to address some remarks to this bill, having chaired the Senate’s Standing Committee on Finance and Public Administration’s inquiry into this legislation. The legislation was referred to the committee by the Senate on 16 August. Submissions were called for and three days of public hearings were held, on 30 and 31 August and 3 September, in Noosa, Emerald and Cairns respectively, and the committee presented its final report on 7 September.

The catalyst for this bill was the extraordinary actions of the Labor government in Queensland. It is worth running through the chain of events that led to the necessity for this legislation. The local government sector in Queensland until April of this year had been undertaking a voluntary process to ex-
amine its structure, operations and bounda-
ries. The Size, Shape and Sustainability, or
SSS, initiative was a collaborative approach
between Queensland local governments and
the Queensland state government and it had
bipartisan support in the Queensland state
parliament. It was supported by legislation
and had a clear and agreed time line for pro-
gress. In its submission to the Senate inquiry,
the Local Government Association of Queen-
sland noted that 27 review groups and 117
councils were fully engaged in this process.

But then, suddenly, without warning, the
Beattie government decided to scrap that
process and unilaterally dictate forced amal-
gamations. The SSS initiative was aban-
doned. What was the rationale for Peter
Beattie in abandoning this process? On the
Insiders program on 19 August he said:

We just threw our hands up and said, ‘Look, after
two years if you can only get four, you’ve got to
be kidding.’

That is, only four councils agreeing to amal-
gamate. It sounds fair enough at face value:
after two years you can only get four coun-
cils to amalgamate. One thing he left out was
that it was actually a five-year process that
the Queensland state government had signed
up to, that local governments had signed up
to, and that the Queensland state opposition
had signed up to. So it is hardly surprising
when you are barely 18 months through a
five-year process that you do not actually
have the end result that the process was de-
signed to achieve. In the same interview,
when Peter Beattie was talking about what
would happen if that process were allowed to
go the full distance, he said:

And the end of that process would have been a
referendum by the way.

So initially, he entertained the very prospect
of a referendum. He saw referendums as a
necessary part of giving voice to the people
and the wishes of people in Queensland, but
he abandoned that.

On 17 April the Queensland government
established a seven-member Queensland Lo-
cal Government Reform Commission, get-
ting rid of the SSS process. Only one month
was allowed for submissions from stake-
tholders as part of that process. The commis-
sion brought down its report on 27 July.
Amongst its 25 recommendations was the
most controversial one: that the number of
Queensland councils be reduced from 156 to
72.

In moving to implement these changes the
Beattie government expressly removed any
right of appeal against the reform commis-
sion’s recommendations. It is worth noting
what the Queensland legislation actually said
in relation to reviews. It said:

(1) A designated decision

(b) cannot be challenged, appealed against,
   reviewed, quashed, set aside, or called
   into question in another way, under the
   Judicial Review Act 1991 or otherwise
   (whether by the Supreme Court, another
   court, a tribunal or another entity); and

(c) is not subject to any writ or order of the
   Supreme Court, another court, a tribunal
   or another entity on any ground.

And so on it goes. You get the feeling that
they did not want anyone to have any avenue
of appeal against their decision.

This leads us to the Commonwealth’s ac-
tion. Without any avenue at all for appeal or
redress, the Commonwealth thought that it
was only fair and reasonable to offer some
assistance to the people of Queensland to
have their say. Already there is, in the Commonwealth Electoral Act, provision for local governments to hold plebiscites. That is something that was already there. The Commonwealth said it would fund local governments to conduct those plebiscites. The act already exists for those plebiscites to happen; all we were offering was to fund them. No legislation was required.

In response, Premier Beattie amended his own legislation so that any council that took advantage of the Commonwealth’s offer would be sacked. Any councillor who was involved in seeking to have a referendum would be fined. One can only presume that if they were fined, and did not pay, they would then go to jail. The ALP was saying, ‘We are going to force these amalgamations on you; we are not going to let you have a say and, if you try, we are going to whack you.’ So, on 10 August 2007, the Beattie government passed the Local Government Reform Implementation Act 2007, which banned local councils from conducting these polls. That was the action which prompted the Prime Minister to announce the legislation we are discussing today.

Premier Beattie then announced that Queensland would challenge this legislation in the High Court. But, eventually, the absurdity of Premier Beattie’s position was clear even to him and he announced that the Queensland parliament would repeal the offending provisions.

Although Mr Beattie admitted that he had stuffed up, his appearance on the ABC *Insiders* program on 19 August had his and the government’s arrogance on full display. Whilst he would no longer stand in the way of plebiscites being conducted, Mr Beattie was forced to admit that he did not care what the people had to say. This is what Mr Beattie had to say:

If people want to have a protest and the Prime Minister wants to pay for that protest vote, then that’s fine by us; we’re not going to fine councils. But one thing everyone needs to understand is that amalgamations will go ahead, there will be no changes.

In other words, ‘you can have your say, but we’re not going to listen. We don’t care what you think.’

Despite Mr Beattie apparently withdrawing his threat to punish those who want to have a say, who want to hold a plebiscite, we still seek to pass this legislation, for two reasons. Firstly, and bizarrely, rather than seeking to amend the primary legislation in the Queensland parliament, the Queensland government has opted to seek to override the primary legislation by regulation. It is a pretty bizarre thing to do, and of dubious legal efficacy. This is despite the fact that the Queensland government has already introduced into their parliament amending legislation, which is sitting there waiting to be debated. They just cannot bring themselves to pass legislation to actually withdraw those punitive provisions.

Secondly, and most importantly, we are going to pass our legislation to protect against any future rush of blood to the head of any Queensland premier. This legislation is insurance against the Queensland government not removing those offending provisions or seeking to reintroduce them in the future.

One of the most poignant moments in our public hearings took place in Emerald, where we had a witness, Mr Robert Hayward, Chief Executive Officer of the Tambo Shire Council. While Mr Hayward was giving his evidence he very casually mentioned that he had paid for the Tambo Shire to have a plebiscite out of his own pocket. This is what the Queensland government’s legislation led to: situations where you had a council chief executive paying the $4,000—it was a fairly small shire—out of his own pocket in order to protect his councillors so that they could
not be sacked and so that they could not be fined. That is the absurdity of the situation, where you have council chief executive officers putting their own hands in their pockets to fund plebiscites.

That instance so took the committee that we have recommended in our report that the Queensland state government reimburse Mr Hayward for the expenses he incurred and that, failing that, the Commonwealth government should give consideration to reimbursing Mr Hayward. But I would hope that the Queensland government would have the decency to reimburse him.

The committee also heard how important small local councils are in Queensland communities. I have to say: if you had asked me a year ago, I would have said that if you have local government areas with only 1,200 people in central western Queensland, of course they should be merged. If you had asked me, I would have said that a year ago. But listening to the evidence of these people was inspiring. Some of these local council employees in these shires staff the local SES, the fire brigade and the ambulance services purely in a voluntary capacity. If you merge these councils, you lose these councils’ staff in these towns, you will lose their SES, fire brigade and ambulance services. Although the government does not have a position on council amalgamations, I have to say that personally I would hate to see a council such as Tambo forcibly merged. These services are critical and may well be put at risk if forced council amalgamations take place.

Many witnesses before the committee testified on the various unique aspects of their councils, whether it be differences in maintenance standards, approaches to urban planning or simply the preservation of local identity. It was clear to the committee that local councils across Queensland are each representing their individual communities in their own ways—which is as it should be. Each council reflects the different priorities of their communities, and what is clear is that these amalgamations, conducted as they have been without proper consultation, will damage the ability of individual communities to determine their own priorities.

The forced amalgamations have also had significant implications for Indigenous communities. The Chair of the Torres Strait Regional Authority and Chair of the St Paul’s Island Council, Mr Toshie Kris, highlighted in his evidence, in Cairns, the challenge of having responsibilities arising from being partly bound by an international border. He told the committee:

There was no proper consultation throughout our region. It really distresses me. We are talking about a region that looks after more services than any other shire in the region, because we also deal with an international treaty right throughout our region. I would love to see how the Mayor of Cook Shire or the Mayor of Douglas Shire would deal with 10 canoes sitting on the beach with people with diseases ranging from TB and dengue to HIV. These are real issues that are happening throughout our region. It has been stated that our region is the eyes and ears of Australia. With the amalgamation process, the only thing left is the bare skull. There is a passage through that skull to Australia that no-one has really given any answers to.

Mr Joseph Elu, Chair of the Seisia Island Council, added that the amalgamations threaten their cultural heritage. ‘We feel we will lose our identity,’ he said.

The disgraceful handling of this process by the Queensland Labor government leaves that government condemned. It is what led to Dr Michael Taylor, President of the Noosa Shire Residents and Ratepayers Association, to declare, ‘I’m a lifelong Labor voter and I will never vote Labor again.’ But the incompetence and arrogance of the Queensland state Labor government pales in comparison to the rank hypocrisy of the federal Labor
Party. Labor say that they support this bill, and I guess Senator McLucas came the closest to seeming vaguely enthusiastic about this bill—but, given her office is in Cairns, she would be practically lynched if she did not evidence some enthusiasm. Labor senators will soon file in here with the government to vote for and pass this bill. But if Labor support this bill, why didn’t one single Labor MP front the inquiry? The Nationals member for Maranoa, Bruce Scott, fronted up and gave evidence. The Liberal candidate for Leichhardt, Charlie McKillop, fronted up and gave evidence.

If Labor support this bill, why didn’t their MPs appear before the inquiry and give evidence to that effect? Why have Labor senators submitted a dissenting report which amounts to nothing more than a partisan rant? Why are Labor senators attacking the inquiry process and carping at the conduct of the hearings? And why are Labor senators saying that this bill is a stunt? Most of all, why hasn’t anyone in the Labor Party publicly and forcefully called on the Queensland Labor government to pull their head in? Even during the debate on this bill in the House this week, Labor members were running the line that the bill was really unnecessary. If it is so unnecessary, why are Labor recommending that the bill be passed? If it is so unnecessary, why don’t Labor have the courage to vote against it?

It is also noteworthy that not a single Labor member from Queensland had the mettle to speak in support of the bill in the House. They have left the task to their interstate colleagues to tackle an issue of fundamental importance to their constituents and their state. What weak and spineless representation the Labor Party provide for their constituents in Queensland. The truth is that Labor are again trying to walk both sides of the street. They are trying to be seen to be supportive of local communities in Queensland, for reasons of political self-interest, but at the same time they are scared of confronting their party colleagues in Queensland in a meaningful way—in a way that will get results. It is yet another exhibit in a growing catalogue of evidence that demonstrates how federal Labor would merely be a patsy for the state Labor governments. They are not willing to stand up to them, and you can bet your house that, if Labor had been in government federally, they never would have introduced legislation like this and they never would have stood up for the democratic rights of communities in Queensland.

Senators Forshaw and Moore drew to the attention of witnesses over and over again—as Senator McLucas did a moment ago—that Mr Rudd is on the record criticising the amalgamation process before Mr Howard was on the record. My response to that is: so what? Did Mr Rudd’s comments have any effect on the Queensland government? No. Did Mr Rudd introduce legislation into the parliament to override the Queensland legislation? No. What matters to the people of Queensland is not what people said but what they did and who took action. This government is taking action, initiated by us—not initiated by senators on the other side.

Maybe the Labor candidates and members in Queensland were taking their orders from a union boss. In this case, they may well have been following the directive of Bill Ludwig. The Australian helpfully exposed Mr Ludwig’s intervention on 16 August. That article said:

Mr Ludwig said yesterday he had told his Right faction federal candidates in Queensland to ‘pull their heads in’ and not to support Coalition attacks on Mr Beattie over the amalgamations. ‘I’ve sent the word out to the candidates. What the state Government has done is fair,’ he said.

These unions have a funny sense of fairness. On the one hand they say that our workplace relations policies that have delivered higher
wages and hundreds of thousands of new jobs are unfair. Yet abandoning a functioning process, ramming through a flawed amalgamation process without consultation, and then threatening to sack and fine those who dare to ask their communities what they think is ‘fair’ according to people like Bill Ludwig. What a joke. When are we going to hear Labor senators opposite rebuke the likes of Bill Ludwig? I am tipping the answer is ‘never’. We will just hear silence.

No wonder the unions are happy with what is occurring. The Labor government in Queensland has stipulated that local transition committees be formed to guide shires through their amalgamation process. I guess that sounds fair enough, but those committees can contain up to three union officials. The committee heard evidence that, unlike the other members of these committees, these union officials are rarely locals. Unions win; local communities lose. On this side of the chamber, we are proud of this legislation. We are actually enthusiastic about this legislation. We are not dragging our heels in here to vote for it reluctantly. We are keen and eager to do it and cannot wait. We are pleased that, through our Senate inquiry, the people of Queensland were able to have a voice, and we look forward to seeing them expressing their views via plebiscites.

But not everyone was so enthusiastic about the Senate committee process. In a letter dripping with vitriol, addressed to the Special Minister of State, Queensland local government minister Andrew Fraser wrote:

… there is absolutely no public benefit in the course of inquiry being undertaken by the committee. It represents an abuse of the majority the Howard government holds in the Senate …

This inquiry is exposed for what it, in reality, always was: a sham, taxpayer-funded touring circus for Howard government mouthpieces to peddle unconstitutional false hope.

‘Howard government mouthpieces’ is a little offensive to the Labor senators on the committee, I would think. He goes on:

Port Douglas and Noosa are, granted, nice places to visit; especially when compared to Canberra’s wintry August. But the inquiry, like the bill itself, is just a cruel hoax.

I can assure Mr Fraser that this bill is not a cruel hoax. It is intended to give a voice and a say back to the people of Queensland. We are determined to pass this legislation. We think it is important legislation. Never before have many of us on this side of the chamber seen the democratic right of people to have their say stomped on the way we have seen it in Queensland. Local communities need this bill to ensure that they are never again denied their say.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.44 pm)—The government firmly believes—

Senator Conroy—Come on! You don’t believe that at all!

Senator COLBECK—I certainly do, and you might hang around for some comments in committee, Senator. The government firmly believes that it is important for people to have a democratic say in matters that will affect them. The Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007 will achieve this for all Australians, not just for the people of Queensland. I welcome the support of my fellow senators for this bill and I welcome the unanimous recommendation by the Senate Standing Committee on Finance and Public Administration in its report on its recent inquiry into this bill, namely that the bill should be passed. I note that the committee made three other recommendations. I will return to these at a later stage.

I would like to thank the committee for their comprehensive inquiry into the matters
associated with the bill. As senators are aware, this bill gives effect to the Prime Minister’s announcement on 7 August 2007 to allow the Australian Electoral Commission to undertake any plebiscite on the amalgamation of any local governing body in any part of Australia. This was in response to the Queensland parliament passing a law on 10 August 2007 which would have prevented councillors in that state from having any involvement with a plebiscite on local government matters. We welcome the Queensland government’s backdown over its threat to penalise councillors for conducting or taking part in any plebiscites on local government matters. This was in direct response to this government’s sustained pressure to allow Queenslanders to express their views on the amalgamations without penalty.

This government did not intend to stand by idly while the Queensland government prevented councillors in that state from having any involvement with a plebiscite on local government matters. This government was, and is, prepared to have Commonwealth legislation override any draconian laws such as those passed in Queensland. As the Prime Minister has reiterated on a number of occasions, this government is not expressing a view on whether or not an individual amalgamation should occur. Rather, the Commonwealth believes that people should have the right to express a view on the actions of a government without threat of penalty. This bill achieves this outcome.

Since 1992, the Australian Electoral Commission has had the ability to enter into arrangements to supply goods and services to a person or body. The Australian Electoral Commission presently conducts elections for trade unions, for employer and other organisations, and for other foreign countries. This bill does not propose that the Australian Electoral Commission perform different functions. Rather, what it does is clarify that the use and disclosure of information by the Australian Electoral Commission is authorised for the purpose of conducting an activity such as a plebiscite.

Contrary to some media reports and commentary on this bill, the government is not directing the AEC to undertake any particular plebiscite activity. The AEC retains its independence under this bill. The bill does not contain a power for anyone to direct the AEC to undertake a plebiscite or similar activity. Clarifying that the Australian Electoral Commission has the authority to use and disclose information it holds will ensure that people are able to express their views on proposals that may affect their democratic rights. Because this government is committed to ensuring that people are able to express their views on proposals that may affect their democratic rights, the bill also contains provisions that override state or territory laws if those laws seek to prohibit, penalise or discriminate against anyone for entering into, or proposing to enter into, an arrangement with the Australian Electoral Commission. The timing for any activity, such as a plebiscite, as part of an arrangement entered into following the passage of this bill, will be determined by the Australian Electoral Commission.

Turning to the Senate committee’s recommendations in its report, the government notes the recommendation relating to the reimbursement of expenses incurred by Mr Hayward, the Chief Executive Officer of the Tambo Shire Council, in recognition of the expenses he incurred in funding its plebiscite in an effort to give the community a say and to protect its councillors from punitive fines and dismissal. Failing that, the committee recommended that the Commonwealth government, consistent with its policy of funding local government plebiscites in Queensland, consider reimbursing Mr Hayward. The Australian government considers that Mr Hay-
ward should be reimbursed for the expenses he incurred in funding a plebiscite on the proposed amalgamation of the council. He made his arrangements in the light of the Queensland approach which removed a previous right to hold such plebiscites. The Australian government believes that either the Tambo shire or the Queensland government should be responsible for making the reimbursement.

In relation to the recommendation for continuing dialogue with local government on constitutional recognition, the government supports this in principle. The Australian government has an ongoing dialogue with individual local governments as well as local government representative organisations. The issue of constitutional recognition of local government has been unsuccessful in two previous referenda and the Australian government is not convinced at this stage that another referendum would have a different result. The Australian government is open to further consultation with local government representative organisations regarding the objectives and form of the sector’s proposals for constitutional recognition.

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

Commonwealth-State Housing Agreement

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

That the Senate take note of the document.

This annual report in respect of section 14 of the Housing Assistance Act 1996 is actually an incredibly important document. It is a pity that documents as significant as this are often treated as offering a chance only for a five-minute speech at the fag end of a sitting day. This document deals with an incredibly important area. It deals with the operation of the Commonwealth-State Housing Agreement, being the funding arrangement between the Commonwealth and the states for public housing and community housing and for areas of Indigenous housing. It has always been absolutely critical but it is more important than ever given the absolute crisis in housing affordability and availability which is wreaking havoc across so many parts of Australia in regional areas as well as in the capital cities.

The report is detailed. As you would expect, it details the performance of the agreement over the period of 2005-06. Of course it is already 12 months out of date. That in itself is a reminder that while we have the data from this report the reality out in the community has already moved on. The situation in terms of waiting lists for and availability of public and community housing given the growing gap and in terms of the growing crisis facing Indigenous Australians in particular over access to housing is far worse than the reality that is being assessed in this report.

Above and beyond that, we have, as I was saying in this chamber just yesterday, massive increases in costs in the private rental market as well as big leaps in the purchase price of housing for those who are seeking to buy their own home. Rising housing prices may be great if you are an investor, and rising rents and a market that allows private rents to skyrocket may also be great if you are an investor, but the majority of Australians are not. I think it is a real problem that rising house prices are still perceived and reported in many ways as being a plus. A lot of the documentation from real estate institutes and the like show double-digit growth in housing prices in particular regions as a good thing. Again, I guess it is potentially a good thing if you are an investor, but if any
other basic item, particularly if it were essential, were increasing by double-digit amounts in the space of a year—or, in many areas, in less than the space of a year—there would be huge concerns. Inflation in this area at a double-digit level should be a matter of grave concern.

In the area of private rentals, that is also the case. In many regions we are having double-digit growth in inflation. That is seen as a good thing if you are an investor, so it is reported that way in many cases, but it is a terrible thing if you are simply trying to afford to have a home. You particularly do not want to be faced with upheaval or even, in a growing number of cases, genuine homelessness or having to be put in temporary shelters and accommodation of other sorts. There are a huge and growing number of Australians in that situation.

The inability of the public and community housing sector to help plug some of those gaps and to provide that safety net is detailed in this report as well—once you wade through all the different statistics that are here—and nowhere more so than in the area of Indigenous housing. It is a real tragedy that the federal government has failed to increase the amount available through the Commonwealth-State Housing Agreement. Whilst there have been some funding boosts in the area of Indigenous housing in the last budget, they have been attached to an ideological agenda of a government that is more focused on symbolism of its ideological obsessions than on ensuring practical outcomes of improving housing availability and affordability for Indigenous Australians. It is a serious problem that is only getting worse.

The Commonwealth-State Housing Agreement runs out on 30 June next year, and we have seen another left-field ideological assertion from the federal Minister for Families, Community Services and Indigenous Affairs that the agreement should be put up for tender. I think that, basically, we will just see what happens—if it progresses anywhere; there is a federal election before that. It is another left-field policy proposal without any clear consultation, engagement or evidence based behind it. That is also of great concern to the Democrats. We will continue to focus on housing affordability at all levels and with all types of housing. It is something all parties need to do in the lead-up to the election. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Agreement on the Conservation of Albatrosses and Petrels

Senator BARTLETT (Queensland) (7.00 pm)—I move:

That the Senate take note of the document.

This is an amendment to annex 1 on the Agreement on the Conservation of Albatrosses and Petrels—petrels being another kind of bird. I want to speak briefly to this to emphasise the importance of this issue. Many conservation issues that involve sea creatures, animals or birds that predominantly inhabit marine areas are often less in the public consciousness. There is a very serious crisis with regard to the survival of a range of seabirds, and of particular relevance to this treaty or agreement to the survival of albatrosses and petrels.

A year or two ago there was quite a good innovation called the Great Race, which was run over the internet. In the Great Race, people were able to take bets on which albatross would be the first to complete the very long journey that they make as part of their breeding season. A whole range of albatrosses were fitted with global tracking devices and their locations were plotted on the internet as each of them made their way across the Indian Ocean to Africa. People could place bets through an online betting agency, with
the proceeds going to seabird conservation. The outcome of that particular innovation sent a very strong message about how much seabird conservation was needed because none of them arrived and the whole thing had to be cancelled. For a whole range of reasons, some of which are impossible to determine, none of them managed to make that journey. I cannot remember how many birds were involved at the start but I think it was about 20 or so. Whilst there are always some fatalities in these long seabird migrations, to have a 100 per cent mortality rate is obviously not a terribly encouraging sign.

This multilateral treaty seeks to improve arrangements, and enforcement of those arrangements, so as to better protect and maintain the conservation of those seabirds, and there has been action in this area. Some of the activities undertaken to try and improve the survival prospects of albatrosses and other seabirds include changes in the fishing industry—for example, longline fishing. Longline fishing was a key contributor to mortality for albatrosses because they get their beaks hooked on the long lines as they dive down to try and catch the fish. Those sorts of mortalities still occur but they have been reduced, as I understand it, as a result of the introduction of new practices.

My key point in wanting to speak to this document is simply to remind the Senate, and the community more broadly, that there remains a real ongoing problem with the survival and viability of a number of seabird species, including albatrosses, and there is a lot more that still needs to be done. I am pleased that there is ongoing international cooperation but I believe that we are still not resolving the problem adequately. It is a problem that needs attention and which easily slips off the radar because much of the problem occurs at sea or in remote areas. If they are not at sea then many of the albatross nesting sites are on remote islands in the southern parts of Australia—-islands around Tasmania, Macquarie Island and places like that. They are areas where people are not necessarily aware of declining numbers. There are resources being put into monitoring this and I welcome that, but we need to do more. The danger is still there, the problem is still there and, as far as I am aware, it is still going in the wrong direction—at least for a number of species. The Democrats urge more attention and more focus on this area and, more importantly than that, more action.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.05 pm)—I would like to make a quick contribution on this report, and I note the comments that have just been made. I agree that it is an extremely important issue, but the progress that the Australian fishing industry in particular has made with respect to the protection of seabirds is quite often not recognised. Senator Bartlett indicated that he did not think that there had been all that much improvement in this area.

I am happy to put on the record a conversation I had about 12 months ago with a fishing company that does a lot of fishing in the Southern Ocean in the areas that Senator Bartlett was talking about. They had not caught a seabird for four years at the time of that conversation and, having recently confirmed the information for the last 12 months, it is now five years since they caught a seabird while they were longlining in the Southern Ocean. That is a fantastic result and it is as a result of the technologies that have been developed by the Australian fishing industry and which have been applied by those who operate in the industry. But it is also a result of the monitoring that they undertake. They are required to have monitors on their ships and to report the results so that the claims can be verified. There should be due recognition given to the significant...
amount of work that the Australian fishing industry has done to progress the work in this very important area. As Senator Bartlett said, it is an important issue for the industry to look at. They have, to their credit, taken up that issue and done the work.

It was interesting to note in that conversation that, in adjacent waters, where the French were fishing, there were significant numbers of seabirds taken in that area. So I think the work of the international treaty is extremely important and the continuation of monitoring and reporting of progress is important. But the one thing I am very pleased to be able to say is that, in this particular instance, the Australian fishing industry and the advances that they have made in the management of this issue can be taken as an international example. I would certainly place my commendation to them on the record and urge that other countries that are signatories to this treaty continue to do the work that needs to be done and consider watching what the Australian industry are doing and taking up some of their advances.

Question agreed to.

Australia–United States Free Trade Agreement

Senator BARNETT (Tasmania) (7.09 pm)—I move:

That the Senate take note of the document.

In standing to take note of this document I note that it relates specifically to an amendment to the tariff schedule of the Australia–United States Free Trade Agreement. The practical and legal effect of these changes is negligible. The modifications to the US tariff schedule are consistent with the changes made to Australia’s free trade agreement tariff schedule and will ensure consistency with the current customs description and coding system maintained by the World Customs Organisation.

This is an amendment to a very important agreement: the Australia-US Free Trade Agreement. That agreement was made on 18 May 2004 by the then Minister for Trade, Mr Mark Vaile. It was signed as the Australia–United States Free Trade Agreement. Of course, it is on the back of a very strong relationship between Australia and the United States, which has become even stronger in past years as a result of the very warm relationship between our Prime Minister, John Howard, and President George W Bush. I do not think the Australia-US alliance could ever be stronger than it is at present. I know everybody on this side of the chamber in particular is a very strong supporter of it.

Indeed, the Australia-US Free Trade Agreement was the envy, and still is the envy, of many countries around the world. It is the most important bilateral economic agreement ever undertaken by Australia and it is already delivering real benefits across all states and territories, including in my home state of Tasmania. The free trade agreement is deepening our trade and investment relationship with the largest economy in the world. It is the United States’ first free trade agreement with a developed country since it signed a deal with Canada in 1989. So you can see the importance and the uniqueness of it.

The United States is the world’s largest market. It has a population of just over 300 million and a GDP of $US12 trillion. It is the world’s largest importer, the world’s largest investor in other countries and the world’s largest purchaser of good and services. And the United States is one of Australia’s most important trade and investment partners. In 2006 the two-way trade relationship between our two countries was worth $A47.5 billion. Australia exported $A15.6 billion in goods and services to the US and imported $A31.8 billion in that year.
I note that, following the Australia-US Free Trade Agreement, in 2006 Australia’s exports of goods and services to the US increased by nine per cent after declining between 2001 and 2005. That says a lot about the benefits of this agreement. Again, I want to particularly congratulate the Prime Minister, John Howard, and Mark Vaile for the work that they did with their team to make this agreement a reality. The free trade agreement is helping Australia to expand the trade relationship by progressively eliminating tariffs on goods, securing improved market access for Australia’s main agricultural exports, opening up the US government procurement market to Australian companies and further integrating our professional and financial service sectors.

With regard to Tasmania specifically, there are many benefits but tonight I want to refer to the benefits across the board, not only in agriculture but in mining and manufacturing. And I want to acknowledge and comment on the Tasmanian poppy industry. The US has what is called an 80-20 rule, where 80 per cent of their poppies or opiates comes from Turkey or India and 20 per cent from the rest of the world. Tasmania is definitely the sole area in Australia where poppies can be planted. Crop areas have declined over recent years, but I hope and I understand that there is good news, because it was announced in March that poppy plantings in Tasmania are set to increase this year to 17½ thousand hectares. I want to pay tribute to the Poppy Growers Association, to Lindley Chopping, to Keith Rice and to the Poppy Advisory and Control Board and the work done by Dr Peter Patmore and his team there. I note that the Tasmanian Liberal Senate team is very supportive of that industry, I know that, under the US free trade agreement and the representations made, the benefits will proceed. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to government documents were considered:


Treaties—

Multilateral—


General business orders of the day nos 29 to 31, 33 to 40 and 43 relating to government documents were called on but no motion was moved.
ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! It being 7.15 pm, I propose the question:
That the Senate do now adjourn.

Middle East

Senator TROETH (Victoria) (7.15 pm)—I wish to bring to the attention of the Senate tonight the gross violation of human rights, as I understand it, in the Middle East. I would like to inform the Senate that over a year has passed since the unprovoked abduction of two Israeli soldiers, Eldad Regev and Ehud Goldwasser, on the Israeli side of the Lebanese border—an action that precipitated widespread confrontation between Israel and the Lebanon based Hezbollah terrorist organisation. In that action, on 12 July 2006, Hezbollah launched rockets into Israel and entered Israeli territory. They captured the two soldiers that I have named and they killed a further eight. In the armed conflict which followed, an estimated 43 civilians in Israel were killed and an estimated 1,191 people in Lebanon were killed. Earlier, on 25 June 2006, Hamas irregulars attacked an Israeli position on the edge of the Gaza Strip. They killed two soldiers and captured a third, Gilad Shalit. He was abducted. Nothing has been heard of the two captive soldiers and only a tape has been heard of soldier Shalit’s voice. Neither their families nor the government of Israel have any knowledge of their whereabouts or their current state of health.

Especially grave is the fact that these unprovoked abductions were carried out on sovereign Israeli territory. The trespassing of Hezbollah into Israel arguably constituted an armed attack for the purposes of article 51 of the UN charter, which says:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations ...

The argument that cross-border assaults by non-state actors can constitute armed attacks is supported by UN Security Council resolutions 1368 and 1373. If that Hezbollah incursion was an armed attack, it enlivened Israel’s inherent right of self-defence under article 51.

This is a deplorable state of affairs. Not only were many innocent people killed in the subsequent retaliation by both sides but these unfortunate soldiers have not been able to be looked at by international agencies, and nor have their families heard anything from them. As I said, on the anniversary of the single soldier’s abduction in 2007 Hamas released a recorded message of Gilad Shalit’s voice—the first sign of life since he was abducted. His father indicated that the voice, if not the wording, of the message, was indeed that of his son. That recording is an important development but it cannot be seen as a substitute for what Hamas must do—namely, allow the International Red Cross to immediately visit the soldier and allow him to receive proper medical attention. These captive soldiers are being denied the most basic of human rights.

The Israeli foreign ministry are active in their efforts on all levels to obtain the release of the soldiers. The Israeli foreign minister and her fellow ministers, alongside the Prime Minister, have raised the issue at the highest level in their diplomatic meetings in Israel and abroad, as has our own Minister for Foreign Affairs, Mr Alexander Downer, who, in answer to a question on notice on 30 November 2006, replied that he was aware of the issue and:

... Australia utterly condemns taking hostages for political purposes and calls for the immediate and unconditional release of the IDF soldiers—

including the one abducted in the first abduction, because the abduction of those soldiers:
... will do nothing to advance the cause of the Palestinian people. We are deeply concerned at the complicity of Hamas’ armed wing in the initial attack and at the subsequent action by Hezbollah on the Israel Lebanon Border.

And he reminded those countries:

All states have a responsibility to abide by their obligations under international humanitarian law in response to any conflict.

So at least Australia has had a comment on that, about which I am very pleased.

The other evening, I think some time last week, there was an interview on The 7.30 Report on the ABC with the wife of one of the soldiers. When you look at the level of individual human misery, it is simply unconscionable to allow those families, let alone the respective governments, to go on wondering what has happened to their soldiers.

The report of the UN Secretary-General on this matter says it has been the focus of further intense efforts made by the UN to handle these issues. It says:

Hizbullah publicly rejected the concept of an immediate and unconditional release of the two Israeli soldiers at an early stage ...

And they have continued to do that, which is a matter for great concern. On 17 April the UN Security Council noted the lack of progress. On 25 June 2007, as I said, an audio message was released from one of the soldiers. On 20 July 2007 Israel released 256 prisoners and negotiations were ongoing for the release of Hamas prisoners in exchange for the return of Shalit. On 25 August 2007, Khaled Mashaal, the exiled Hamas leader, said Shalit is alive and in good health, but the outgoing UN envoy for the Middle East peace process, Michael Williams, told the Security Council that Hezbollah had, after 20 meetings, rejected an Israeli offer for a prisoner exchange for Regev and Goldwasser. There had been no evidence that they were still alive. An Israeli report concluded that they had been ‘seriously wounded during their capture and at least one of them could now be dead’. That information came from a Reuters report of 29 August 2007.

The electorate in Victoria, for which I am patron senator, Melbourne Ports, has many families and Jewish organisations who are seriously interested in this case. Together with me, a senator, and others of goodwill, they are seriously asking our government and any international agencies to progress this case and find out the fate of the prisoners, whether they are still alive and when a release may be expected. As I said, it is bad enough at an international level but at an individual level wives and families of these soldiers are wondering what has happened to them after at least a year of captivity with no medical attention being instanced, no international visits being allowed and no bulletins on their condition. We have every right to be seriously worried and I think it is a case that needs our immediate attention.

Social Enterprise

Senator STEPHENS (New South Wales—Parliamentary Secretary to the Leader of the Opposition) (7.22 pm)—The next time you pass someone in that street who is selling the Big Issue, look seriously at how this person represents a new model of small business. At first glance he or she might look like another homeless person haranguing a busy public, but nothing could be further from the truth. He or she is the face of many new social enterprises in Australia. Perhaps you do not know that the Big Issue is a fortnightly magazine packed with current affairs, entertainment, photography, comment and mischief. It is sold on the streets of towns and cities throughout Australia by people experiencing homelessness or long-term unemployment. It helps people help themselves. As vendors they are allocated
their sales territories and keep half of the $4 cover price of every magazine they sell.

The Big Issue does not push a party-political or a religious line. It is just an independent magazine committed to all forms of social justice. As an independent national magazine it publishes quality articles and images on a range of subjects, including arts and entertainment, current affairs, street culture and lifestyle. Each fortnight the magazine tackles the tough issues while keeping a sense of humour. So the Big Issue is a hand up, not a handout. If you are one of the people who were fortunate enough to watch the series on the ABC recently about the Choir of Hard Knocks you will know that one of the people who featured strongly in that program is a vendor of the Big Issue.

In Australia more than 3,000 vendors have joined the Big Issue family and sold the magazine as a way of getting back on their feet and gaining confidence. By selling the Big Issue, people who are experiencing homelessness, unemployment or serious disadvantage give themselves a break and hopefully start to improve their circumstances. The Big Issue is affiliated with 55 papers in 28 different countries. Every member of the International Network of Street Papers is committing to supporting the homeless and the unemployed and producing a high-quality publication that raises awareness about social issues.

In Australia the Big Issue was launched in Melbourne in June 1996 as an independent monthly magazine. It soon went fortnightly and is now being sold and distributed across Australia and right into regional Victoria. The Body Shop and Australia Post are key sponsors in Australia, and there are many other smaller sponsors and individual supporters and advocates who back the organisation. The Body Shop founder, Anita Roddick, who died this week, was one of the first to mix profits with social responsibility. She was a long-term supporter of the Big Issue in the UK, as well as several other social enterprises that promote fair trade and environmental sustainability.

The Big Issue in Australia also runs programs that help people to get back on their feet—particularly, as I said, people who are experiencing homelessness and long-term unemployment. While the key project is the magazine, there are also various support programs available to vendors, including youth projects, life skills training, and the Street Socceroos team, who first represented Australia at the 2005 Homeless World Cup in Edinburgh and recently won the bid to host the 2008 competition in Melbourne. We will be seeing the Homeless World Cup in May 2008. It should be fantastic. As the vendors always say, when they get the chance: the magazine is a good read and a good deed. So I hope that everyone in this chamber, next time they see a vendor on the street corner, will take the time to stop and buy the magazine.

The Big Issue is what is called a ‘social firm’. The social firm model originated in Italy in the 1960s and is now quite widespread throughout Europe and the UK. A social firm is a not-for-profit enterprise whose purpose is to create employment for people with a disability. Modifications that are required for employees in need of support are built into the design of the workplace. A social firm has a supportive work environment and up to half of its employees have a disability. Employment is based on the premise that every worker is paid the award rate or a productivity based rate. It provides the same work opportunities to the disadvantaged and the non-disadvantaged employees. It provides all the employees with the same employment rights and obligations.
Recently I was in Scotland to investigate some of these new enterprises that are particularly committed to improving the quality of life as well as the social and economic integration of people living with a psychiatric disability. I was really amazed. I found a wide range of social ventures, including a guest house being run by a group of people with schizophrenia—that was an interesting experience—environmental waste management businesses, landscaping, intensive hot-houses for vegetables, community gardens, timber recycling from demolition sites, packaging, mail distribution, hospitality and catering, natural products, local newsletter production and even theatre groups.

It was quite uplifting for me to see the way in which these ventures are structured to provide support for their employees who are living with mental illness. Flexible work arrangements, mentoring and support all feature in these workplaces. I saw men and women, young and old, who were feeling useful and valued for the first time in a long time. It was transforming their lives and allowing them to feel that they were genuinely working rather than just doing busy work or occupational therapy. Within the fields of psychosocial rehabilitation movements, employment emerges as a key area for ensuring that these people are able to remain in the community as active citizens and not merely the receivers of palliative care, tinged with rejection and exclusion. They often feel they are written off as receivers of palliative care; they believe that they are getting palliative care. The multiple functions that productive activity and employment are able to play in the lives of these individuals and the accumulated evidence concerning their capacity to improve the personal and social functionality, autonomy and quality of life of many of these individuals make employment a basic objective of rehabilitation programs.

But, at the same time, the role assumed by employment in our societies as a basis for true citizenship—and we define ourselves as employed or unemployed—in providing financial independence and social recognition, as well as the particular difficulties experienced by the majority of people who have severe mental disorders, is reflected by high rates of unemployment. That makes this group a collective, which, in societies aiming to base themselves on welfare state models must be the focus of very specific employment programs and policies. This is really important for policy formulation in Australia, because we have not been doing that very well. We need to be aware of the international considerations of these issues and models of care that are being developed across the world to improve the employment of individuals with severe mental illness. Here in Australia we have the emergence of social firms. There are a few. The Victorian based Social Firms Australia and its partners are committed to developing a social firms sector in Australia. I will talk again about Social Firms Australia and their achievements. But one of the most difficult issues in trying to build a social firms sector here in this country is the convoluted arrangements that we have around tax regulation and the Charities Act, which is based on that old charity welfare service model. In Goulburn, for example, the Phoenix Foundation runs the Goulburn Brewery. They make a great stout that is the envy of many commercial breweries.

In Melbourne we see Cleanable, which is an enterprise established by Westgate Community Initiatives Group. It is a commercial cleaning service. There is also Project 174, a design business specialising in glass and marble mosaics and murals. We should be able to do a lot better in this regard. Not long ago, the Parliamentary Friends of Schizophrenia had a speaker and a presentation...
about the centrality of work, the value of recognising the productive capacity of people with mental illness, the importance of this and about how the deficit and welfare model is currently the norm in Australia. So let us adopt a new approach for this particularly difficult group of our workforce. It is long overdue. We need to consider how we can ensure that these people are able to engage more broadly in our communities.

Veterans’ Entitlements

**Senator BARTLETT** (Queensland) (7.33 pm)—I would like to start tonight by congratulating both the government and the Labor Party on their recent announcements—

*Senator Scullion interjecting—*

**Senator BARTLETT**—Don’t look too shocked, Senator Scullion; obviously, they are pre-election announcements—to increase the level of support for many veterans and war widows in Australia. The announcement, firstly by the opposition, of the intention to generate fairer indexations for payments made to disabled war veterans is one that the Democrats have called for for a long period. Indeed, I have moved amendments in this chamber in the past—I should acknowledge, sometimes with Labor support—to achieve that end. I think one of them may have passed the Senate a few years ago, before the government had the numbers in the Senate, but it was not accepted by the government in the other place. Eventually, we had to not insist on it to enable the wider legislation that it was a part of to pass. But certainly many parts of the veterans’ community have been pushing for this for a long time. That pledge, if you like, was matched and, indeed, bettered in some respects by the Prime Minister this week. Again, the Democrats welcome that announcement from the government. I have regularly said in this place that we need to do better in providing support for veterans throughout Australia. The service provided by veterans is unique and, in some respects, there are unique aspects of the nature of the assistance that needs to be provided to those who have suffered injury, harm or who have been directly wounded through their war service. It does need to be better recognised, including through fairer indexation of the compensation payments and the pension payments available to them.

It is a positive development. Obviously a cynic could say: ‘We’re suddenly hearing these pledges on the eve of an election,’ and it is understandable to make those sorts of comments. But, frankly, that does not worry me, and I do not think it really worries the veterans’ community terribly. They have been calling for these changes for a long time. The promises have now been made by both the major parties, and that is part of how the democratic process works. You provide that pressure and if the incentive, pending an election, helps focus people’s minds sufficiently to provide the pledges, the promises and the commitments then that is part of the democratic process. And if it produces the outcome that is desired at the end of it all then that is a good thing. Certainly, I give a commitment from the Democrat side of things that we will continue to provide that pressure to ensure that the pledges and promises actually become reality via legislated, locked in l-a-w law amendments after the election.

Indeed, I would say and certainly would offer the Democrats’ support for an approach for the government to put that in place before the election. There is an understandable cynicism amongst people across the community that is not particularly partisan, and I think it applies to all politicians across the board, that we make lots of promises before elections and do not always deliver after elections. One way of avoiding that cynicism is to bring it through straightaway and, given some of the other measures the government
has managed to pull together and push through this parliament in a very short time frame, it is a reasonable thing to suggest that putting it through the parliament before the end of next week, so that we can be guaranteed that the measures will be put in place before the election, is something that would be appropriate and, in this case, it would be rushed legislation that the Democrats would support. We, quite rightly, frequently complain about rushed legislation where there has not been time for adequate scrutiny. In this area, where there have been plenty of calls for action for a long period of time, we have even had amendments passed previously by the Senate that would have implemented it, had it been accepted by the House of Representatives. There is not the need for that scrutiny and it could be done in that time frame. So I would make that call, which I think the shadow minister in this area, Mr Griffin, has also called for, to legislate now in this area. That is something I would also support and agree with.

Having made those positive comments, there is always, of course, the follow-up, which is the area where more still needs to be done. This is not an area of just saying that you give people something and they want more, I am calling for more to be provided to bring others in the community up to the newer matched standards that finally been promised by both the major parties. I am talking about those of the veterans’ community in the wider sense of the word, which are those who have served in peacetime. They do not have war related service and war related wounds, injuries or harm, but they still have service related conditions and service related injuries. We have a very big gap in our military compensation schemes and our veterans’ entitlements between those whose injuries were sustained in what is deemed to be warlike service and those who can receive totally identical wounds, injuries and harm in peacetime service or in service that is not seen as war related. I understand why that distinction is made but, frankly, if you have a disability or a health condition that has come about as a result of your putting your hand up to serve your country in the armed forces, then I am not convinced that the size of the distinction in the assistance that is provided to people is justified. It strikes me, as one who has spoken on this issue a number of times and has met with a number of Australians who have suffered very severe harm, injuries or wounds as a consequence of serving their country, that the service, assistance, compensation and support they get is inadequate.

I would make the point that I am convinced that, not only does this need to be addressed because of the inadequacy of the support provided to these people as individuals, but this is a key reason why we have such problems with retention of people in the armed forces. It only takes one serious injury, in one unit, amongst one group, with one person—if they are not given a fair go, if they are not treated properly, if they are made to fight and kick and scratch for every bit of support, then not only does their family get very browned off and let everybody know in the wider community as well as in the military community, but all their mates in the services see what has happened to that one person and think, ‘Gee, that could have been me. I do not want that to happen to me,’ and they get out of there.

I know of one former defence person who suffered a very serious brain haemorrhage, through heatstroke, whilst training for the SAS in northern Australia. He was a fit young man in his 20s and an elite soldier training for the SAS and he suffered that very serious injury, which will cause lifelong disability as a consequence. That condition happened to him a few years ago now, and my understanding is that not a single one of
his mates who were in the same division as him at the time is still in the armed forces. Now, it may not be that every single one of them left because of that incident, but I can be absolutely certain that a fair few of them left or were influenced because of that. It has a big impact on our retention in the armed forces, which is a continuing problem.

The compensation under the Military Rehabilitation and Compensation Act does discriminate between war service and peacetime service. The people who are incapacitated due to peacetime service have a range of different and lesser situations. They have a lower income that is taxed; they usually, except in very rare circumstances, do not get access to a white card or a gold card to assist with medical costs; they usually have to undergo regular reviews of their medical conditions regardless of the level of incapacity; they usually do not get access to legal aid to appeal compensation entitlement rejection; and they are not eligible to participate in many of the other DVA programs as well. There is a significantly lower amount of support provided to people even if they have exactly the same condition. I will not go through the case studies I know of, beyond saying that there are many Australians who have suffered serious health consequences as a direct result of injuries caused by their peacetime service, and I think we should do better for them. I would call on both parties not to forget about them as well.

**Year of the Surf Lifesaver**

**Senator PARRY (Tasmania) (7.43 pm)**—I rise to address the chamber and inform the Senate of the 100 years of surf-lifesaving in Australia and the celebration this year, 2007 being the Year of the Surf Lifesaver. This is the first time a community based organisation has received such an honour. This government bestowed that honour and made arrangements for this year back in 2004, something I am very proud of. The Year of the Surf Lifesaver marks the 100th anniversary, as I have mentioned, and next Monday evening in Parliament House, in the Mural Hall, there will be recognition with a parliamentary reception to acknowledge that fact.

I declare an interest: I am a past surf-lifesaver. I have competed, I have been an administrator and an instructor and a patrol member, something I have thoroughly enjoyed most of my adult and late teenage life.

Surf-lifesaving commenced in 1907 and when representatives of the first seven clubs met they formed the Surf Bathing Association of New South Wales, which went on to become what we know as Surf Lifesaving Australia today. Since then surf-lifesaving has grown in size and significance and it is now Australia’s major water safety and rescue authority, with more than 300 clubs and over 110,000 members Australia-wide.

Surf-lifesaving not only impacts on communities through its huge contribution but I would like to talk for a moment on the personal development surf-lifesaving provides to members. Something a lot of people are not aware of is that, compared to other sporting clubs, to compete in surf-lifesaving you have to perform voluntary patrol hours. You cannot just rock up and compete on the beach; you cannot just enter surf lifesaving for the competition angle; you must perform voluntary patrol hours. That is unique in any sporting field of competition, that you have to perform that community service.

To undertake that community service, you have to complete what is known as a bronze medallion, which most people talk about. About 7,000 bronze medallions are awarded each year in Australia. That puts the recipient through some rigorous testing both physically and academically. You have to learn how to resuscitate and go on to advanced resuscitation. You have to learn the
skills of water safety and have to understand surf awareness. You develop skills in craft use and rescue techniques and you have to be physically fit and able to run and swim. Those things equip you well socially in life and give you confidence. As you move through surf-lifesaving and when you compete, as normal people do in any sporting endeavour, you develop a great team aspect. Teamwork, team spirit and esprit de corps are very evident in surf-lifesaving throughout this country. You also develop social skills because you become part of the team and become part of the community. You have to communicate with people on beaches and in a patrol capacity as well as with your fellow club members.

I think those aspects of surf-lifesaving are often overlooked. I know that I am a better person for having done surf-lifesaving, as family members of mine have done and a lot of good friends I have. It really equips you well in a community role and community orientation. It also gives young surf-lifesavers, in particular people in the teenage years, an avenue to participate in the community without needing to turn to other forms of activity which are less desirable in society. It also gives you an understanding of health and awareness about your own body, about your own physical attributes and about what you should do. You develop a great understanding of how to look after yourself at a very critical age.

The mutual obligation you develop from being a surf-lifesaver comes from knowing that to compete you must be a volunteer, and you get a great feeling of satisfaction patrolling the beaches of Australia. I spent a couple of Christmas Days on beaches on patrol, and again it is great thing to be able to participate in.

I think we should commend Surf Lifesaving Australia, and I hope that my brief outline this evening will heighten awareness. We should constantly be supporting our surf-lifesaving clubs. Even the state of Tasmania has many surf-lifesaving clubs. Despite the water temperature, we have that advantage when we have national titles in Australia where competitors come from warmer climes and compete on our beaches. But Tasmania has a great, healthy surf-lifesaving environment and it augurs well for our society that we have that volunteer capacity and dedication from a wide range of age groups, but particularly have teenagers and people in their early 20s heavily participating. I commend all senators to look out for their surf-lifesaving clubs and support them.

Senate adjourned at 7.49 pm

DOCUMENTS
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—
  - Department of Education, Science and Training.
  - Department of Foreign Affairs and Trade.
  - Human Services portfolio agencies.
  - Industry, Tourism and Resources portfolio agencies.

Tabling
The following government documents were tabled:

Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Appropriation Act (No. 1) 2006-2007—Determination to reduce appropriation upon request—Determination No. 2 of 2007-2008 [F2007L03563]*.

Australian Federal Police Act—Select Legislative Instrument 2007 No. 264—Australian Federal Police Amendment Regulations 2007 (No. 1) [F2007L03551]*.

Aviation Transport Security Act—Select Legislative Instrument 2007 No. 276—Aviation Transport Security Amendment Regulations 2007 (No. 3) [F2007L03485]*.

Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA EX41/07—Exemption – Sunstate Airlines (Qld) operations into Lord Howe Island [F2007L02585]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/A330/70 Amdt 1—MLG Rib 6 Aft Bearing Lugs [F2007L03601]*.

AD/A330/70 Amdt 2—MLG Rib 6 Aft Bearing Lugs [F2007L03634]*.

AD/GBK 117/18 Amdt 1—Tail Rotor System – Control Lever – Inspection/Replacement [F2007L03588]*.

Criminal Code Act—Select Legislative Instruments 2007 Nos—

265—Criminal Code Amendment Regulations 2007 (No. 10) [F2007L03535]*.

266—Criminal Code Amendment Regulations 2007 (No. 11) [F2007L03537]*.

267—Criminal Code Amendment Regulations 2007 (No. 12) [F2007L03536]*.

Customs Act—Tariff Concession Orders—

0707612 [F2007L03462]*.

0707614 [F2007L03463]*.

0707620 [F2007L03464]*.

0707641 [F2007L03466]*.

0707644 [F2007L03467]*.

0708128 [F2007L03468]*.

0708287 [F2007L03486]*.

0708310 [F2007L03487]*.

0708647 [F2007L03483]*.

0708677 [F2007L03479]*.

0708678 [F2007L03480]*.

0708726 [F2007L03477]*.

Defence Act—Determinations under section 58B—Defence Determinations—

2007/54—Travel – amendment.


2007/56—Retention allowances and bonus schemes – amendment.

2007/57—Seamen officer specialisation completion bonus – amendment.

2007/58—Bonuses application and payment forms and housing – amendment.


Export Control Act—Export Control (Orders) Regulations—

Export Control (Fees) Amendment Orders 2007 (No. 1) [F2007L03561]*.

Export Control (Mung Beans) Repeal Orders 2007 [F2007L03554]*.

Export Control (Plants and Plant Products) Amendment Orders 2007 (No. 1) [F2007L03556]*.

Financial Management and Accountability Act—


Imported Food Control Act—Imported Food Control Regulations—Imported Food Control Amendment Order 2007 (No. 2) [F2007L03525]*.

Lands Acquisition Act—Statements describing property acquired by agreement for specified public purposes under sections—

40.

125.

Migration Act—

Select Legislative Instruments 2007 Nos—

272—Migration Amendment Regulations 2007 (No. 8) [F2007L03559]*.

273—Migration Amendment Regulations 2007 (No. 9) [F2007L03557]*.

274—Migration Amendment Regulations 2007 (No. 10) [F2007L03560]*.

Statements under section 197AB for period—

1 January to 30 June 2007 [5].

1 July 2006 to 31 December 2006 [5].


Governor-General’s Proclamations—Commencement of Provisions of Acts

Governance Review Implementation (Science Research Agencies) Act 2007—

Schedules 1, 2 and 3—10 September 2007 [F2007L03555]*.


* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Asia-Pacific Economic Cooperation

(Question No. 2955)

Senator Chris Evans asked the Minister representing the Attorney-General, upon notice, on 22 December 2006:
(1) How many staff of the department are working on preparations for APEC 2007.
(2) How much was spent on travel (including all transport, accommodation, food and beverages, per diem and other costs) by staff of the department working on preparations for APEC 2007 for:
   (a) domestic travel for the period up to and including May 2006;
   (b) international travel for the period up to and including May 2006, including a breakdown of: (i) international destinations visited, (ii) the number of trips to each destination, and (iii) the class of travel;
   (c) domestic travel for the period from 1 June 2006 to 31 October 2006; and
   (d) international travel for the period from 1 June 2006 to 31 October 2006 including a breakdown of: (i) international destinations visited, (ii) the number of trips to each destination, and (iii) the class of travel.

Senator Johnston—The Attorney-General has provided the following answer to the honourable senator’s question:
(1) At 22 December 2006 there were 41 APEC Security Branch staff working on preparations for APEC 2007.
   A significant contribution in support of APEC 2007 is also being provided as part of the delivery of core Departmental functions. Staff in the following areas are involved in less than a full-time capacity:
   • PSCC Security Programmes Branch - Dignitary Protection
   • PSCC Counter-Terrorism Branch – National Counter-Terrorism Committee Exercise Programme
   • PSCC Information Coordination Branch – Crisis Management Arrangements
   • Emergency Management Australia
   • Public Affairs
   • Information and Knowledge Services
   The considerable expense involved in diverting the resources required to provide a breakdown of time spent on APEC matters by these staff cannot be justified.
(2) The following was spent by staff of the department working on APEC 2007 preparations:
   (a) The total amount spent by APEC Security Branch on domestic travel from 1 October 2004 (when the Branch was established) to 31 May 2006 was $379,360.65.
   (b) The total amount spent by APEC Security Branch on international travel from 1 October 2004 to 31 May 2006 was $40,774.87.
      (i) International destinations visited by APEC Security Branch from 1 October 2004 to 31 May 2006 were the Republic of Korea and Vietnam.
(ii) From the period 1 October 2004 to 31 May 2006 APEC Security Branch made two trips to the Republic of Korea and one trip to Vietnam.

(iii) All international travel is by business class.

(c) The total amount spent by APEC Security Branch on domestic travel from 1 June 2006 to 31 October 2006 was $301,170.84.

(d) The total amount spent by APEC Security Branch on international travel from 1 June 2006 to 31 October 2006 was $59,996.99.


(ii) From the period 1 June 2006 to 31 October 2006 APEC Security Branch made one trip to Washington, one trip to London, one trip to Edinburgh and three trips to Vietnam.

(iii) All international travel is by business class.

A significant contribution in support of APEC 2007 is being provided as part of the delivery of core Departmental functions and staff of the Department may undertake travel in this capacity. The considerable expense involved in diverting the resources required to provide a breakdown of travel connected to APEC matters by these staff cannot be justified.

Baileys Diesel Services

(Anon. No. 3380)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 20 June 2007:

(1) In September 1997, were two fuel injector pumps from HMAS Westralia sent by Ches Diesel and Marine Services, a subcontractor to Australian Defence Industries (ADI), to Bailey’s Diesel Services in Unanderra, New South Wales, for repair.

(2) Is the Minister aware of allegations that during the repairs non-standard parts were found in those pumps; if so:

(a) who repaired those pumps on the previous occasion(s);

(b) what check was made by the Navy of quality assurance measures in place at that time to ensure that:

(i) only certified genuine parts were used, and

(ii) the repairs were carried out by the original equipment manufacturer (OEM) certified repairer of that brand of pump; and

(c) what examination was made of other pumps on HMAS Westralia at the time to check for similar alleged defects.

(3) On 16 February 1998, did ADI seek a quotation from Bailey’s Diesel Services for the maintenance of 24 or 28 fuel injector pumps through Ches Diesel & Marine Services, as sought by the Navy; if so:

(a) were those pumps from HMAS Westralia;

(b) were the pumps manufactured by L’Orange;

(c) which company was eventually awarded the contract;

(d) for what price;

(e) was the repairer certified by the OEM of the pumps in question; and

(f) is Bailey’s Diesel Services the only licensed repairer of L’Orange equipment in Australia; if so:
(i) why was someone else awarded the contract, and
(ii) what quality assurance was obtained by the Navy for that work.

(4) In September 1998, was a similar tender conducted for the maintenance of fuel injector pumps on HMAS Tobruk; if so:
   (a) which company won that tender;
   (b) were those pumps made by Lucas Bryce; and
   (c) was Bailey’s Diesel Services the only registered repairer of that equipment in Australia at that time.

(5) During the 5 years prior to the fire on HMAS Westralia in May 1998, on how many occasions had fuel injection pumps been removed in total or individually, and on each occasion:
   (a) what was the reason to remove them;
   (b) how many were replaced from Navy stores;
   (c) what tenders were called;
   (d) which company was the principal ship repairer awarded the contract;
   (e) who was the subcontractor which undertook the maintenance on the pumps; and
   (f) with respect to quality assurance, what evidence was required of the principal ship repair contractor or the subcontractor repairing the pumps as to their certification by the OEM of the pumps

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Yes, Defence understands that to be the case.

(2) No.

(3) Defence has not been able to locate any record of ADI seeking such a quotation, but documentation recently provided to Defence indicates that Baileys Diesel Services received a request from Ches Diesel and Marine Services on “26 02 98” “for test & o haul 28 f inj pumps”.
   (a) Yes.
   (b) HMAS Westralia’s fuel injection pumps were from two manufacturers; L’Orange and Duap. From the information held, Defence cannot determine which particular type of fuel injector pump was the subject of the above quote.
   (c) to (e) No records have been located that positively identify the company that was awarded the repair contract or the contract price.
   (f) While there are currently two Australian distributors of L’Orange equipment, Defence has not located documentation to confirm that they are licensed repairers.
      (i) No records have been located that positively identify the company that was awarded the repair contract.
      (ii) Documentation to detail the quality assurance measures specifically undertaken for this task has yet to be located.

(4) Defence is not aware of the arrangements between its contractor and the subcontractors engaged for the maintenance of fuel injector pumps for HMAS Tobruk but it is able to advise that the ship’s fuel injector pumps were manufactured by Lucas Bryce. Defence does not have definitive knowledge of registered repairers of Lucas Bryce fuel injector pumps in Australia in September 1998, but is aware that Giluma-Cooks was a registered repairer.
(5) Defence has not been able to establish that records exist for the period 1994 to 1998 in respect of
the removal of fuel injection pumps from the main engines of HMAS Westralia.

**Ship Repair Contractors**

(Question No. 3381)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 20 June 2007:

(1) With reference to the transcript of evidence of Rear Admiral Ruting to the estimates hearing of the
Foreign Affairs, Defence and Trade Committee of 30 May 2007:

(a) what are the precise terms of the new instruction issued after the Board of Inquiry (BOI) report
into the fire on HMAS Westralia in May 1998, requiring ship repair contractors to sub-contact
work only to Original Equipment Manufacturers (OEM’s); and
(b) what was the wording of those instructions prior to the fire.

(2) In response to a Freedom of Information request by Dahlmann Burke, lawyers on behalf of Baie-
ley’s Diesel Services on this same matter, did the information provided quote the instruction in
paragraph 1(a) as ‘Department of Defence policy which provides that all work relating to fuel sys-
tem components must be performed by Original Equipment Manufacturers (“OEM”) or their Aus-
tralian agent’ and ‘The contractor agrees that the Original Equipment Manufacturer (OEM) or his
Australasian agent shall issue a Conformance Certificate for all work and components relating to
Internal Combustion Engine (ICE) Fuel Systems’; if so, does this mean:

(a) that OEM assurance to be sought from the OEM for all repairs and parts includes the specific
OEM of fuel pumps, regardless of company ownership, and
(b) that the Navy is absolved from responsibility for non-complying work endangering the safety
of its ships.

(3) In a response to the Western Australian Coroner’s recommendations, did the department, as re-
ported on page 114 of the Coroner’s Report, say that ‘The Commonwealth was not a party to the
contract between ADI and Enzed. The Commonwealth was not in a position to know that the
wrong hose had been specified in that contract. It was ADI’s responsibility to monitor the work of
its sub-contractors’; if so,

(a) does it accept the Coroner’s view that ‘the fact that no one in the Navy had any knowledge of
which type of hoses had been contracted for even after they were installed demonstrated a
gross lack of supervision of the contract’; and
(b) does this contracting practice continue today.

(4) Were the engines on the HMAS Westralia at the time of the fire in May 1998 Pielstick engines
made by SEMT, now owned by MAN, and were the fuel injector pumps made by L’Orange, a sepa-
rate company, but also subsequently taken over by MAN; if so, would the new instructions to ob-
tain OEM assurance for all repairs to injection fuel pumps require assurance from only MAN or its
registered agent as an OEM for the engines, or does it also require separate assurance from the
manufacturer of injector fuel pumps L’Orange or its certified agents.

(5) Can the Minister advise:

(a) which companies, in 1997 and 1998, were the registered agents of L’Orange in Australia;
(b) who are they now; and
(c) which repair companies have been contracted to maintain Navy L’Orange fuel pumps since
1998.

(6) Noting that the Navy uses a panel of four ship repairers for engine maintenance work, as referred to
by Rear Admiral Ruting on 30 May 2007:
(a) what certification does each company have as certified repairers of all the OEM’s of all diesel engine types in RAN ships and, in each case, what OEM certification is held by each subcontractor used by those companies in the maintenance of all Navy diesel injection pumps; and

(b) does the Navy hold a register of those certified sub-contractors; if not, why not; if so, what are the names of the certified sub-contractors on that list.

(7) Can the Minister confirm that the current instructions requiring the Navy’s diesel engine repairers to be certified, places total responsibility for the OEM certification of engine maintenance subcontractors’ work on the ship repairer contracted to do the work; if so, what checks does the Navy take to ensure that:

(a) such sub-contractors are in fact certified by the OEM as repairers of their product; and

(b) only genuine OEM approved replacement parts are used.

(8) What is the most recent Navy ship to have fuel injection pumps removed for maintenance, and:

(a) who was the contracted repairer;

(b) what subcontractor(s) were used;

(c) what type of engine was fitted to that ship, who manufactured it, and what brand of injector pump was fitted; and

(d) what evidence was sought by the Navy:

(i) that the sub-contractors were certified by the OEM of the fuel injector pumps fitted to that ship, and

(ii) that only OEM approved replacement parts were used.

(9) (a) What guarantee and warranty is required of:

(i) engine repairers and

(ii) fuel injection maintenance sub-contractors, for maintenance work done to Navy diesel engines; and

(b) how many times in the past 3 years have the provisions of those been exercised for the rectification of unsatisfactory work, and in respect of:

(i) which ships,

(ii) which principal contractors, and

(iii) which sub-contractors.

Senator Ellison—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) The procedure issued in October 1998 does not require ship repair contractors to sub-contract work only to Original Equipment Manufacturers. The precise terms of the procedure stated: “1. All work appertaining to Internal Combustion Engine (ICE) Fuel System Components will require a Conformance Certificate to be issued by the original equipment manufacturer (OEM) or his Australasian Agent. 2. All future contracts appertaining to work on ICE Fuel systems will contain a clause specifying this requirement as a contractual obligation. 3. OAEA is currently endeavouring to ensure that the Naval Stores System repair authorities adopt these requirements similarly.”

Clarification on the use of OEM parts was issued in September 2000 following the release in February 1999 of Defence Instruction (Navy) LOG 47-3 Regulation of Technical Integrity of Australian Defence Force maritime materiel. The clarification was precisely as follows: “The regulatory framework does not mandate OEM parts. The use of non-OEM parts is acceptable
provided that: a. Form, fit and function is maintained; b. System design integrity is not compromised; c. The supplier or design assurer is competent in the associated design issues of the system; d. The supplier or design assurer assures that the design integration of the non-OEM part into the system is safe and fit for intended function and intended environment; and e. Configuration control of the system, documentation and design is fully maintained.”

(b) There was no equivalent to the Navy Technical Regulatory System prior to the Board of Inquiry. Quality verification appeared in the work orders and contracts as (in the case for HMAS Westralia):

“6.1 Quality System
6.1.1 The Contractor shall have AS/NZ ISO 9002 1994 Certification … The Contractor’s Design Agency shall have AS/NZ ISO 9001: 1994 Certification …
6.1.2 The Contractor shall maintain and apply the Certified quality system to the production (including design and development, if applicable) of the Supplies.
6.1.3 The Contractor, by subcontracting any part of the work under the contract, shall not be relieved of its liabilities and obligations under the contract, and shall be responsible for all subcontractors’ work.”

(2) Defence has no record of an application from Dahlmann Burke, lawyers. Phillips Fox lodged a Freedom of Information (FOI) application with Defence on 19 January 1999 following an earlier representation to the Minister for Defence in December 1998. The first quotation cited was not provided by Defence but comes from the letter written to the Minister for Defence by Phillips Fox in December 1998 and is a misrepresentation of advice provided by the Ordering Authority Eastern Australia in a letter to Baileys Diesel Services dated 27 October 1998. The second quotation is from the information provided by Defence in response to the Phillips Fox FOI application. It is part of a clause which was to be included by the Ordering Authority Eastern Australia in “all Requests for Tenders and contracts”.

(3) Defence is not aware of any recommendation by the Western Australian State Coroner as suggested in this question.

(a) So far as Defence is aware, the Naval Board of Inquiry did not find any contractual arrangement between ADI Limited and Enzed that specified the type of hose.

(b) Contracting practices are subject today to the oversight of the Defence Materiel Organisation (DMO) System Program Offices operating as Authorised Engineering Organisations in accordance with Defence Instruction (Navy) LOG 47-3 Regulation of Technical Integrity of Australian Defence Force maritime materiel, Amendment Number 1, a copy of which has been provided to Senator Faulkner. This continues the practice in the September 2000 clarification described in part (1) (a) above.

(4) The HMAS Westralia main engine is a Crossley Pielstick not a SEMT Pielstick. SEMT was the French designer who licenced production of the engine to others, including Crossley. Crossley is now part of Rolls Royce. The Westralia engines were fitted with a mix of L’Orange and Duap fuel injection pumps. As to the effect of the new instructions, see part (1) (a) above.

(5) (a) The complete list of registered agents for L’Orange in Australia in 1997 and 1998 is not known. Premier Fuel Injection Services, service agents for L’Orange injection pumps, has advised that, until 2001, the Melbourne company Peacock and Smith was the Australian agent. L’Orange was then purchased by MTU and L’Orange was absorbed within the MTU network.

(b) Apart from the MTU network, L’Orange currently has two specifically named Australian agents / distributors: Peacock and Smith and Baileys Diesel Services.

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(c) Since 1998, main engine fuel injection pumps have been serviced largely by their respective main engine OEMs.

(6) The four companies pre-qualified to tender as the prime contractor for major surface ship repair and refit contracts may perform engine maintenance in their own right or subcontract the work on a commercial basis, subject to the conditions of the contract. The contract statement of work and/or the work instructions associated with particular tasks articulate the certification and/or competence of personnel and organisation / companies completing the activity. In many instances, the repairer will be specified as the OEM or their in-country agent.

(a) There is no certification proviso as implied by the question. The nature of the Ship Repair Contract is such that, where OEMs or authorised agents are required, then these requirements will be stated in either the Request For Tender statement of work or within the particular work instructions for a particular task. During tender evaluations, the tenderer and sub-contractor will be checked for compliance with the certification requirements. Where doubt exists, the prime contractor is required to demonstrate conformance with the requirement.

(b) No. Where support services for ships are covered by In Service Support Contracts, there will be an attachment to the contract that contains a Schedule of Approved Subcontractors and this can only be amended by a Contract Change. Each System Program Office will have knowledge of approved subcontractors for specific tasks where this is warranted.

(7) No. There is no certification proviso as implied by the question. Compliance with the requirements of the Naval Technical Regulatory Framework is mandatory for ADF maritime materiel. This is assured by having competent and authorised personnel working to approved standards using approved processes and working within an authorised engineering organisation and whose work is certified as correct. DMO assesses suppliers and requires objective quality evidence to support any claims in relation to accreditation / authorisation and OEM status.

(a) There is no certification proviso as implied by the question, but, within DMO, System Program Offices undertake checks and reviews of their service providers as part of their compliance checks. The System Program Offices are further audited by the Navy for compliance against the Naval Technical Regulatory Framework to ensure their compliance.

(b) It is not obligatory that OEM replacement parts are used in every instance. The use of non-OEM parts is acceptable provided that: a. Form, fit and function is maintained; b. System design integrity is not compromised; c. The supplier or design assurer is competent in the associated design issues of the system; d. The supplier or design assurer assures that the design integration of the non-OEM part into the system is safe and fit for intended function and intended environment; and e. Configuration control of the system, documentation and design is fully maintained. Conformance certification is required.

(8) The most recent removal of Navy fuel injection pumps was for the Pacific Patrol Boats in July 2007.

(a) Hastings Deering – Rockhampton.

(b) No subcontractor was used. Hastings Deering is a recognised representative of Caterpillar, the OEM for the diesel engines and generators.

(c) The Pacific Patrol Boats use Caterpillar diesel engines (Type 3516), which use Unit type injectors and a fuel pump and governor combination (Part number 2W6178 fuel pump group).

(d) See (b) above.

(9) (a) The guarantee and warranty requirements for maintenance work vary depending on the type of contract. For example, the Caterpillar representative provides a warranty period of three months on labour and parts and three months on maintenance work on engines. In some instances, where longer term relationships are in place with In Service Support contractors, this
warranty period many be extended to 12 months for parts and varying periods for workmanship.

(b) Three claims relating to unsatisfactory maintenance or manufacturing defects have occurred in the last three years: an ANZAC frigate in respect to MTU, four Minehunter Coastal (MHC) ships in respect to Thales Australia and WARTSILA Australia, and a Minesweeper Auxiliary (MSA) ship in respect to Birdon Marine Pty Ltd and WARTSILA Australia.

**Baileys Diesel Services**

(QUESTION No. 3384)

*Senator Faulkner* asked the Minister representing the Minister for Defence, upon notice, on 20 June 2007.

(1) In evidence before the estimates hearing of the Foreign Affairs, Defence and Trade Committee 30 May 2007, did Defence dismiss an anecdote used by Bailey's Diesel Services that a company undertaking maintenance on HMAS *Westralia* prior to the fire of May 1998 'was operating out of the boot of a car and so was an inappropriate source of labour and parts for work on Navy ships' (*FAD&T Committee Hansard*, p. 29).

(2) Can the Minister confirm that the Western Australian Coroner, in his report at page 12, referred to Mr Old of the Enzed company, which supplied and fixed the substandard fuel hoses to HMAS *Westralia*, as a person who 'had left Navy on 14 November 1997 and worked as a “hose doctor” operating a mobile hydraulic hose repair service from the back of a van or truck', and 'If the significance of the proposed change had been appreciated by ADI, Enzed would not have been an appropriate subcontractor to use'.

*Senator Ellison*—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) No. The allegation made by Baileys Diesel Services was not dismissed. Defence’s examination investigated the claims made by Baileys during the 6 February 1998 interview as we now know from the transcript prepared in 2005. This anecdote was found to be unsubstantiated. Baileys alleged the Navy and its prime contractors and subcontractors had a history of fitting ships – including HMAS *Westralia* – with sub-standard parts. Baileys allegations included that a company was being used in preference to them, and that that company was operating out of the boot of a car and so was an inappropriate source of labour and parts for work on Navy ships. Contrary to Baileys claims, the contractor was in fact the endorsed exclusive Australian representative of the ALCO engines US Original Equipment Manufacturer. ALCO engines are used in HMAS *Manoora* and *Kanimbla*. That contractor is still in operation today. Baileys did not allege this contractor had worked on HMAS *Westralia*. Furthermore, a search of HMAS *Westralia*’s service history records found no history of sub-standard parts being used.

(2) Yes, that is what the Western Australian Coroner stated. However, Enzed is not the company Baileys made the allegation about in the 6 February 1998 interview. Furthermore, Baileys made no reference to Enzed in the 6 February 1998 interview.

**Siev X**

(QUESTION No. 3405)

*Senator Milne* asked the Minister representing the Minister for Foreign Affairs, upon notice, on 17 July 2007:

*With reference to the Indonesian Jakarta Harbourmaster’s report dated 22 October 2001, submitted as an attachment to paragraph (a) of question no. 113 taken on notice during the 2006-07 supplementary*
budget estimates of the Legal and Constitutional Committee, that was viewed by ‘Australian officials’ in the days following the sinking of Suspected Illegal Entry Vessel X (SIEV X):

(1) Did the Department of Immigration and Citizenship or any other government agency, attempt to locate Mr Majid, the captain of the *Arta Kencana* 38, mentioned in the report as the captain of the vessel that brought 44 of the 45 survivors to Jakarta on 22 October 2001; if not, why not, given that the information the captain could provide on the rescue position could have been used to estimate the probable area of sinking; if so, can details be provided of the officials involved, what actions were undertaken and the dates these actions occurred.

(2) What was the earliest date that any official of the Department of Immigration and Citizenship heard, by any means, that the location of the rescue of SIEV X survivors was reported to be 07 40 00S / 105 09 00E.

**Senator Coonan**—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

(1) Department of Foreign Affairs and Trade records do not indicate that any DFAT officer attempted to locate Mr Majid in relation to the sinking of SIEV X.

(2) Not applicable.