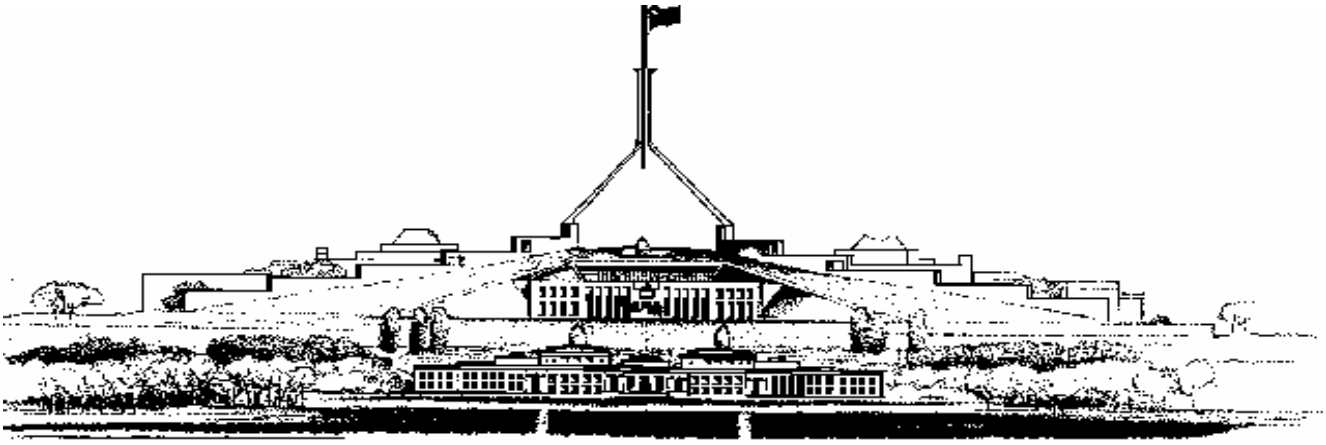
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 17, 2005

MONDAY, 7 NOVEMBER 2005

FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

BY AUTHORITY OF THE SENATE

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SITTING DAYS—2005

Month	Date
February	8, 9, 10
March	7, 8, 9, 10, 14, 15, 16, 17
May	10, 11, 12
June	14, 15, 16, 20, 21, 22, 23
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FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Temporary Chairmen of Committees—Senators Guy Barnett, George Henry Brandis, Hedley Grant Pearson Chapman, Patricia Margaret Crossin, Alan Baird Ferguson, Michael George Forshaw, Stephen Patrick Hutchins, Linda Jean Kirk, Philip Ross Lightfoot, Gavin Mark Marshall, Claire Mary Moore, Andrew James Marshall Murray, Hon. Judith Mary Troeth and John Odin Wentworth Watson
Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin
Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell
Deputy Leader of The Nationals—Senator John Alexander Lindsay (Sandy) Macdonald
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 Family First Party—Senator Steve Fielding
Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston
Nationals Whip—Senator Julian John James McGauran
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
Australian Democrats Whip—Senator Andrew John Julian Bartlett

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2011	LP
Adams, Judith	WA	30.6.2011	LP
Allison, Lynette Fay	VIC	30.6.2008	AD
Barnett, Guy	TAS	30.6.2011	LP
Bartlett, Andrew John Julian	QLD	30.6.2008	AD
Bishop, Thomas Mark	WA	30.6.2008	ALP
Boswell, Hon. Ronald Leslie Doyle	QLD	30.6.2008	NATS
Brandis, George Henry	QLD	30.6.2011	LP
Brown, Carol Louise[4]	TAS	30.6.2008	ALP
Brown, Robert James	TAS	30.6.2008	AG
Calvert, Hon. Paul Henry	TAS	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Campbell, Hon. Ian Gordon	WA	30.6.2011	LP
Carr, Kim John	VIC	30.6.2011	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Colbeck, Hon. Richard Mansell	TAS	30.6.2008	LP
Conroy, Stephen Michael	VIC	30.6.2011	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret [3]	NT		ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2011	LP
Evans, Christopher Vaughan	WA	30.6.2011	ALP
Faulkner, Hon. John Philip	NSW	30.6.2011	ALP
Ferguson, Alan Baird	SA	30.6.2011	LP
Ferris, Jeannie Margaret	SA	30.6.2008	LP
Fielding, Steve	VIC	30.6.2011	FF
Fierravanti-Wells, Concetta Anna	NSW	30.6.2011	LP
Fifield, Mitchell Peter[2]	VIC	30.6.2008	LP
Forshaw, Michael George	NSW	30.6.2011	ALP
Heffernan, Hon. William Daniel	NSW	30.6.2011	LP
Hill, Hon. Robert Murray	SA	30.6.2008	LP
Hogg, John Joseph	QLD	30.6.2008	ALP
Humphries, Gary John Joseph [3]	ACT		LP
Hurley, Annette	SA	30.6.2011	ALP
Hutchins, Stephen Patrick	NSW	30.6.2011	ALP
Johnston, David Albert Lloyd	WA	30.6.2008	LP
Joyce, Barnaby	QLD	30.6.2011	NATS
Kemp, Hon. Charles Roderick	VIC	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	QLD	30.6.2011	ALP
Lundy, Kate Alexandra [3]	ACT		ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2008	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS
McEwen, Anne	SA	30.6.2011	ALP
McGauran, Julian John James	VIC	30.6.2011	NATS
McLucas, Jan Elizabeth	QLD	30.6.2011	ALP
Marshall, Gavin Mark	VIC	30.6.2008	ALP

Senator	State or Territory	Term expires	Party
Mason, Brett John	QLD	30.6.2011	LP
Milne, Christine	TAS	30.6.2011	AG
Minchin, Hon. Nicholas Hugh	SA	30.6.2011	LP
Moore, Claire Mary	QLD	30.6.2008	ALP
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nash, Fiona	NSW	30.6.2011	NATS
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	TAS	30.6.2011	ALP
Parry, Stephen	TAS	30.6.2011	LP
Patterson, Hon. Kay Christine Lesley	VIC	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Polley, Helen	TAS	30.6.2011	ALP
Ray, Hon. Robert Francis	VIC	30.6.2008	ALP
Ronaldson, Hon. Michael	VIC	30.6.2011	LP
Santoro, Santo [1]	QLD	30.6.2008	LP
Scullion, Nigel Gregory [3]	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2008	ALP
Siewert, Rachel	WA	30.6.2011	AG
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Sterle, Glenn	WA	30.6.2011	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Troeth, Hon. Judith Mary	VIC	30.6.2011	LP
Trood, Russell	QLD	30.6.2011	LP
Vanstone, Hon. Amanda Eloise	SA	30.6.2011	LP
Watson, John Odin Wentworth	TAS	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope Ying Yen	SA	30.6.2008	ALP
Wortley, Dana	SA	30.6.2011	ALP

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

PARTY ABBREVIATIONS

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

Heads of Parliamentary Departments

Clerk of the Senate—H Evans

Clerk of the House of Representatives—I C Harris

Secretary, Department of Parliamentary Services—H R Penfold QC

HOWARD MINISTRY

Prime Minister	The Hon. John Winston Howard MP
Minister for Trade and Deputy Prime Minister	The Hon. Mark Anthony James Vaile MP
Treasurer	The Hon. Peter Howard Costello MP
Minister for Transport and Regional Services	The Hon. Warren Errol Truss MP
Minister for Defence and Leader of the Government in the Senate	Senator the Hon. Robert Murray Hill
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House	The Hon. Anthony John Abbott MP
Attorney-General	The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council	Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House	The Hon. Peter John McGauran MP
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs	Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training	The Hon. Dr Brendan John Nelson MP
Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues	Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources	The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service	The Hon. Kevin James Andrews MP
Minister for Communications, Information Technology and the Arts	Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage	Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)

HOWARD MINISTRY—*continued*

Minister for Justice and Customs and Manager of Government Business in the Senate	Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation	Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport	Senator the Hon. Charles Roderick Kemp
Minister for Human Services	The Hon. Joseph Benedict Hockey MP
Minister for Citizenship and Multicultural Affairs	The Hon. John Kenneth Cobb MP
Minister for Revenue and Assistant Treasurer	The Hon. Malcolm Thomas Brough MP
Special Minister of State	Senator the Hon. Eric Abetz
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister	The Hon. Gary Douglas Hardgrave MP
Minister for Ageing	The Hon. Julie Isabel Bishop MP
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 Veterans' Affairs and Minister Assisting the Minister for Defence	The Hon. De-Anne Margaret Kelly MP
Minister for Workforce Participation	The Hon. Peter Craig Dutton MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Warren George Entsch MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence	The Hon. Teresa Gambaro MP
Parliamentary Secretary (Trade)	Senator the Hon. John Alexander Lindsay (Sandy) Macdonald
Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs	The Hon. Bruce Fredrick Billson MP
Parliamentary Secretary to the Prime Minister	The Hon. Gary Roy Nairn MP
Parliamentary Secretary to the Treasurer	The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary (Children and Youth Affairs)	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 Agriculture, Fisheries and Forestry	Senator the Hon. Richard Mansell Colbeck

SHADOW MINISTRY

Leader of the Opposition	The Hon. Kim Christian Beazley MP
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research	Jennifer Louise Macklin MP
Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services	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 Health and Manager of Opposition Business in the House	Julia Eileen Gillard MP
Shadow Treasurer	Wayne Maxwell Swan MP
Shadow Attorney-General	Nicola Louise Roxon MP
Shadow Minister for Industry, Infrastructure and Industrial Relations	Stephen Francis Smith MP
Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security	Kevin Michael Rudd MP
Shadow Minister for Defence	Robert Bruce McClelland MP
Shadow Minister for Regional Development	The Hon. Simon Findlay Crean MP
Shadow Minister for Primary Industries, Resources, Forestry and Tourism	Martin John Ferguson MP
Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House	Anthony Norman Albanese MP
Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories	Senator Kim John Carr
Shadow Minister for Public Accountability and Shadow Minister for Human Services	Kelvin John Thomson MP
Shadow Minister for Finance	Lindsay James Tanner MP
Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services	Senator the Hon. Nicholas John Sherry
Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women	Tanya Joan Plibersek MP
Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility	Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)

SHADOW MINISTRY—*continued*

Shadow Minister for Consumer Affairs and Shadow Minister for Population Health and Health Regulation	Laurie Donald Thomas Ferguson MP
Shadow Minister for Agriculture and Fisheries	Gavan Michael O'Connor MP
Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition	Joel Andrew Fitzgibbon MP
Shadow Minister for Transport	Senator Kerry Williams Kelso O'Brien
Shadow Minister for Sport and Recreation	Senator Kate Alexandra Lundy
Shadow Minister for Homeland Security and Shadow Minister for Aviation and Transport Security	The Hon. Archibald Ronald Bevis MP
Shadow Minister for Veterans' Affairs and Shadow Special Minister of State	Alan Peter Griffin MP
Shadow Minister for Defence Industry, Procurement and Personnel	Senator Thomas Mark Bishop
Shadow Minister for Immigration	Anthony Stephen Burke MP
Shadow Minister for Aged Care, Disabilities and Carers	Senator Jan Elizabeth McLucas
Shadow Minister for Justice and Customs and Manager of Opposition Business in the Senate	Senator Joseph William Ludwig
Shadow Minister for Overseas Aid and Pacific Island Affairs	Robert Charles Grant Sercombe MP
Shadow Parliamentary Secretary for Reconciliation and the Arts	Peter Robert Garrett MP
Shadow Parliamentary Secretary to the Leader of the Opposition	John Paul Murphy MP
Shadow Parliamentary Secretary for Defence and Veterans' Affairs	The Hon. Graham John Edwards MP
Shadow Parliamentary Secretary for Education	Kirsten Fiona Livermore MP
Shadow Parliamentary Secretary for Environment and Heritage	Jennie George MP
Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations	Bernard Fernando Ripoll MP
Shadow Parliamentary Secretary for Immigration	Ann Kathleen Corcoran MP
Shadow Parliamentary Secretary for Treasury	Catherine Fiona King MP
Shadow Parliamentary Secretary for Science and Water	Senator Ursula Mary Stephens
Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs	The Hon. Warren Edward Snowdon MP

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Monday, 7 November 2005

The Senate met at 12.30 pm

ABSENCE OF THE PRESIDENT

The Clerk—Pursuant to standing order 13, I advise the Senate that the President is temporarily and unavoidably absent today and the Deputy President will take the chair.

The DEPUTY PRESIDENT (Senator Hogg) thereupon took the chair and read prayers.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (12.31 pm)—I move:

That government business notice of motion No. 1 be postponed till a later hour of the day.

Question agreed to.

MIGRATION LITIGATION REFORM BILL 2005

Second Reading

Debate resumed from 12 October, on motion by **Senator Coonan**:

That this bill be now read a second time.

Senator NETTLE (New South Wales) (12.31 pm)—The Migration Litigation Reform Bill 2005 before the Senate is about reducing judicial review and oversight of the decisions and actions of the Department of Immigration and Multicultural and Indigenous Affairs. Recent revelations have shown that less oversight of the department of immigration's decisions is the last thing that is needed and that therefore this bill is irresponsible.

A central plank of the recent private member's bill introduced by the member for Kooyong was the insertion of amendments that would have provided for increased judicial review of the department of immigration's decisions to detain people under the Migration Act. Only a few months after the compromise deal struck with Mr Georgiou, the government is now seeking the Senate's agreement to pass this bill, which seeks to reduce the ability to seek, or otherwise discourage applicants from seeking, judicial review of the department of immigration's decisions. This is despite widespread criticism during the Senate inquiry into this bill from prominent legal groups and continuing scandals that underline the need for the department of immigration to be brought back under control and judicial oversight. The Australian Greens oppose this bill and will move amendments that seek to bring increased, not less, judicial oversight of the department of immigration's operations.

The majority of the community believe that the department of immigration has proved itself incapable of implementing the Migration Act in a way that is humane and competent. For years the community has heard stories of abuse of detainees and of detention centres that drive people to despair and mental illness. The case of Cornelia Rau awoke the media and the Australian public to the fact that something is very wrong with our system of mandatory immigration detention. And then there was the horrifying case of Vivian Solon—a frail, mentally ill Australian citizen who was separated from her young children and deported to a hospice for the dying in the Philippines. The handling of this case was summarised by the Comrie report as that of 'systemic failure' and 'catastrophic'. Now we have 220 cases of potentially unlawful detention, 23 of which lasted for over a year and two people were detained for between five and seven years.

These revelations have horrified and frightened Australians. Some Australians from non-English-speaking backgrounds now feel that they must carry their passport with them in order ensure that they are not detained by the department of immigration.

The Palmer report's recommendations stressed the need for more oversight of the department's operations and decisions. Recommendation 7.3 of the Palmer reports calls for:

> ... an independent professional review of the functions and operations of DIMIA's Border Control and Compliance Division and Unlawful Arrivals and Detention Division ...

In light of the endemic failures of the department of immigration to properly administer the law in a humane way and the public's loss of confidence in the minister and her department, it seems illogical and irresponsible for the Senate to pass this bill, which aims to reduce independent oversight of the operations of the department of immigration.

The Law Council of Australia told the Senate inquiry into this bill, 'The parliament has again been invited to focus once again on the wrong end of the process: trying to stifle review instead of addressing the question of why so many appeals are being lodged.' The current Senate inquiry into the Migration Act has received compelling evidence from hundreds of submissions that the protection visa process implemented by the department of immigration is fundamentally flawed from the initial interview stage through to the ministerial intervention power at the end of the process. A prominent barrister in the area told the inquiry that there was 'randomness all the way through' the system. Other witnesses have told the inquiry that identical claims from individuals in the same family can have drastically different results. These decisions have serious consequences for individuals and their families.

Many submissions to the inquiry propose that reform of the system to allow for greater legal representation and transparency of decision making and judicial review of merits as well as process would result in better decision making and less litigation in the area. If the government were more honest about wanting to address the amount of migration related litigation, it would ensure that these root causes of litigation were identified and addressed. Instead, legislation is put before us by the government that is aimed at putting up barriers to stop detainees being able to access proper judicial review of the department of immigration's actions, and instead this bill attempts to intimidate and penalise lawyers and advocates who assist asylum seekers.

It should also be noted that this government is not shy of pursuing what I would describe as unmeritorious litigation. In answer to a question on notice that I asked, the department admitted that it had spent at least $13,109 and had had numerous court appearances trying to deny a mentally ill detainee proper psychiatric care. The merit of such litigation is highly dubious, in my book. Two other detainees have been through extensive legal cases to argue essentially the same point—that the Commonwealth has a responsibility to provide them with appropriate psychiatric care. I am now talking about the cases of detainees 'S' and 'M' that resulted in the ruling from Justice Finn in the Federal Court that the Commonwealth had breached its duty of care and was guilty of culpable neglect. In these cases the Commonwealth spent $87,099.14 on legal costs arguing that detainee S should not have access to specialist psychiatric care and $91,526.56 on legal costs arguing that detainee M should not have access to specialist psychiatric care.

We have seen the government also appeal its right to indefinitely detain innocent people under the Migration Act. I would describe this and earlier cases of litigation that DIMIA has been involved in as unmeritorious appeals in the eyes of the Australian Greens. We have seen this government appeal its right to hold children in detention—

an application wholly without merit in the eyes of the Greens and, I believe, the vast majority of Australians.

I will be moving amendments on behalf of the Australian Greens that will ensure increased judicial oversight, rather than less, of the department of immigration's decisions. Currently the department of immigration can arrest and detain people indefinitely on the reasonable suspicion that they are unlawful noncitizens. The decision to detain under the Migration Act is not subject to judicial consent or review. There are strict legislative time limits on our police forces' powers to detain before they must justify their detention before the courts. The time limits generally range from four hours to eight hours. Currently, even ASIO is limited to detaining terrorism related suspects for a maximum of seven days. The Greens believe that the department of immigration should be subject to similar judicial oversight to that of other federal and state authorities, and I will be moving an amendment to achieve this goal.

It is interesting to note that the head of the judiciary in England and Wales, the Lord Chancellor, Lord Falconer, on ABC News-Radio on 10 August 2005, when asked about proposed new antiterrorism laws, said:

> Fourteen days is the current period for which you can detain a subject without charge. Sir Ian Blair, the Metropolitan Police Commissioner, has said inquiries often take considerably longer than that. But nobody, including Sir Ian Blair, is suggesting that any extension of custody should be without judicial oversight.

So in Britain, even after a terrible and deadly terrorist attack, nobody is suggesting that detention should occur without judicial oversight or that detention without judicial oversight is acceptable. Yet here in Australia we already allow the detention of asylum seekers, including women and children, without judicial oversight.

Findings 14 and 15 of the Palmer report were highly critical of departmental officers' exercise of their detention powers. In part, Mr Palmer noted that departmental compliance officers 'have a poor understanding of the legislation they are responsible for enforcing, the powers they are authorised to exercise and the implications of the exercise of those powers'. Mr Palmer recommends increased training for compliance officers, but the Greens believe that that does not go far enough and that legislating standards and safeguards is necessary. I will therefore move other amendments that will legislate the procedures that departmental officers must follow in order to protect the rights of people being arrested and detained under the Migration Act. The Greens' amendments are drafted with the aim of protecting people's rights and ensuring the rule of law. Unfortunately, the bill we are debating here seeks to further erode the rights of asylum seekers and seeks to legislate barriers to make it more difficult for the courts to review decisions made by the department of immigration.

The government says that this bill stems from the recommendations made by the Migration Litigation Review, conducted by Hilary Penfold QC. However, the government refuses to publicly release the review. This refusal to release the review casts doubt on whether the proposed legislation is the most appropriate and beneficial response to the findings of the review. Given the substantial changes that this legislation would make to our legal system, the Australian Greens call on the government to withdraw this bill and to publicly release the Penfold report so that a proper debate can be conducted with all the information available.

This bill is flawed in numerous ways. Many submissions to the Senate inquiry into this bill have raised concerns about the constitutionality of the bill. The Law Council of

Australia, in its submission to the Senate inquiry into this bill, said:

> At the end of the day, the issue is a simple one: either the Rule of Law in Australia is to include in-put from the Courts, or it is not. The Constitution and the judgments of the High Court in ... S157 ... and ... S134 ... suggest that Parliament does not have the Constitutional authority to exclude judicial review ... It can only be harmful to respect for the Rule of Law in this country that Parliament should continue to support and maintain legislation that gives the appearance of ousting judicial review in this way.

The Greens share the concerns raised in submissions to the Senate inquiry into this bill about the summary dismissal of cases, which allows for cases to be thrown out of court before they are heard.

One of the most disturbing aspects of this bill is its attempt to intimidate the legal profession when assisting clients with migration litigation through the imposition of financial penalties for bringing unmeritorious applications. In its submission to the initial Migration Litigation Review, Amnesty International said:

> ... provision of legal advice to asylum seekers is a fundamental component of a proper and comprehensive judicial process.

By legislating section 486E in this bill, this government is essentially trying to scare lawyers away from providing asylum seekers with legal advice. The Law Council of Australia noted in its submission to the inquiry:

> If Parliament is concerned with stopping unmeritorious litigation, then certification provisions should apply across all jurisdictions. The insertion of these provisions in one area creates the impression that the government is trying to drive lawyers out of immigration cases.

It is this amendment that reveals this bill for what it is—a further erosion of the rights of asylum seekers. It represents an attack on the lawyers and advocates who have stood up to this government as it has demonised asylum seekers and systematically stripped them of their rights. Not only will lawyers be substantially financially penalised for assisting with migration cases; potentially so will anyone be who encourages an applicant to pursue unmeritorious litigation. The Greens are fundamentally opposed to this attempt to intimidate lawyers and others with the aim of deterring them from assisting some of the most vulnerable people in our community.

Many experts have pointed out that this amendment will, in fact, have the opposite effect to the purported aim of this bill. The Law Society of South Australia expressed the view that it:

> ... will result in a huge upsurge in numbers of unrepresented litigants and increased burden on the judicial system with consequent delays.

The Federal Court's annual report notes that about 40 per cent of migration cases and appeals in 2003-04 involved at least one party that was not represented at some stage in the proceedings. The government should take note of this figure and question whether encouraging representation rather than discouraging it might be a better strategy to pursue in order to reduce the amount of unmeritorious litigation.

The Australian Greens note that many legal organisations argued in their submissions to the inquiry that an increase in financial assistance to migration legal services would be the best strategy to achieve the intended goal of the bill. Justice Wilcox from the Federal Court expressed a similar view in Muaby v Minister for Immigration and Multicultural Affairs in 1998, in which he said:

> The solution is not to deny a right of judicial review. Experience shows that a small proportion of cases have merit, in the sense the Court is satisfied the Tribunal fell into an error of law or failed to observe proper procedures or the like. In my view, the better course is to establish a system whereby people whose applications are refused have assured access to proper interpretation ser-

vices and independent legal advice. If that were done, the number of applications for judicial review would substantially decrease.

The Greens urge the government to drop the amendment that is aimed at penalising lawyers and, instead, implement measures such as increasing funding to migration legal services that would increase the availability of professional legal assistance to potential litigants and increase or abolish the time restrictions so that people may make better informed and considered decisions about any appeal that they are considering.

Finally, the government should consider implementing a formal processing stream for complementary, or humanitarian, protection. Establishing a formal process for humanitarian protection would ease the burden on the refugee stream by removing applications bound to fail the refugee determination process that are currently reliant on ministerial intervention at the final stage through section 417 of the Migration Act. A formal and accountable humanitarian processing system, as laid out in Greens policy, would ease the burden on the courts by ensuring that primary applications are assessed under the appropriate criteria and circumstances.

The Australian Greens oppose this bill on the grounds that it attacks the legal rights of some of the most vulnerable people in Australia—that is, the people seeking asylum—and that it is highly unlikely to achieve its stated aims without sacrificing justice and fairness. Amnesty International Australia states the obvious in its submission to the original migration litigation review:

It is precisely the role of tribunals and courts to determine which of those cases brought before them are unmeritorious.

The Senate would do well to respect the courts' independence and to vote against this bill.

Senator KIRK (South Australia) (12.48 pm)—I also rise to speak to the Migration Litigation Reform Bill 2005 and to express my concerns about this government's decision to install barriers to justice for the especially vulnerable people in the Australian community. This bill is the latest in a long line of attempts by the government to prevent migrants and refugees from gaining access to justice in this country. Instead of addressing the reasons why so many migration claims are being lodged and why so many appeals are being made, the government has set about imposing conditions on litigants to discourage them from seeking justice and to prevent legal representatives or anyone else from assisting those people.

The Labor Party is aware of the need for the reform of migration laws in Australia, and my colleagues and I have spoken about this topic previously. However, I believe that the Migration Litigation Reform Bill 2005 is a heavy-handed response by the government to the problem of migration claims congesting the system.

As Senator Nettle alluded to, there is a strong likelihood that this bill will fail in its stated objective of improving the 'overall efficiency of migration litigation', as explained in the explanatory memorandum of the bill. That is because it does not address the underlying cause of the increase in migration litigation, including the inadequacies of primary decision making, especially in the way that ministerial discretions are exercised.

Before stating the reasons for my reservations about the Migration Litigation Reform Bill, I would like to address some of the provisions of the bill. Briefly stated, these are designed to, firstly, direct migration cases to the Federal Magistrates Court of Australia; secondly, ensure identical grounds of review in migration cases; thirdly, impose uniform

time limits in all migration cases; fourthly, facilitate quicker handling of cases through improved court processes; fifthly, allow the courts to make summary judgments of migration cases; and, finally, deter unmeritorious applications.

The question is: will these measures ensure that the bill meets its stated aim of improving the overall efficiency of migration litigation? A closer examination of the provisions reveals that the government's approach is in fact flawed in numerous respects. Two areas of concern which immediately stand out are the government's proposals in relation to the imposition of time limits and the constitutional validity of the bill, as Senator Nettle referred to earlier.

Labor reiterates its concerns that the provisions in this bill relating to time limits remain unconstitutional in light of the High Court's decision in Plaintiff S157/2002 v The Commonwealth of Australia. The proposed changes to section 486A of the Migration Act are of particular concern for this reason. The bill seeks to reduce the time limit of 35 days under section 486A of the Migration Act for appeals to be lodged to the High Court to 28 days. This time limit would apply from the time of actual notification of a migration decision—a move which is supported by the Labor Party—although there is scope for a limited extension of this period to 84 days.

It is proposed that time limits will also apply in the Federal Court and the Federal Magistrates Court. The bill proposes that time limits on appeals to the courts would apply to so-called migration decisions. Migration decisions are a new type of decision specifically created in response to the decision in Plaintiff S157 that decisions made under the Migration Act which are tainted with jurisdictional error, as it is known, cannot be considered to be decisions at all. A migration decision, therefore, includes any decision made, or purportedly made, under the Migration Act. However, in Plaintiff S157 the High Court clearly stated that decisions tainted with jurisdictional error, which the court called 'purported decisions', are not valid decisions. Although the High Court did not expressly deal with the question of whether time limits could apply to purported decisions, it is strongly arguable that appeals from such decisions cannot be subject to time limits because they are not valid decisions at all.

It is difficult to see how the government can simply legislate to introduce time limits for purported decisions. The High Court has already indicated that these decisions are not within the scope of the Migration Act. The High Court said in Plaintiff S157 that purported decisions are not within the scope of the act because, in the words of Chief Justice Gleeson, they 'would be in direct conflict with section 75(v) of the Constitution, and thus invalid'. In effect then, there is a substantial danger that the amendments to section 486A are unconstitutional because they limit judicial review by the High Court. Clearly, this parliament cannot take away this jurisdiction from the court. It cannot be removed constitutionally.

Several prominent witnesses to the Senate Legal and Constitutional References Committee, of which I am a member, expressed similar views in May this year during a review of the Migration Litigation Reform Bill. Labor acknowledges that comments were made by Justice Callinan in Plaintiff S157 that the Commonwealth could apply a time limit to applications for judicial review in the High Court provided it was sufficiently long that the right to appeal was not 'illusory'. In looking at these comments, it must be remembered that the comments made in Plaintiff S157 that time limits can be applied to High Court appeals were made by a single judge, Justice Callinan, in obiter. But

it is important to consider whether the Migration Litigation Reform Bill does provide a sufficiently long time limit so that the right to appeal is more than just illusory. I do not believe that it does. In effect, the bill establishes an absolute time limit with no avenues for extension beyond this, even if the interests of justice may require it.

This amendment makes it clear that the government's solution to improving the efficiency of migration litigation is to deny justice to migrants and refugees. Many of these people do not speak English. They have an extremely limited grasp of the Australian legal system, much less the complexities of migration law. They will almost invariably be detained in remote detention centres away from the legal advice they so sorely need. It is deeply regrettable that the government has apparently not considered the individual circumstances of people making applications to the courts. Clearly, some people will have grounds for review that may not be revealed until the time limit on their appeal has expired. This was the very warning canvassed by Chief Justice Gleeson in Plaintiff S157 when talking about setting rigid time limits. I find it disturbing that the government would propose to deny to such people their constitutional right to appeal in the High Court against Commonwealth decisions.

The final point I would like to make about time limits and the constitutional validity of the bill relates to the very broad scope of a purported migration decision as set out in the bill. Labor believes that the very broad definition of a purported decision in the bill may mean that the time limits on appeals to the High Court are less likely to be constitutionally valid. It is not clear from the open-ended definition of a 'purported decision'—that is, 'conduct preparatory to making a decision', a purported 'failure or refusal to make a decision' and a 'refusal to do any act or thing'—exactly what decisions by the Commonwealth will be migration decisions under the bill. There is a strong possibility that the High Court will hold that a time limit on such an appeal may infringe the High Court's powers to conduct judicial review under section 75(v) of the Constitution.

In addition to the issues I have outlined so far, Labor remains unconvinced of the broader intentions of the bill and whether it will in fact meet its aims. The Law Council of Australia, which of course is the peak body of the Australian legal profession, was so strongly opposed to the bill in its submission to the Senate inquiry that it doubted whether it would succeed in its stated aims and said that it is likely to make a bad situation worse. Will the bill, for example, succeed in its ambitious aim of reducing so-called unmeritorious litigation? The Attorney-General has stated:

> It is grossly irresponsible to encourage the institution of unmeritorious cases as a means simply to prolong an unsuccessful visa applicant's stay in Australia.

He further said:

> It is equally irresponsible for advisers to frustrate the system by lodging mass produced applications without considering the actual circumstances of each case.

Clearly, this is the underlying basis of this legislation, as evidenced in the words of the Attorney-General. Briefly stated, the bill seeks to confer a broad discretion to the courts to determine whether an unmeritorious claim has been made, and it strengthens the powers of the courts to summarily dismiss proceedings where there are no reasonable prospects of success.

There has been widespread condemnation of the summary dismissal powers conferred by the bill. Apart from the fact that they significantly depart from the common law, it is difficult to see the rationale for extending these powers when existing powers of sum-

mary dismissal are rarely used. This is an especially important issue when one considers that the bill will change the laws regulating the High Court, Federal Court and Federal Magistrates Court with respect to summary judgment for all litigation, not just migration cases.

As I will outline shortly, the government has done very little to allay the fears that people have that the bill is too uncertain in stating just how the test of 'no reasonable prospects of success' would work when a court considers whether to exercise its summary dismissal powers. Perhaps more disturbingly, the government has sought to prevent third parties from assisting migrants and refugees in making claims. The bill does this by threatening cost orders against lawyers, migration agents or anyone else who participates in migration cases when the government has deemed that they are encouraging 'unmeritorious' litigation under section 486F. Section 486E imposes a prohibition on a person encouraging migration litigation if—and I quote:

(a) the migration litigation has no reasonable prospect of success; and

(b) either:

(i) the person does not give proper consideration to the prospect of success of the migration litigation; or

(ii) a purpose in commencing or continuing the migration litigation is unrelated to the objectives which the court process is designed to achieve.

The Senate Legal and Constitutional Legislation Committee was especially scathing of this aspect of the bill. It noted that many submissions and witnesses were uncertain and apprehensive about the wide scope of these provisions and the tendency of the bill to create confusion among people willing to provide genuine advice about migration claims. I believe there is clearly a potential to introduce a 'chilling effect' on legal representatives to provide advice to people with genuine claims.

There is also a greater danger that, by discouraging asylum seekers from obtaining legal advice, the bill might actually lead to a significant increase in unrepresented litigants. This observation was made by the Law Society of South Australia and, if realised, would have the opposite effect to reducing litigation as stated in the aims of the bill.

The Senate committee also observed that numerous submissions and witnesses to the inquiry were critical of the government's flawed perception of what is unmeritorious litigation. That is, it erroneously assumes that, since the Commonwealth is successful in 93 per cent of cases, it must therefore follow that 93 per cent of all migration appeals are based on unmeritorious claims. This position is all the more astonishing given that the government itself does not seem to know the difference between an unsuccessful claim and an unmeritorious claim. This uncertainty was amply demonstrated by the inability of both the Attorney-General's Department and DIMIA to inform the committee of the difference between the two.

The Office of the United Nations High Commissioner for Refugees was highly critical of the government's latest attempts to reduce migration litigation. It observed in its submission that the Migration Litigation Reform Bill 'may detract from what is a positive aspect of Australia's system' by 'discouraging applications that are not certain of success, but are nonetheless not abusive'. The UNHCR also observed the difficulties in distinguishing between claims that are meritorious and those that are not. It claimed that a cautious approach is warranted in legislation that reduces unmeritorious litigation.

The Migration Litigation Reform Bill demonstrates the very cynical view of this government in relation to asylum seekers.

Because of the uncertainties in the bill, it will most likely be detrimental to the interests of genuine asylum seekers. While Labor agrees that reductions to the numbers of asylum seekers using judicial review of migration decisions are warranted, it has taken a different approach to that of the government. Labor proposes to abolish the Refugee Review Tribunal and replace it with a refugee status determination tribunal. The proposed changes would include the appointment of a legally qualified chair with secure tenure, as well as appeals to the Federal Magistrates Court. This would contain migration review cases to the Federal Magistrates Court.

My exposure to migration cases during my time as a senator has caused me to develop a very different view of migrants and refugees to that of this government. I believe that the majority of people who come to Australia, especially those seeking asylum, are genuinely displaced refugees from the poorest and most strife-torn countries in the world. For such people to be treated fairly and with dignity, they need access to an efficient and transparent review system, without the uncertainties contained in the Migration Litigation Reform Bill. As an international citizen who is a signatory to a range of refugee conventions and treaties, this is at the very least what our international obligations demand of us as a nation.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.05 pm)—I thank senators for their contributions to the debate on the Migration Litigation Reform Bill 2005. There are a number of key areas of reform in this bill. These areas are designed to improve migration litigation. Of course, much publicity has been given to this matter over the years. The bill directs migration cases to the Federal Magistrates Court and limits the jurisdiction of the Federal Court. I am pleased to say that we have now appointed eight additional federal magistrates to deal with this added workload.

The bill provides identical grounds for relief in the High Court and the lower federal courts, which will assist the courts to quickly identify and stop applicants early in the process who are seeking to relitigate matters that have already been the subject of judicial consideration. The bill reinstates time limits in migration cases and imposes uniform and extendable time limits in all migration cases. The bill also contains a number of provisions designed to improve the efficiency of court processes and deter the institution and continuation of unmeritorious court proceedings.

The Senate Legal and Constitutional Legislation Committee looked at this bill and made a number of recommendations. The committee's first recommendation was about the operation of the summary dismissal provisions. It recommended that these provisions be subject to a sunset clause after 18 months of operation. The second recommendation, which is about the costs orders and other provisions dealing with unmeritorious cases, is that a report be tabled on the operation of the bill as soon as practicable after 12 months after the commencement of the bill. The government does not support these recommendations, as it does not consider it appropriate to subject key provisions of this important reform bill to a sunset clause or to introduce a legislative requirement for reporting on the bill's operations.

There are other matters which have been raised. Senator Ludwig and Senator Nettle raised in the debate the issue of the public release of the migration litigation review report. As we have advised on a number of occasions, the report was prepared for the government's consideration and for the purposes of a cabinet decision. For this reason, and in keeping with longstanding tradition on both sides of the house, the report has not

been and will not be publicly released. Certain factual material in the report has, however, been publicly released.

Senator Ludwig also expressed the opposition's concern that time limits in the bill may be unconstitutional. Others have also touched on that. The purpose of the bill is to improve the efficiency of migration litigation, a policy that one would expect all to support. It is a matter which is based on commonsense. Indeed, across the judicial system in Australia we are endeavouring in all courts at all levels to improve the efficiency of litigation and the way that courts deal with matters. Areas dealing with migration law should be no exception. Restoring time limits in which to institute migration litigation is a crucial part of the reforms that will implement this important policy initiative. The time limits in the bill will give applicants a reasonable opportunity to seek judicial review of migration decisions and ensure timely handling of these applications. The government is confident of the constitutional validity of the time limits in the bill.

The opposition has indicated that it intends to move amendments relating to time limits in the committee stage and we will deal with those when we come to them. I would however like to express the government's disappointment that the opposition did not provide copies of these amendments until the bill came on for debate in the Senate. This is despite repeated contact between the opposition and the government in relation to further offers of briefing. I note that for the record.

Senator Bartlett and Senator Nettle raised the issue of costs orders against persons who encourage unmeritorious migration litigation, suggesting that the bill targets those who provide humanitarian assistance to people involved in migration litigation. It has been suggested that the government is deliberately targeting some who are assisting people involved in this. This suggestion is unacceptable and not supported by any objective evidence. The government is not trying to penalise lawyers acting ethically and in accordance with their professional obligations. What the government does say is that where someone promotes a case which is obviously unmeritorious they are not doing anyone a service, least of all their clients. Similarly, the government is not trying to penalise community organisations which act responsibly. Put simply, the government is not trying to penalise anyone who acts responsibly in whatever capacity they may be assisting people involved in migration litigation.

The government is concerned however to ensure that those who are assisting people involved in migration litigation do not encourage the commencement and continuation of unmeritorious proceedings. The figures demonstrate that the government has won about 90 per cent of cases, which is an unusually high percentage of cases decided in its favour. One questions why this percentage is so high. Unmeritorious proceedings waste scarce court resources. It is no secret that in Australia today courts at all levels are experiencing heavy workloads. There is an old saying: 'Justice delayed is justice denied.' Justice delayed because of the clogging up of the system with unmeritorious claims is undesirable. We should not have a situation in which people with a claim with merit have to wait for their case to be decided because of unmeritorious claims clogging up the system.

A person runs the risk of a personal costs order against them only if they contravene the obligation not to encourage unmeritorious cases, and this is a decision that the court will have to make after having considered the individual circumstances of the matter. It is by no means a rubber stamping; it is not an arbitrary requirement. The court considers

the question of a personal costs order after the individual circumstances of the case have been considered. The court has to be satisfied that the particular migration proceedings had no reasonable prospects of success and that the person who encouraged the litigation did so either without giving proper consideration to the prospects of success or for a purpose unrelated to the objectives of the court process. You may have sometimes heard the old story of a solicitor advising a client to take a case to court merely to 'run it round the block'. That is an old expression I encountered some time ago when I was practising in the law. It is quaint to hear anecdotal evidence of that, but simply running a case around the block is not good enough. It clogs up the system and causes other people disadvantage and it is appropriate that there be a costs order available to the court in those instances.

Opposition senators questioned the meaning of the phrase 'reasonable prospects of success', suggesting that it is untested. This is not the case. The phrase 'reasonable prospects of success' has received judicial attention, most recently in the New South Wales Court of Appeal in the case of Lemoto. This case emphasised—as has the government—that the mere fact that litigation is resolved adversely to a party does not mean that the case had no reasonable prospects of success. The provision for a personal costs order therefore has to be considered in that context.

The bill not only streamlines but also makes more efficient the area of migration litigation. It will see more work in the federal magistrate's jurisdiction. We have resourced that by appointing eight extra federal magistrates, which I think has been an excellent initiative on the part of the government. Of course, making this area more efficient will not delay justice and therefore deny it to others but move it along more speedily. That will be a benefit felt by all concerned. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (1.16 pm)—I understand the amendments have now been circulated for about a month. I know the minister might have had a bad morning, but I suspect that he probably read an old paragraph. I think it is worth while to correct the record, as the amendments have been around at least since the last time. It would have been true, had we continued into the committee stage of the bill at that time. Nevertheless, we are prepared to move on and not dwell on that. I understand the Greens' amendments, although revised, have been available as well. A nod tells me that that is the case, so perhaps the department needs to check the record and correct it at some point.

Because the debate has been truncated a little bit it is probably worth while going back to some of the issues that were canvassed in the beginning, before I moved my amendment. I will foreshadow that I am going to move an amendment. It is worth while at least canvassing what this bill is about. This bill is a package of reforms aimed at improving the efficiency and speed of dealing with migration litigation, and they include an attempt to overcome a High Court decision that undermines the regime for imposing time limits and other restrictions on judicial review, uniform time limits, reforms to channel migration litigation into the Federal Magistrates Court, making it easier to obtain summary judgment, a requirement to disclose other judicial review litigation, cost orders against lawyers and advisors—and I think we heard the minister talk briefly about that—who might encourage unmeritorious

claims, and changes to the internal administration of Federal Magistrates Court.

I will not go over those in total. It is worth at least highlighting that Labor support a position where we can have a speedy resolution of some of these issues. We do not want people to be unduly delayed. They should be able to have their litigation dealt with promptly, efficiently and appropriately. Labor also support the general thrust of the bill, although we do think that in some instances Labor's position on this is preferred. However, there are a couple of issues contained in the bill that are of some concern and, therefore, Labor are moving amendments to that effect. I seek leave to move opposition amendments numbers (1) to (4) on sheet 4643.

Leave granted.

Senator LUDWIG—I move:

(1) Schedule 1, item 18, page 10 (line 18) to page 11 (line 4), omit section 477, substitute:

477 Time limits on applications to the Federal Magistrates Court

(1) Subject to subsection (4), an application to the Federal Magistrates Court for a remedy to be granted in exercise of the court's original jurisdiction under section 476 in relation to a migration decision must be made to the court within 28 days of the actual (as opposed to deemed) notification of the decision.

(2) The Federal Magistrates Court may, by order, extend that 28 day period by up to 56 days if:

(a) an application for that order is made within 84 days of the actual (as opposed to deemed) notification of the decision; and

(b) the Federal Magistrates Court is satisfied that it is in the interests of the administration of justice to do so.

(3) Except as provided by subsections (2) and (4), the Federal Magistrates Court must not make an order allowing, or which has the effect of allowing, an application to make an application mentioned in subsection (1) outside that 28 day period.

(4) The Federal Magistrates Court may, by order, allow an applicant to make an application mentioned in subsection (1) outside that 28 day period, if an applicant alleges, in his or her application, malice or fraudulent intention on the part of the Minister or an officer or a member of a tribunal in relation to a migration decision.

(5) An applicant alleging malice or fraudulent intention give particulars must in the application the facts and matters from which that malice or fraudulent intention is to be inferred.

(6) The regulations may prescribe the way of notifying a person of a decision for the purposes of this section.

(2) Schedule 1, item 18, page 11 (lines 5 to 23), omit section 477A, substitute:

477A Time limits on applications to the Federal Court

(1) Subject to subsection (4), an application to the Federal Court for a remedy to be granted in exercise of the court's original jurisdiction under paragraph 476A(b) or (c) in relation to a migration decision must be made to the court within 28 days of the actual (as opposed to deemed) notification of the decision.

(2) The Federal Court may, by order, extend that 28 day period by up to 56 days if:

an application for that order is made within 84 days of the actual (as opposed to deemed) notification of the decision; and

(a) Federal Court is satisfied that it is in the interests of the administration of justice to do so.

(3) Except as provided by subsections (2) and (4), the Federal Court must not make an order allowing, or which has the effect of allowing, an applicant to make an application mentioned in subsection (1) outside that 28 day period.

(4) The Federal Court may, by order, allow an applicant to make an application mentioned in subsection (1) outside that 28 day period, if an applicant alleges, in his or her application, malice or fraudulent intent on the part of the Minister or an officer or a member of a tribunal in relation to a migration decision.

(5) An applicant alleging malice or fraudulent intention must give particulars in the application of the facts and matters from which that malice or fraudulent intention is to be inferred.

(6) The regulations may prescribe the way of notifying a person of a decision for the purposes of this section.

(3) Schedule 1, item 30, page 13 (line 19), omit "An application", substitute "Subject to subsection (2A), an application".

(4) Schedule 1, item 32, page 14 (line 2), omit "subsection (1A)", substitute "subsections (1A) and (2A)".

As we have said, Labor have previously supported reforms to improve the efficiency and speed of migration litigation. This bill contains several meritorious reforms that would improve the efficiency of the courts in dealing with migration matters. They include streamlining the relationship between the courts to encourage applications toward the Federal Magistrates Court and moving, in the scheme of things, away from the High Court and the Federal Court. They are sensible amendments and they will hopefully improve efficiency and streamline the process.

Reapplying time limits on applications for judicial review is another matter covered, together with reforms to the management of the Federal Magistrates Court. Labor, as I have said, supports those goals. They are important goals. Anything that encourages and has as its aims the streamlined judicial review of migration matters and reform of the cumbersome and unnecessary delays is certainly welcome, especially where you can give people certainty in these matters. However, there are instances where the wrong decision has been arrived at because of issues that perhaps go outside the general, run of the mill matters. It might be malice or fraud and an unjust outcome, in those instances, should not be allowed to stand.

Unfortunately, it is not unreasonable to believe that there would be some officers like this in the department. It is not surprising when you look at the department of immigration over the last couple of years, especially if you have been as close to it as I and the Labor Party have been, and when you view the department through a prism which includes Cornelia Rau and her unlawful detention for some 10 months; the Vivian Solon matter—an Australian citizen being removed from Australia; the department having taken people on transits in a bus for five hours or more and not giving them reasonable breaks; and the Neil Comrie report, under the auspices of the Ombudsman, where some 221 cases have been referred to the Ombudsman to deal with. The phrase 'Release—not unlawful' is a pretty way for the immigration department to describe potential or possible unlawful detention. We will see reports from the Ombudsman over the next period to see how that is going to be resolved over time.

When you view the immigration department through that prism—and I think it is entirely justifiable to do that—then you will have some scepticism about how the immigration department will apply this. I think it is worthwhile to have some healthy scepticism in this regard. We know, especially with the Cornelia Rau and Vivian Solon matters,

that there were people who knew. In the Vivian Solon matter in particular, it is clear that the department knew that there was a removal that was unlawful, and it did and said nothing about it. We already know that there are examples out there that certainly concern us, have concerned us and will continue to concern us when it comes to how this department operates in this area.

Their defence, I suspect, will be that they have implemented reforms and changes to their procedures and structures. Whether they can in fact turn the battleship around in the creek remains still to be seen. Whether or not those reforms and changes will trickle down—or trickle up, as the case may be—is another question. That can only really be examined given the test of time. But, looking at how this section operates, we want to ensure that a 28-day cut-off for this particular section does not mean that issues which come to light after 28 days might be swept under the carpet and not otherwise dealt with. Therefore, there is a view that, in implementing these protections, there is a need for a catchall phrase to ensure that, in those instances where there is fraud or malice, the department will not have their behaviour rewarded through these protections involving arbitrary time limits. There should be the ability for the court in those instances to re-examine those set time limits and dictate something different to ensure that people's rights are not abused. Therefore, we seek that the government carefully examine the amendments. It has had them for a while now, as I understand it. It should examine them and I encourage it to agree with them.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.25 pm)—The government does not support the proposed opposition amendments that would amend the provisions dealing with time limits for applying judicial review. These amendments would in effect provide that a court may allow an application to be made outside of the 28-day period if the applicant alleges in effect that the migration decision is unlawful because the decision maker has acted fraudulently or maliciously. The government's view is that there is no reason whatsoever that an allegation that a migration decision is unlawful on the ground of fraud or malice should be treated differently from an allegation that a migration decision is unlawful on any other ground.

Later applications are a problem in the field of migration litigation. This is a high-volume area of litigation where some applicants have an incentive to delay bringing proceedings in order to prolong their stay in Australia. If these amendments were to be made, there would be an incentive to some applicants to allege fraud and malice. Not only would there be more late applications but also the court's time would be wasted in dealing with baseless allegations. This bill is designed to streamline litigation in migration matters. The sense I get is that the opposition supports that thrust. We believe these amendments would not have that desired effect. Therefore, for that reason, the government oppose Labor amendments (1) to (4).

Senator BARTLETT (Queensland) (1.27 pm)—For the record, the Democrats support these amendments as they are going a bit further in a more desirable direction. I could quibble with some of the wording and definitions within them. But, in the context, that is probably not the most efficient use of the Senate's time, given that we are all talking about efficiency here today. As the minister's comments even just then indicated, the whole thrust of not just this provision of the bill but also the bill as a whole is to put so-called efficiency ahead of justice. That is all it is about. On top of that, it will not even work, and that is all the more farcical. I will not go through all of that, because I went

through that in my comments in the second reading debate, although it was about a month or so ago now so people may have forgotten what I said.

The simple matter is that, as the minister's comments again indicated, the government is maintaining this fiction that there is a significant number of people who are trying to rort the system, bring forward unmeritorious claims and continually put forward appeals after a long period of time purely on the basis of some maliciousness or desire to rort the system and misuse the courts just so they can stay in the country longer. The evidence over a long period of time now shows quite clearly that that is not the main problem with the level of migration cases in the courts. The main problem is the farcical nature of the law, the massive amount of incompetence in the way it is administered on the part of the government and the department, and the deliberate and malicious intent of trying to deny people assistance in navigating their way through that complex and badly administered law. If the government put one-tenth of the effort into addressing that issue as they do into continuing to demonise people who are simply trying to get justice through the legal process then perhaps I could be a little more accepting of what their motivation is here.

In my view the simple fact is that even this particular provision of the section of the legislation dealing with time limits is unlikely to have the desired effect of reducing the number of delayed unmeritorious claims because there is a small number anyway. It will also not completely prevent people from being able to make claims where there are some grounds. It will push those claims into the High Court, and the parliament cannot legislate the High Court out of being able to hear a case if it believes that there are sufficient grounds for it. So it will push things up to the High Court, again further clogging the High Court when it should be a matter for lower courts.

The single positive aspect of this legislation—that it enables more migration cases to be dealt with by magistrates courts—is subverted by most of the other aspects of this legislation. In a way it is quite bizarre that the government is not interested in looking at amendments such as those that Labor has put forward here. They are fairly minor really and they would go to an extremely small number of cases. They are simply trying to ensure that where there is a clear indication of some sort of malice or fraudulent intent that is a ground that people could argue on. I do not see how, given what everybody now knows, anyone from the government side could put forward with a straight face the suggestion that there is never malice or fraudulent intent. Clearly there is, from time to time. It is not as widespread as people might sometimes fear but it is certainly present. To just suggest that it is not there and not real is flying in the face of reality. We have had far too many years of flying in the face of reality in this area of law, I am afraid, and it is a clear indication that the so-called 'culture change' that the government likes to go on about in the migration area is inconsistent at best. To continue to try to push ahead with these types of pieces of legislation in the face of the evidence of where the real problem is shows that the acceptance of the need for culture change on the part of the government is still erratic, perhaps half-hearted and certainly inconsistent.

The amendments before the chamber go somewhere in the right direction although they are fairly minor in terms of the number of situations that they are likely to address. But that is part of what trying to make good law is about: ensuring that there are not a small number of people who get an unfair outcome simply because the law was badly drafted or did not envisage something in the

first place. In that sense the amendments are worth supporting. Whilst I have issues with some aspects of the wording, given that they are not going to get up and be accepted by the Senate anyway it is probably not worth going through the detail on that.

Senator NETTLE (New South Wales) (1.33 pm)—The Australian Greens will be supporting these amendments, like the speaker before me, perhaps not because we think they are great but because they allow a little bit more time for justice to be inserted into this process. The Greens have a view that in order to insert the kind of justice that we think is proper into our immigration system you would need to demolish and rebuild the Migration Act with the idea of justice at the forefront in the design of each of those clauses. That is not what we have the opportunity to do here today, but because these amendments do seek to allow a little bit more time for a little bit more justice to come into a system that is clearly unjust we will be supporting them.

Senator LUDWIG (Queensland) (1.33 pm)—I want to comment briefly on a couple of matters before this matter is determined. One aspect that does concern me is that this is a minor change. It is not going to open up the floodgates. Lawyers are not going to canvass this issue ad nauseam as a way of getting in and otherwise taking away the ability of the thrust of this bill. It is not an amendment that will create new grounds. This is about the department, having now put on a new face, being able to justify that it deserves the new face and can meet the challenges that this provision requires it to meet. In other words, it is to ensure that it does deal appropriately with all cases.

I am sure that the department will be the first to say that it is without malice when it determines matters. I am sure that the department would have that view. This is just to ensure that they keep their word. It is a belt and braces approach, no more than that. It is a minor amendment, and it is disappointing that the government cannot see its way clear to support it to ensure, in the unusual case where it might be highlighted or might come to light, that the bureaucracy cannot hide behind the 28-day time limit in these circumstances. That will be the result if the amendment does not pass. Bureaucrats will be able to hide behind these provisions and ensure that they do not and cannot ensure that the decision be reversed or challenged on that basis. These are not provisions that you do not see in a lot of other legislation. There are cases of this type where fraud or malice turn up where it should not be able to be challenged or revisited. So it is surprising that the government wants to ensure that the 28-day time limit acts like a guillotine. It seems to be the way this government wants to operate here as well to ensure that there is no way that the bureaucracy cannot be held accountable.

One of the concerns has always been that there is a lot of litigation in this area. It is unsurprising and the government is aware of it. As we have said, the opposition are keen to ensure that people do have certainty in the process and that the process is streamlined. That should not come at an extraordinary cost. It should come at the cost of ensuring that at least in these instances where there is malice or fraud those issues can then be dealt with.

Question negatived.

Senator LUDWIG (Queensland) (1.37 pm)—I move opposition amendment (5) on sheet 4643:

(5) Schedule 1, page 14 (after line 4), after item 33, insert:

33A After subsection 486A(2)

Insert:

(2A) The High Court may, by order, allow an applicant to make an application mentioned in subsection (1) outside that 28 day period, if an applicant alleges, in his or her application, malice or fraudulent intention on the part of the Minister or an officer or a member of a tribunal in relation to a migration decision.

(2B) An applicant alleging malice or fraudulent intention must give particulars in the application of the facts and matters from which that malice or fraudulent intention is to be inferred.

I think this amendment contains sufficient protection in itself and it is sufficiently clear as to how it would operate. As I think I said earlier in this debate, it does ensure that there would be at least a way of saying to the department: 'This is an honesty provision. This is a provision that ensures that you do act diligently and correctly in ensuring that cases are dealt with expeditiously, speedily and with certainty,' and that, if any matters like this come to light, they can be dealt with appropriately.

I will not extend the debate on this. The government seems to have already indicated that it does not support this type of amendment. It is disappointing to see that. The government does have a short while to change its mind, but I doubt in the time available that the government will. So I will not take up any more of the time of the chamber in this regard. It is disappointing to see that the government will not pick up the amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.39 pm)—The government opposes this amendment on the same grounds as previously expressed in relation to amendments (1) to (4). I will not prolong the debate either. I simply want to place that on the record and also the reasons for the government's position.

Senator NETTLE (New South Wales) (1.39 pm)—I want to put on the record that the Greens will be supporting this amendment. As other senators have commented earlier in here, it is important that we deal with the issue of malice or fraudulent intent on behalf of either the minister or members of the Department of Immigration and Multicultural and Indigenous Affairs. We have all been involved in the Senate inquiry in which we have heard various cases and allegations such as this made. It is important that there be opportunity for those issues to be aired and, in that spirit, that is why we are supporting this amendment.

Question negatived.

Senator NETTLE (New South Wales) (1.40 pm)—I move Greens' amendment (1) on sheet 4637:

(1) Schedule 1, page 6 (after line 28), before item 11, insert:

10A After section 3A

Insert:

3AA No detention without judicial review

It is the Parliament's intention that notwithstanding any provision to the contrary in this Act, where this Act operates so as to detain any person, it is the right of that person to take proceedings before a court for the determination of the lawfulness of the detention and to be released if the court finds that the detention is not lawful.

I will make some general comments in relation to the series of amendments that the Greens are moving. The general thrust of the amendments is to bring independent scrutiny to the actions of the Department of Immigration and Multicultural and Indigenous Affairs. The latest revelation that two of the 222 potentially unlawful detainees were held for five to six years and six to seven years while 23 were held for over a year highlights the urgent need for reform.

The decision to deprive a person of their liberty is a very serious decision and should not be taken lightly. Under various state acts and other Commonwealth acts, detaining authorities, such as the police, are required to bring their decision to detain a person before the court, and strict time limits apply under these acts. For example, in my home state of New South Wales the police may only detain somebody for a reasonable time—up to a maximum of four hours. If the police need more time they must make an application to a magistrate or authorised officer for an extension by up to eight hours. Other state police forces have similar requirements, whilst the Australian Federal Police have a four-hour limit—similar to that in New South Wales.

Under section 189 of the Migration Act, officers of the department of immigration are required to detain a person that they know to be, or have a reasonable suspicion that they are, an unlawful noncitizen. There is no requirement for the decision to detain a person under the Migration Act to be validated by the courts, nor is there any requirement that the knowledge or reasonable suspicion that a person is an unlawful noncitizen be justified with evidence before any authority outside of the department of immigration. The scandals that we have seen emanating from the department of immigration recently send a clear message that judicial review of detention is not a Western decadence; it is an essential element in a properly functioning legal system.

It should also be noted that there are no time limits on the detention of a person under the Migration Act. It was only recently, under enormous pressure from the Greens, the public and the government's own backbench, that Peter Qasim was released after spending seven years in detention. I am aware of detainees, whom I regularly visit, who have now been in detention for over six years. So Peter Qasim is not alone in the amount of time that he has spent in Australia's immigration detention system.

The unlawful detention of Cornelia Rau and the unlawful detention and removal of Vivian Alvarez Solon highlight a serious flaw in the Migration Act: the fact that there is no provision for independent review of the decision to deprive a person of their liberty. The Palmer report has two very disturbing findings in relation to the department of immigration's practices for taking people into detention. The first one is finding No. 14, which states:

> Statements by DIMIA operational and field staff make it obvious that many of DIMIA's compliance officers have received little or no relevant formal training and seem to have a poor understanding of the legislation they are responsible for enforcing, the powers they are authorised to exercise, and the implications of the exercise of those powers. The induction training package for compliance officers is inadequate.

Finding No. 15 from the Palmer inquiry states:

> Officers with direct responsibility for detaining people suspected of being unlawful non-citizens and for conducting identity and immigration status inquiries often lack even basic investigative and management skills. The Vivian Alvarez matter has also demonstrated that their knowledge of the capability of DIMIA information systems is inadequate.

These findings disturb the Australian Greens and the broader Australian community generally. From all reports, just about everyone who met with Cornelia Rau thought there was something a bit odd about her and that she may have suffered from a mental illness. Yet the department of immigration detained her without any other evidence beyond her very strange story that she walked here from China. That is not good enough. The Greens believe that you need better evidence before depriving somebody of their liberty, for 10

months in the case of Cornelia Rau. In the case of Vivian Alvarez Solon, the injustice is even more blatant. Vivian told departmental officers that she was an Australian citizen, yet they were so zealous in their determination to deport this poor sick woman that they appear to have ignored this information.

The amendments that I am moving on behalf of the Australian Greens are aimed at bringing the department of immigration under the normal practice of the law in Australia. Essentially, these amendments mean that if an officer of the department of immigration wishes to detain a person then they must get the consent of the courts. I imagine many cases would be fairly clear cut and the legality of the detention as defined in the act would be easy to prove. But it is important that the department of immigration's decision to detain be subject to judicial review, as are the decisions of all other agencies who currently detain people.

The Greens hope that judicial review of immigration detention will prevent the scandals and the cruelty that have occurred while the department has been a law unto itself and responsible only to ministers who themselves then refuse to take responsibility. There is no reason why officers of the department of immigration should have more power to detain people than the police services across this country. This Senate has placed strict time limits on the power of ASIO, for example, to detain people and has done so for very good reason. Whilst the Greens would argue the time limits are too long, they have been set and there has been a strong debate about any extension of these powers. Yet there are currently no time limits for detaining people under the department of immigration. Indeed, the government has gone to the Federal Court to argue for a continued right to indefinitely detain people through immigration detention.

It is not unreasonable under our system of law to expect that the serious decision to deprive a person of their liberty should be reviewed by a properly qualified authority. I would expect all senators who support our system of law and who are appalled by the nightmarish treatment that Cornelia Rau and Vivian Alvarez Solon have received to support these amendments. Amendment (1) ensures that the decision to detain a person under the Migration Act is subject to appeal in the courts. I commend this amendment to the Senate.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.47 pm)—The amendments proposed by the Greens are not about the streamlining of judicial review in migration matters and, of course, that is the thrust of this bill—it is not putting efficiency before justice, as the Greens say. It is about streamlining matters, which brings benefits to all. I will deal with the amendments proposed by the Greens in a cognate fashion because we have six amendments from the Greens and Senator Nettle addressed her comments in a more general sense. I will do the same.

The Greens have addressed their amendments to the detention scheme in the Migration Act. There has been a great deal of change in that area in the last few months. On 17 June this year the Prime Minister stated that the government will retain the framework of its policy of mandatory detention of unlawful noncitizens. The Prime Minister also announced a wide range of reforms to the migration legislation and the handling of matters relating to people in immigration detention. A number of initiatives were announced by the Prime Minister, including an additional non-compellable power for the minister to specify alternative arrangements for a person's detention; an additional non-compellable power for the minister to grant a visa to a person in detention; and the provi-

sion of six-monthly reports by DIMIA to the Ombudsman in respect of any person who has been in immigration detention for two years or more. The Ombudsman will assess that report and the minister must table that assessment in parliament.

There have been very public reports and inquiries. Mr Palmer and Mr Comrie have also thoroughly investigated activities in DIMIA, including issues of wrongful detention and removal. While, clearly, errors were made within DIMIA, neither Mr Palmer nor Mr Comrie felt it necessary to make recommendations along the lines that are proposed in the Greens' amendments here today. Those gentlemen did, however, make many findings and recommendations for specific action that the government has accepted in full. Last week an implementation plan was tabled in parliament, responding to the Palmer report and the Comrie report. The government has committed $231 million over five years for a range of initiatives that will comprehensively deal with the issues Mr Palmer and Mr Comrie raised.

The government has gone further than merely responding to the specific recommendations in the Palmer and Comrie reports. In particular, the government initiatives will ensure that DIMIA becomes more open and accountable, will have a much stronger client focus and will have better trained and supported staff. Measures to improve the health and wellbeing of immigration detainees have already been put in place. Over the coming months, a substantially enhanced training program for staff will ensure that there is a tailored operational training program for DIMIA officers, with an emphasis on quality assurance and decision making. Better record keeping and information management will support staff in their decision-making roles.

Measures are already in place to enhance quality decision making around detention and removals. All decisions to detain a person are reviewed by the detention review managers within 48 hours of a person's detention but within 24 hours where identity is in doubt. Further, all decisions to remove a person from Australia are taken by either the relevant state or territory director or a senior executive service officer prior to removal taking place.

I believe it is important that I outline those initiatives in relation to detention. This bill is not about detention as such; it is about increasing the efficiency and streamlining of migration litigation. The government does not support the Greens' amendments and would point to those measures I have outlined that are already in place in relation to detention. The government does not see these amendments by the Greens as moving things along and believes it is better to put in place the initiatives that it has taken. In any event, they are not relevant to this bill.

Senator BARTLETT (Queensland) (1.52 pm)—In speaking to these amendments on behalf of the Democrats—we have only one amendment before the chamber at the moment, although there are a series of them that are all on a similar theme—I think there are a few things that need to be said. Firstly, we have heard a lot of talk in recent months about a culture change within the immigration department. We are never going to get to anything remotely approximating a genuine culture change until government ministers stop using words to portray a completely false sense of reality. The Minister for Justice and Customs, at least three times in his last contribution in this discussion, said this bill is not about the scope of these amendments but about efficiency and streamlining of judicial review and migration processes. It is not about that at all. It is not going to end up with that result at all. Until the government

stop kidding themselves about what they are doing, their actions and the actions of their department officials will continue to deliver perverted outcomes. The words they use are such a perversion of reality to start with that they will inevitably get a distorted result. This bill will not lead to more efficient judicial review, just as all the other bills supposedly aimed at preventing unmeritorious applications that have been put through this place, with the support of both major parties, have not led to more streamlined and efficient judicial review. They have led to more cases before the courts, they have led to cases taking longer than they otherwise would have and they have led to greater injustice along the way. Whatever this bill is about, it is certainly not about justice. Even the government do not pretend that that is what it is about. So let us put that to one side for starters.

It has been said that the Palmer inquiry and the Comrie report did not make recommendations about amending the law. They did not, of course, because they were not empowered to. They were deliberately given the narrowest possible terms of reference so that they could not look at whether or not the law was the problem. Quite frankly, their reports were much wider than their terms of reference, on a narrower reading, allowed. But they should be commended for that, because the reality they discovered was so abhorrent and appalling that they were required to provide much wider findings and recommendations. They were not given the scope, they were not given the task, they were not given the power and they were not given the ability to make recommendations about amending the act. To say, in light of that fact, 'This cannot be a problem because Palmer and Comrie did not recommend it,' is to mislead the public and the Senate once again. To talk about being open and accountable and having a more open and accountable process when we have this continual smokescreen, this misrepresentation or miscomprehension of reality—I do not know which it is—is simply ridiculous.

In terms of the specific amendment before us, one would think it would be a fairly uncontroversial principle—that is, if somebody gets locked up they have some scope to challenge their imprisonment under law. One would like to think that was a basic right. Unfortunately, of course, we all know it is not; certainly it is not if you in any way come under the scope of the Migration Act as a so-called alien, in terms of the aliens power in the Constitution. People do not have that right and that is clearly well established, but we certainly should—it should be a basic right of everybody in this country. It is an appropriate time, in the context of this amendment, to draw the Senate's attention to what I think was the final speech made as a member of the High Court by the just-retired High Court Justice Michael McHugh. He told University of Sydney law students that judges were 'being called on to reach legal conclusions which have tragic consequences'. He agreed that Australia's legal system was 'seriously inadequate in protecting the rights of the most vulnerable and disadvantaged groups in our society'. Why isn't the government bringing forward legislation to deal with that, rather than just making it more and more difficult for people who want to try to access court action under some of the limited rights they still have under the Migration Act?

I should emphasise that Justice McHugh was one of the four judges in the High Court that ruled that it was lawful for noncitizens to be detained indefinitely under the Migration Act. In his speech he clearly indicated that that was a finding he was not personally comfortable with. I think it would be fair to say it was an outcome that he was not supportive of as an individual, but he felt com-

pelled, as a justice of the High Court interpreting the law and the Constitution, to find that it was constitutional—that it was lawful under the Migration Act as it stands for somebody to be detained indefinitely, even if they are stateless, even if there is nowhere else for them to go and even if they present no risk to the Australian community. In the context of being compelled to make a decision and a finding producing a result that he personally did not support and was very uncomfortable with, he made the comment that it would have been very different if Australia had a bill of rights.

These amendments do not introduce a bill of rights but they do introduce a single basic right around one of the most powerful and crucial areas for anywhere that calls itself a democracy, which is that people should not have their freedom taken away, particularly for prolonged periods of time, without an independent judicial process as part of that. People should not be able to be locked up by administrative fiat from the government of the day. It is a longstanding, indeed almost ancient, legal principle and right, but it is one that people do not have in Australia. That is because we do not have a bill of rights. The final comment from Justice McHugh as a member of the High Court was to argue the importance and necessity of Australia having a bill of rights to ensure that some of those basic freedoms are put in place. Many of us assume we have them as part of being citizens of Australia, but we do not. If you are an unlawful noncitizen then you have even fewer. To put a few basics into the law would be a good start.

Progress reported.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator WONG (2.00 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. I refer the minister to today's reports that the Howard government is backing down, yet again, on aspects of its welfare changes—the third backdown since the Treasurer announced the changes on budget night. Can the minister confirm that one of the aims of welfare reform was to simplify the welfare system? Can the minister further confirm that, by providing a top-up payment for some parents who will be dumped onto the dole, the Howard government is in fact replacing two welfare payments with at least four for parents? Can the minister explain how doubling the number of different payments simplifies the system?

Senator ABETZ—In response to Senator Wong, I indicate that, yes, one of the reasons given for our changes to Welfare to Work was to simplify the system, but that is only one of the reasons. Another reason, of course—and one which I think has overwhelming community support—is the obvious need for us as a society to change the rules to ensure that we can engage people in the work force and get them off welfare. Virtually all the social data indicates that children who grow up in family units or homes where somebody is in employment usually do a lot better in life. A whole host of social data indicates the benefits of people being in employment as opposed to on welfare. Indeed, that was something that was not lost on the former Leader of the Opposition, Mr Latham, who made comments about this in his diary some time ago. He talked about the Left conservatism whingeing about all the things they do not like in the world but not offering any answers. He said, 'They just don't get it.' That is the problem with those on the other side: at this stage they still do not get it.

The overwhelming majority of Australians believe that it is time that we moved to a system where welfare to work is made easier and that that is better not only for the Austra-

lian community but also for the individuals concerned. Are we looking at changes? What I would say is: 'Watch this space'. I have indicated in relation to previous questions from Senator Wong that we have been listening to people such as Michael Ferguson, the member for Bass, and other people who have been making sensible contributions to our proposals. We as a government never shy away from the fact that we can possibly do things better and we do not necessarily have all the answers. But the stark difference between this government and those opposite is that we are trying to provide some answers to the problems that confront this nation. We just do not sit on the sidelines, like the Australian Labor Party do, 'whingeing and whining', to use the words of the former Leader of the Opposition, and not getting it at all.

As a government we are concerned to ensure that there is a welfare to work transition and that it is done as smoothly and as fairly as possible. So, of course, when people have good ideas, we as a government will engage with them. It remains to be determined which of those ideas the government will embrace, if any. We do not back away from the fact that we actually have a policy on welfare to work, unlike those opposite.

Senator WONG—Mr President, I ask a supplementary question. I ask the minister to respond to the substantive question: how is doubling the number of different payments to parents welfare reform? Can the minister also confirm that those parents who were lucky enough to get a $20 top-up payment may receive the same level of payment with which they started but will have a far worse effective marginal tax rate and far less incentive to work? Minister, isn't it also the case that the vast majority of parents under your welfare changes will still be on a lower welfare payment and they will still be dumped onto Newstart?

Senator ABETZ—Senator Wong's question about the $20 payment et cetera is mere speculation, and as it is mere speculation—

Senator Wong—You leaked it to the *Australian*. It was on the front page of the *Australian*.

Senator ABETZ—We have it again from the frontbench of the Labor Party: it was on the front page of the *Australian* and therefore it must be gospel. Of course, that is where they get all their policy ideas and question time briefs from because they have no ideas of their own. It still remains in the sphere of speculation and, as a result, I cannot comment.

Workplace Relations

Senator TROETH (2.06 pm)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Will the minister outline to the Senate why the government's industrial relations reform, Work Choices, is the next logical step in improving wage, employment and living standards in this country? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Troeth, Chair of the Senate Employment and Workplace Relations Legislation Committee, for her longstanding interest and for her question. The proposition that Senator Troeth puts is absolutely right: Work Choices is not a revolutionary change to the industrial relations system in this country; rather, it is an evolutionary change building on changes to the system going right back to the former Keating government. They are changes which I note have either been initiated or supported by us on this side of the chamber. So, when Labor led with reform, we supported them—unlike now. When we lead with reform, Labor, for their own short-term political purposes, are acting against the national interest.

The reason for our Work Choices could not have been put more eloquently than by the Prime Minister. Allow me to quote at some length, and let us see if those opposite agree with these propositions. The Prime Minister said:

> Let me describe the model of industrial relations we are working towards. It is a model which places primary emphasis on bargaining at the workplace level within a framework of minimum standards provided by arbitral tribunals.

Do they agree with it? Do they agree with that proposition? No, they don't. Let me quote further:

> It is a model under which compulsorily arbitrated awards and arbitrated wage increases would be there only as a safety net.

Do they agree with that proposition? No, they don't. Let me quote again:

> Over time the safety net would inevitably become simpler. We would have fewer awards with fewer clauses.

Do they agree with that? No. Once again they disagree. Let me try another proposition put by the Prime Minister:

> We would have sufficient harmony between state and federal industrial relations systems to ensure that they all head in the same direction and used the same general rules.

Do you agree with that? No, they don't. Let me give another quote from the Prime Minister:

> We need to accelerate workplace or enterprise bargaining and this is as much a responsibility of employers as it is of unions and government.

Do you agree with that proposition? No, they don't. Finally, he said:

> We need to find a way of extending the coverage of agreements from being add-ons to awards, as they sometimes are today, to being full substitutes for awards.

Do you agree with that, over there? No. Here is the amazing thing: do you know the Prime Minister whom I have quoted? They all fell for it, didn't they? They thought I was quoting Prime Minister John Howard. In fact, I was quoting Prime Minister Paul Keating, in a speech to the Institute of Company Directors on 21 April 1993.

All these propositions, chapter and verse, put by Prime Minister Paul Keating 12 years ago—Labor Party policy when they were in government—have been opposed by the Labor Party when they have been put forward as our policy. What it exposes is that the Labor Party know what needs to be done for this country, but they do not have the fortitude and the integrity to make the tough decisions for the benefit of our country. I will have great delight in sending this *Hansard* to former Prime Minister Paul Keating.

Welfare to Work

Senator MOORE (2.10 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Isn't the Howard government's partial backdown on lower payments to parents a recognition that dumping people onto the dole will not help them get a job? Why then is the Howard government still proposing to push people with a disability onto the dole? Given that people with a disability face extra costs in managing their disability, why is the government persisting with reducing their income support?

Senator ABETZ—I detect that part of Senator Moore's question is in fact based on speculation and, as a result, as I have indicated to Senator Wong in answer to a previous question, I can neither confirm nor deny any of that speculation. In relation to people with disabilities who are on Newstart and youth allowance, I can indicate that recipients will not be required to take up work which is unsuitable. In assessing whether work is suitable, a job seeker's individual circumstances are taken into account, including things such as age, mobility, qualifica-

tions, language proficiency, work history and geographical location. A job seeker will not be required to accept a job if it may aggravate a pre-existing illness, disability or injury, involves health and safety risks or involves commuting from home to work that would be unreasonably difficult.

Why do I read all that out? The reason I read all that out is as an indication of the government's concern to ensure that people with disabilities are treated fairly and properly in our trying to engage them in the work force. I have had occasion to say previously that—and I will repeat it until it finally sinks in with those opposite—we as a government are concerned to concentrate on people's abilities rather than on their disabilities. Those on the other side somehow think that if you throw a pension at somebody who has a disability you have done your social duty. We as a government do not believe that that is the case. We want to actively engage with them as individuals and explore what their abilities are and what the potential is so that they can engage in some employment within the community. We know from all the research that it is of benefit to the individual with a disability, to their family at large and to the community as a whole. We do not resile from the fact that we have a good and active welfare to work proposal which is still being refined. It is easy, during the period of refinement, for those opposite to get up and say: 'What if? What about this? Is this going to be included et cetera?' It is all speculation, and honourable senators opposite know that I cannot comment on that specific speculation.

Senator MOORE—Mr President, I ask a supplementary question. Isn't it the case that the public discussion about three backdowns on welfare changes has been designed to get the changes through this place, rather than to get people into work? Haven't these proposed piecemeal changes been nothing more than political fixes to deal with government backbench and community opposition to the proposals, which continue to leave vulnerable Australians worse off and suffering?

Senator ABETZ—The honourable senator nearly has it right. We as a government, unlike the Keating government, do in fact consult with our backbenchers. They are a very important and integral part of the government. Therefore, when the backbench have something to offer, the responsible minister listens, discusses and works through those issues. So if there is some sort of criticism implicit in Senator Moore's question about that, I reject that criticism. It is the way that our parliamentary democracy should work. I can understand that it might be a foreign concept to Senator Moore on the back bench to have senators on the front bench listen to her. I think the Labor frontbench would do a lot better if they did listen to Senator Moore on the odd occasion. We on this side do listen to the backbench from time to time and we will see how effective those representations have been in due course.

Terrorism

Senator JOHNSTON (2.15 pm)—My question is to the Minister for Defence and Leader of the Government in the Senate, Senator Robert Hill. Will the minister outline to the Senate the measures being taken by the Howard government to strengthen Australia's defence against terrorism? Is the minister aware of any alternative policies?

Senator HILL—I thank Senator Johnston for his question. The Senate will shortly be called upon to consider a package of new measures to further protect all Australians from the scourge of terrorism. This government has delivered unprecedented economic benefits to Australians, the lowest unemployment in a generation, sustained economic growth and large increases in real wages. However, all this prosperity will be

worthless if Australians are not free to enjoy their lives and liberty in the knowledge that they are adequately protected from the threat of attack by those who wish to change our way of life.

Those who assert that the government's antiterrorism measures are unnecessary, that they are somehow a reaction to a nonexistent threat, must constantly be reminded of the realities we face. This government remembers that almost 100 Australians have died in two Bali bombings, that terrorists have tried to kill our citizens in Jakarta and Singapore and that bombs have been let off against Western interests elsewhere in South-East Asia. We remember that Osama bin Laden declared Australia an enemy because of our role in freeing East Timor. We know that there are people on trial in this country for plotting to carry out a terrorist act. They do this not because of our involvement in Afghanistan or Iraq but because of a hatred of our democracy and the rule of law.

Against this background, the Howard government will continue to introduce and refine measures to best position this country to meet those threats. Over the weekend, I foreshadowed that the government will soon consider amendments to the Defence Act to simplify our ability to use the Australian defence forces to assist in the response to a terrorist incident. This intention was noted by state premiers in their recent COAG communique. Such provisions already exist but they are unwieldy. Amendments to these provisions to make them more usable in an emergency are well worth considering and this is what the government will do.

These measures are part of a much broader effort to prepare our country to meet the threats we face. Within my own portfolio we have committed more than $1.2 billion to enhance special forces and other counter-terrorist capabilities. Across government we have strengthened intelligence agencies, provided new resources to the police, continued a strong border surveillance regime and amended our legislative frameworks. The debate around one set of laws or another should not be derailed by a failure to appreciate reality. These measures are necessary. They balance our long-held and much-treasured freedoms against the reality of life in the 21st century, in which we face new and evolving threats. This government is determined not to be found wanting when it comes to facing those threats and protecting Australian lives.

Workplace Relations

Senator SHERRY (2.19 pm)—My question is to Senator Minchin, representing the Treasurer. Given that the Treasury has modelled the economic impact of industrial relations options and the importance of this issue to the current public debate about the government's announced changes, when will the government release the secret findings that it has covered up for the last four months?

Senator MINCHIN—I note Senator Sherry's question. It would appear from that question that Senator Sherry has not read the statement from the Acting Secretary to the Treasury, Dr Martin Parkinson, who in a statement on 5 November referred to speculation about specially commissioned advice from the Treasury. The Acting Secretary to the Treasury claims in his statement that that speculation is false. He says that the Treasury was not commissioned to provide specific advice on the justification for proceeding with the workplace relations reforms. He says that the Treasury has not prepared a report on the economic impact of the workplace relations legislation. He refers to Senator Sherry's comments in the estimates deliberations and notes that during the policy development process, from March to May of this year, the Treasury prepared indicative

estimates of employment effects under various scenarios, which was before any change to workplace relations policy was adopted. Dr Parkinson then goes on to say: 'At no stage was any report prepared on the basis of this indicative analysis. This work was used to provide comment to cabinet during its consideration of workplace relations initiatives.'

So there are no reports by the Treasury; there are no reports to release. As Heather Ridout of the Australian Industry Group quite clearly said today—and I agree with her—there is absolutely no need for more economic modelling on this subject. She said:

> We have had a decade of IR reform which has yielded, along with other changes, very important productivity improvements, real wage increases, more jobs in the economy, so to go to economic modelling to put a whole lot of assumptions in one end and have stuff come out the other would be a waste of public money.

I think they are very pertinent and sensible comments by Ms Ridout.

The fact is that we do not need reports from the Treasury or economic modelling. We have the benefit of the experience of this economy, with reforms initiated by the former Labor government. My colleague Senator Abetz quoted Mr Keating, who initiated the process of reforming Australia's industrial relations arrangements in order to produce better economic outcomes. We have had the benefit of a decade of experience to demonstrate the benefits of that IR reform and the fact that further IR reform will produce further benefits. We have the international experience of the United States, the United Kingdom and New Zealand as evidence for the case that there is great benefit to be obtained from further deregulation of the labour market.

We have every respected international economic body advocating further reform. The OECD, the IMF and the World Bank, when looking at the Australian economy or other economies, have quite clearly, based on their economic expertise, advocated the case for further economic reform, to wit the industrial relations reform, to produce higher productivity, higher wages and higher employment outcomes. The case is self-evident and not even the ALP should need further economic modelling to substantiate it.

Senator SHERRY—Mr President, I ask a supplementary question. If, as the minister claims, such modelling is a waste of money, why has the Treasury admitted that such modelling took place? Isn't the Liberal government's real reason for keeping secret the Treasury modelling and the findings on the economic impact of industrial relations changes that that would undermine the government's current claims and instead show them to be nothing more than a propaganda based lie campaign?

Senator MINCHIN—That is a very childish remark by Senator Sherry and he should dignify this debate with more substantive attacks than that. I just said that Dr Parkinson, in his statement on behalf of the Treasury, said:

> Treasury has not prepared a report on the economic impact of the workplace relations legislation.

There is nothing to release.

Drugs

Senator HUMPHRIES (2.23 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the role of Commonwealth law enforcement agencies in the fight against drugs?

Senator ELLISON—The Australian Federal Police and Customs continue to do a very good job in keeping illicit drugs out of Australia. When you look at the annual report of the Australian Federal Police you see

documented the record number of seizures which have taken place. We have seen a reduction in the supply of heroin which has been internationally recognised by no less than the United Nations. Even here in Australia local authorities have recognised that there has been this reduction in supply.

The battle continues in the war on illicit drugs. I acknowledge Senator Humphries' keen interest in this area. We conduct this war on three fronts: in the area of education, to educate Australians, particularly young Australians, about the dangers of illicit drugs; in the area of rehabilitation, to deal with those people who have drug addictions and to rehabilitate them and bring them back on board so that they can lead normal lives; and, most importantly in relation to law enforcement, to reduce the supply of illicit drugs, because you cannot succeed with education and rehabilitation if you do not reduce the supply of illicit drugs.

It is interesting when you look at the annual report of the Australian Federal Police to see that in March this year 105.7 kilograms of heroin was seized in Adelaide by the Australian Federal Police working with the Australian Customs Service. They are doing a magnificent job in keeping a very large amount of heroin out of Australia. What is significant is that that was done with overseas intelligence and through working with overseas law enforcement. Similarly, in relation to the seizure of MDMA ecstasy in April this year, as a result of intelligence AFP and Customs seized 123 kilograms of ecstasy and made five arrests, again working with overseas intelligence. This demonstrates that the Australian Federal Police, the Australian Customs Service and other federal agencies are working side by side in the fight against attempts to bring illicit drugs into this country, despite the demands made on them in relation to counter-terrorism. That is an area which demands a great deal of work. Notwithstanding that, we still have this great effort being carried out by the Australian Federal Police and the Australian Customs Service.

We have seen under the Howard government an increase in the representation of the Australian Federal Police overseas. We are now represented in some 26 countries. We have increased our overseas presence by 40 per cent. Working overseas with law enforcement is essential in relation to getting intelligence to interdict attempts to bring illicit drugs into this country.

The one area I would mention which is of great concern is amphetamine type stimulants. We have seen the number of seizures increase. Domestically, we have seen an increase of 300 per cent in the number of clandestine laboratories being found. That is our major cause for concern because of the uptake of those illicit drugs by young Australians. That is where we are concentrating a great deal of our efforts, particularly on precursors. We have seen an increase in precursor seizures. The group which I chair, the National Working Group on the Diversion of Precursor Chemicals, has had a great deal of success working with the pharmaceutical industry and pharmacies, and we have recently seen the further restriction on the accessing of pseudoephedrine which you find in many medications such as cold or flu tablets. Pseudoephedrine is a basic precursor to amphetamine type stimulants, and we have acted to stem the flow and the importation of that substance. This was a very good report from the Australian Federal Police which is, once again, serving Australia very well in the fight against illicit drugs.

Pregnancy Counselling Services

Senator NETTLE (2.28 pm)—My question is to the Minister representing the Minister for Health and Ageing and it relates to the announcement on Friday afternoon that the

health minister would be funding three anti-choice pregnancy services for $600,000 over the next two years. Is the minister aware that one of those groups, the Australian Federation of Pregnancy Support Services, have said during telephone counselling to women that they refuse to refer women for a pregnancy termination even if that is what the woman wants, and that they have advised callers that abortion is 'killing their baby', 'murder' and a 'sin' and that their baby 'will not have a place in heaven'. How does this announcement of additional funding equate with the government's objective to provide balanced, non-directive counselling for unplanned pregnancies?

Senator PATTERSON—Representing the Minister for Health and Ageing, I indicate that he did announce last Friday that three organisations were to receive additional funding of $100,000. This issue was raised in an estimates question by the senator and I have to say that I do not always necessarily take as gospel what people say they were told on help lines or counselling lines. I have found in my experience that people often ring up and test an organisation. As has happened in one area in my portfolio, some of what is claimed to have been said is not actually what was said. Let me put that on the record.

If the minister for health has any further information, I will provide it to the Senate. In my portfolio area, we have just announced the major extension of a program called Core of Life, which is about prevention and assisting young people to understand the implications of their relationships and the responsibilities they have. It is a very successful program—it has been successful in the Flinders area in reducing the number of teenage pregnancies. We are now rolling it out into other areas where there are high teenage pregnancy numbers, where schools are prepared to take that program and work with it. So from the point of view of my portfolio, I am focused on prevention. If there are any other details that the minister for health can add to my answer, I will make sure they are provided.

Senator NETTLE—Mr President, I ask a supplementary question. Is the minister aware that the Pregnancy Advisory Centre, a South Australian state health funded service, has been taking calls from women who have been shocked after seeking help from counselling services which come under the Australian Federation of Pregnancy Support Services? Is the minister aware that women who have been ringing for unbiased information about their unplanned pregnancy are being given medical misinformation that a second abortion will mean that they are not able to get pregnant again and that they will definitely be at high risk of getting breast cancer? Is the minister for health giving grants to these organisations because he has prioritised his own narrow religious views above his responsibilities as health minister to ensure that all Australian women have access to the full range of reproductive health services?

The PRESIDENT—Before I call Senator Patterson, there may have been a reflection on a person in the other place in that supplementary question. I will look at the *Hansard* later. I call Senator Patterson.

Senator PATTERSON—Thank you, Mr President. I would ask you to have a look at that because we are not to reflect upon the intention or motivation of people here or in the other place. I believe I answered the honourable senator's supplementary question in my answer to the substantive question. When people say they are told certain things when they ring help lines and counselling lines, they are often ringing to test those lines and they are not necessarily in a situation where they need that assistance. I am not saying

this occurred in this case but I am always very wary of what people report as having been said to them, particularly if people are not entirely happy with an organisation and if they hold a different view. I indicate that if there is any further information that the minister for health can provide, he will do so. I can tell the honourable senator in great detail about some of the prevention programs in my portfolio. Core of Life is one which I believe will have a significant impact on prevention.

Illegal Fishing

Senator ADAMS (2.32 pm)—My question is directed to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Will the minister outline to the Senate how the Howard government is protecting Australia's fisheries from illegal fishing pirates? Is the minister aware of any alternative policies?

Senator IAN MACDONALD—Senator Adams is a strong advocate for the fishing industry in Western Australia, and I appreciate her question on this very important issue. The Howard government has demonstrated the strength of its commitment to protecting its borders and fisheries. Coming on top of a $90 million increase in funding in the May budget, a couple of weeks ago Senator Ellison and I announced an additional $88 million to go into the fight against illegal fishing. Twenty-eight new Customs marine officers will be employed and four new in-shore patrol vessels will be supplied. Twenty million dollars will go to DIMIA for increased detention and removal costs, there will be additional money for the disposal of boats, new money for the construction of a detention facility on Horn Island in the Torres Strait, and additional money will go to the DPP to fund the expected increase in the number of prosecutions.

The allocation of this additional money means that there will be a quicker turnaround of our patrol boats and it will allow additional effort to go into the fight against illegal fishing. Compared with Labor's record in their term of office, when they apprehended 40 vessels, already in this calendar year we have apprehended something like 208 vessels—three on the last weekend. In addition, there have been administrative seizures of another 260 vessels. Almost 500 vessels in all have been apprehended by our forces.

Last week, I met with fishermen in Karumba on the Gulf of Carpentaria and had discussions with them about how we could jointly increase efforts in the fight against illegal fishing, particularly during the next three or four months, when the fisheries in the Gulf of Carpentaria are closed.

I was also asked about alternative policies. Prior to the last election, Labor had five different coastguard policies. It now appears that they have none beyond their statement that there will be a coastguard. We all know that creating another level of bureaucracy means more pen pushers, more paper shufflers and fewer boats on the water. That is what Labor are all about. The Labor Party web site says this about their coastguard policy:

> Labor's specific plans for a Coastguard have evolved as the security environment has evolved as well as reflecting the realities of the Government's budgetary position and its progress in major capital acquisitions.

I interpolate to say that that means it won't have any money to do anything. The quote continues:

> We will present a detailed Coastguard policy for the public to consider before the next election.

Mr Beazley and Labor are great on the froth and bubble, but the bottom line is that, when we and the rest of Australia want to know, we still don't know what Labor or Mr

Beazley stand for. Last time they promised a detailed policy before the election, and we did not see the policy until the final weeks of the election campaign—far short of the deadline to have the policy assessed under the Charter of Budget Honesty. What the Australian people do know is that the Howard government is tough on border protection. We can be trusted to protect our sovereignty and our fish stocks. They know that the Howard government will allocate whatever resources are required to meet the challenge. We will win the fight against illegal fishing. We are determined to do so.

Workplace Relations

Senator McEWEN (2.37 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Does the minister recall dismissing my question to him on 11 October 2005 concerning the impact on employees of agreements being terminated under the government's proposed changes? Having had the opportunity to read the legislation, can the minister now confirm that when an employer terminates an expired agreement, employees no longer fall back onto their award entitlements, including rates of pay, overtime and penalty rates, redundancy pay and meal breaks? Is it true that the employee instead falls back onto the five basic conditions of employment and nothing else, which would see their weekly pay dramatically cut? Why has the government removed the award as the fall back when an agreement is terminated, as is currently the case for the 1.8 million workers covered by federal agreements?

Senator ABETZ—I must confess that the question that was allegedly asked on 11 October 2005 is not imprinted in my mind. I am happy to accept that the honourable senator may well have asked me a question. I would have thought that, with the lapse of time since 11 October 2005, the honourable senator would have had the opportunity to read through this very good booklet, which is called *WorkChoices: a new and fairer workplace relations system*. Work Choices is all about getting flexibility back into the system and ensuring that employment opportunities arise for more Australians in circumstances where it is of benefit to both the employee and the employer alike.

When people go off existing agreements, the new regime comes into force. We as a government make no apology for that. There is a new regime in place, and so as people change their circumstances they fall into the new provisions. These new provisions, might I add, are designed to increase wages and increase employment opportunities—the double whammy that the Labor Party were unable to deliver while they were in government. In fact, in this weekend's media Paul Keating once again boasted about the fact that when the ACTU had its feet under the cabinet table they were able to drive down real wages. And he boasted about it. Those opposite, after we have delivered a record of unparalleled wage growth—a 14 per cent increase in real wages—

Senator Chris Evans—Mr President, I rise on a point of order relating to relevance. Senator McEwen asked Senator Abetz a direct question about the government's new legislation, which I understand has a lot more detail than just what is in the *WorkChoices* booklet. I do not see how raving on about previous governments adds to answering that question. Could you draw him back to the question? He is here to answer questions about the government's industrial relations policy. If he cannot, he ought to take it on notice.

The PRESIDENT—Senator Abetz, you have one minute and 47 seconds. I remind you of the question.

Senator ABETZ—You can understand the sensitivity of the Australian Labor Party, which pretends to champion the cause of the workers at the same time as a former Labor Prime Minister goes out and brags about the fact that he reduced real wages for the Australian workforce. We on the other hand have in nine years delivered a 14 per cent increase in real wages for the workers of this country. Having spent nine years delivering such an outcome, we are not about to turn our back on that fantastic outcome and try to reduce wages. Why would we seek to do that and undo all the good work that we have been trying to achieve over the past 9½ years? The new regime is the sort of regime that Paul Keating envisaged in 1993. Twelve years on, that which Paul Keating envisaged is that which we are trying to implement.

Senator Sherry—If it is so good, why change it?

Senator ABETZ—The reason that we are doing it now is that Mr Keating never did it. Labor knows what needs to be done, but they do not have the capacity to take the tough decisions. While Labor is committed to not changing—

Senator Sherry—Why change it?

Senator ABETZ—Because we are continuing to plan for the future—unlike the Labor Party, which is still stuck back in the 1890s.

Senator McEWEN—Mr President, I ask a supplementary question. I suggest that the minister refer to page 197 of his explanatory memorandum if he really wants the answer to the question I asked—paragraphs 12 and 13. Can the minister confirm that, under the government's proposal, after an employer has terminated an expired agreement they would be able to sack employees and those employees would have no right to redundancy pay? Why wouldn't companies take advantage of this loophole to avoid paying redundancy pay, particularly if they were planning significant job cuts? Won't this provision of the bill leave employees highly vulnerable in renegotiating an agreement to replace the terminated agreement?

Senator ABETZ—The vast majority of employers—if not all of them—in this country know that their greatest asset is in fact their workforce; their employees. This sort of old class warfare mantra that is thrown up by those opposite time and time again indicates that they are not even living in the 20th century; in fact, they are in the 19th century—they are in the 1890s, or further back. We are in the 21st century and when changes like these were implemented in the United Kingdom and New Zealand, incoming Labor governments did not change them. Steve Bracks in Victoria has not rolled back industrial relations reform. Seeing that the honourable senator appears to have read the explanatory memorandum, I suggest to her that she read pages 1 and 2. She will then understand all the reasons why we are implementing Work Choices.

Pregnancy Counselling Services

Senator STOTT DESPOJA (2.44 pm)—My question is to the Minister representing the Minister for Health and Ageing, Senator Patterson, and it is also about the decision on Friday by the minister for health to provide an additional $300,000 to pregnancy counselling services. I ask the minister, given that that additional money for pregnancy counselling services in Australia will go to services which do not provide information about the three pregnancy options or necessarily provide referrals for abortion, yet they often fail to declare this in their advertising, will the government now move to outlaw misleading advertising by pregnancy counselling services and ensure that these organisations, which are usually not covered by the Trade Practices Act, are subject to the same laws as

those organisations that are covered by the Trade Practices Act?

Senator PATTERSON—The question that Senator Stott-Despoja asked covered a number of issues. It is an issue for the health minister, and the issue she has raised actually falls in the province of the minister responsible for the Trade Practices Act, but I will draw Minister Abbott's attention to Senator Stott-Despoja's comments. Both senators asked me questions that made assumptions about these organisations. What I said before was that the minister for health has indicated that he has given additional funding to these organisations. If he has any further comment to make, I will bring those comments to the Senate. I will ask him to look at the suggestion that Senator Stott-Despoja has made and, if he has any further comments to make on that part of that question, I will bring that to the Senate as well.

Senator STOTT DESPOJA—Mr President, I ask a supplementary question. I thank the minister for that undertaking, but I ask the minister if she is aware that the government does not fund any dedicated pro-choice pregnancy counselling service in Australia? That is despite providing more than $245,580 to the Australian Federation of Pregnancy Support Services in 2004-05, and that is not taking into account an additional, I think, $100,000 that was announced on Friday. So I ask the minister: will the government undertake to fund pregnancy counselling services that are dedicated pro-choice services and are advertised as such?

Senator PATTERSON—I am not going to make a comment about the minister for health's area of responsibility, but I will say that we fund family planning associations where people can make—

Senator Allison—Don't you bring it to cabinet?

Senator PATTERSON—That is one thing you will never experience, Senator Allison: being in cabinet and knowing what comes to cabinet and what does not come to cabinet.

Honourable senators interjecting—

Senator PATTERSON—Well, I just thought I needed to point that out. We do fund family planning associations. Let me say, from my portfolio's point of view, that the areas I fund are about focusing on prevention; assisting young people, in particular, to understand the issues that confront them; and particularly, as I said in the answer to Senator Nettle who asked a question, assisting them in areas where we have high teenage pregnancy rates. I can comment in detail about my area of responsibility. It is a new program that we are rolling out, but if Mr Abbott has anything further to add— *(Time expired)*

Aged Care

Senator McLUCAS (2.48 pm)—My question is to Senator Minchin, the Minister for Finance and Administration. Can the minister confirm that the current method of indexing the $6 billion worth of subsidies paid annually to aged care providers uses a Commonwealth own purpose outlays—COPO—index, administered by his department and linked directly to the minimum wage decisions of the Industrial Relations Commission? Is the minister aware that over the last four years the IRC has awarded safety net increases of between 3.6 per cent and 4.4 per cent and that these increases have directly flowed to the indexation of aged care subsidies? Can the minister now guarantee that, in real terms, aged care subsidy increases into the future will be at least equivalent to the increases provided over the last four years?

Senator MINCHIN—That question really would be much better directed to the

Minister for Ageing, who has responsibility for this area. The matter of—

Opposition senators interjecting—

Senator MINCHIN—It really shows how little the opposition knows about the way government works, when it directs it to me. I am happy to take it on notice. I do not have a brief on that, because it is not in my area of direct responsibility. If they would like to have the question taken on notice, I will get any information I can. On the other hand, Senator Patterson, who represents the Minister for Ageing, may care to answer the question now.

Senator McLUCAS—I do have a supplementary question, but I am astonished that the minister does not actually know what his own department runs. Can the minister confirm that, as a result of the COPO indexation arrangements, the government stands to save millions of dollars a year by reducing minimum wage increases under its proposed industrial relations changes? Can the minister confirm that, if the COPO indexation rate is reduced by just one per cent, the government will slash funding for aged care by $60 million a year? What will be the basis for indexation of aged care funding into the future?

Senator MINCHIN—Again, I am happy to take that on notice and get some more information for the senator, but the suggestion that we have not adequately funded aged care is preposterous. This government is responsible for a massive increase in funding for aged care. We are the ones who actually focused on ensuring this country is prepared for the ageing of the population. We get absolutely no help from those opposite. One of the things we have to do is improve the performance of this economy through things like workplace relations reforms to ensure that in the future we are able to cope with the dramatic ageing of this population that is going to occur over the next 10 to 20 years. We have to ensure that the economy is performing sufficiently well and growing sufficiently well to generate the revenues to enable us to fund things like aged care and health and to ensure that we are able to withstand the extraordinary and dramatic effects that ageing could have on the fiscal position of the Commonwealth. But, as to the specific issue in relation to indexation, I am happy to take it on notice.

Climate Change

Senator PARRY (2.51 pm)—My question is directed to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister inform the Senate how Australia is continuing to show leadership in the challenge of global climate change and, further, is the minister aware of any alternative policies?

Senator IAN CAMPBELL—I thank Senator Parry for a question which I know concerns many Australians and people around the world. Indeed, the Australian government is showing leadership in relation to addressing climate change and greenhouse gas emissions, particularly carbon, and the impact that those greenhouse gas emissions have on the global climate. The government recognised many years ago that human activity and the emission of greenhouse gases can have an impact on the climate. That is why we have put in place world-leading domestic programs—about $1.8 billion worth of investments—with really what you would call a portfolio approach. This includes putting money into renewables and fast-tracking the application of wind turbines, photovoltaics and solar power as well as, very importantly, addressing fossil fuels.

We know also that Australia cannot act alone. We know that this is a truly international problem. We know that one tonne of carbon emitted from a desalination plant in

Kurnell is as important environmentally as a tonne of carbon emitted in China or India. These greenhouse gas emissions know no boundaries. It is important that we not only act domestically, with $1.8 billion worth of investment in solar cities and low emissions technologies, but also work constructively internationally through the United Nations Framework Convention on Climate Change and a series of other important international cooperative moves.

That is why it was a privilege to be invited by the government of Great Britain to a forum hosted by Tony Blair in London last week. It was very interesting to see, around the table of a G8 summit with Tony Blair, that the world has very much moved towards the Australian government position. Tony Blair himself said:

> What we need to do is to try to develop the right partnership, and then the right framework, so that we are developing the science and technology that we need, that we are doing this in a way that allows us then to transfer that technology and share it between developed and developing world ...

Mr Blair has really made it quite clear in three separate public announcements over the past month that the world simply cannot rely on the Kyoto protocol. The world needs to find something far more environmentally effective. In fact, Tony Blair said:

> We need to cut greenhouse emissions radically but Kyoto doesn't even stabilise them.

I am aware of alternative policies. There is in Australia only one alternative policy—that is, of course, that advocated by Labor. They really see that the old debate about Kyoto is the only game in town. The shadow environment spokesman says:

> ... Kyoto ... is the main game.

He also goes on to say that, by Australia not signing the Kyoto protocol, we will not even have a seat at the table. He refers, of course, to the UN framework convention conference in Montreal in about three weeks time. He said that we do not have a seat at the table on 7 October. I found it quite interesting therefore that, on 19 October, the shadow minister for the environment wrote me a letter saying that he wants to come to the UN framework convention. On one day he is saying that we do not have a seat at the table and on the next day not only is he asking whether he can get a free seat on a plane to come to the conference but also he wants to sit next to me at the table at the Montreal conference. I think it would be very useful for the shadow spokesman to come to this conference because he will see that Australia is a world leader in addressing climate change and that Australia is respected around the world for our policies. *(Time expired)*

Workplace Relations

Senator HUTCHINS (2.56 pm)—My question is directed to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of concerns expressed by his colleague Senator Barnaby Joyce about aspects of the government's plan to change unfair dismissal laws—in particular, the decision to exempt employers with up to 100 employees and to allow an exemption on the basis of operational requirements? Can the minister confirm that these aspects of the government's plans were specifically excluded from the terms of reference for the Senate inquiry into the industrial relations changes? Will the minister now move an amendment to those terms of reference to ensure that the changes to unfair dismissal are picked up by the inquiry in order to allay Senator Joyce's concerns and the concerns of many other Australians?

Senator ABETZ—As Senator Hutchins would know, there is overwhelming community concern about the current state of the

unfair dismissal laws—a social experiment implemented by former Prime Minister Paul Keating as a bit of a sop to the trade union movement to try to get them online for all of the other changes that I was able to enunciate earlier in question time. Those changes to the unfair dismissal laws were so unpopular that, when Bob Carr was seeking the premiership of New South Wales, he made a solemn promise to the New South Wales people that he would not be following—

Senator Chris Evans—Mr President, I raise a point of order. It is on the question of relevance. Again, Senator Abetz is refusing to answer the question and making a mockery of question time. I know he is very fond of Paul Keating and Tony Blair and he wants to quote them at length, but, really, he was asked a specific question about the Senate inquiry's terms of reference. I think you ought to try to encourage Senator Abetz to use question time as it was intended—to answer questions asked of him.

The PRESIDENT—The minister has three hours—

Opposition senators interjecting—

The PRESIDENT—I am sorry; I am sure that, if he did have, he would take the time! The minister has three minutes and 14 seconds to answer the question. I would remind him of that question and remind him of where we are—at question time.

Senator ABETZ—I thank you, Mr President, for the invitation, but it will only be three minutes! But that sort of point of order highlights the reason why Mr Latham sacked Senator Evans to make room for Mr Beazley—and we know what Mr Latham thought of Mr Beazley! In relation to the question that was asked, it was clearly on the issue of unfair dismissals and why we are putting into place certain legislative changes. Those legislative changes are being driven for exactly the reasons that Bob Carr enunciated—

Senator Chris Evans—Mr President, I rise on a point of order relating to relevance. The minister still fails to bring himself to the question. The question was about the terms of reference for the Senate inquiry. The minister is making no attempt to answer the question, Mr President. I, like you, probably have had more emails about his performance and the abuse of question time than about any other. I ask you to bring him to order and get him to answer the question.

The PRESIDENT—Senator Abetz, I would remind you of the question.

Senator ABETZ—Thank you, Mr President. The Leader of the Opposition has completely misrepresented the question. The *Hansard* will clearly show that it was a wide-ranging question and it finished in relation to the terms of reference for the Senate inquiry. If the honourable Leader of the Opposition wants me to deal with the last question first, I am happy to do so.

We as a government did not decide the terms of reference for the Senate inquiry; the Senate determined by a vote of this place what the terms of inquiry should be. As those on the other side know, because they have bragged about it, from time to time we do not necessarily control the numbers in this place. Sometimes we get a vote our way; sometimes we do not. On this occasion the Senate inquiry terms of reference were determined by a vote of the Senate. I do not detect an overwhelming feeling at this stage for a change in those terms of reference.

Turning back to the first question that was asked—and I know this will be difficult for Senator Evans to follow because it is now out of the logical order, but I am happy to accommodate him—in relation to the issue of unfair dismissals, that has been a dampener of employment creation in this country.

That was recognised by Labor Premier Bob Carr, who made a solemn promise to the people of New South Wales when he was seeking the premiership that he would not be introducing similar legislation, and he condemned the federal legislation. If Bob Carr could see it as he was anxious to become Premier of New South Wales, one would imagine that those opposite would also see it.

As Kim Beazley confessed on radio in South Australia not all that long ago, the Labor Party has never pretended to be the friend of small business, nor should it. These unfair dismissal law changes that we are proposing are specifically designed for small business. The figure of 100 is a figure that has been determined by the Australian Bureau of Statistics and that is why we have settled on that figure. *(Time expired)*

Senator HUTCHINS—Mr President, I ask a supplementary question. Isn't it a fact that when the Senate has considered unfair dismissal legislation previously it has been on the basis of 20 employees or fewer? Why is it now that the government is so afraid of scrutiny by the Senate of its drastically altered plans to introduce new laws covering operational requirement issues and exempting many thousands of additional businesses with up to 100 employees?

Senator ABETZ—We are not afraid of any scrutiny at all. Interestingly, former Premier Bob Carr did not want any of this sort of legislation without any threshold of 100. He would have had no threshold whatsoever in relation to New South Wales. Bob Carr was mugged by reality. I invite those opposite, some 10, 12, 13 years later, to be similarly mugged by reality and allow the Australian economy and jobs to grow, especially for those 500,000 Australians that are still so desperately in need of employment.

Sena tor Hill—Mr President, I ask that further questions be placed on the *Notice Paper*.

SENATOR BARNABY JOYCE

The PRESIDENT (3.04 pm)—On 12 October 2005 Senator Conroy raised allegations of intimidatory behaviour towards Senator Joyce in respect of his votes in the Senate. In accordance with my request, Senator Conroy subsequently wrote to me setting out the matter. I undertook to investigate the allegations and to report to the Senate. I wrote to Senator Joyce and he responded to the effect that there had been no intimidatory behaviour towards him. Other information relating to the incidents alleged by Senator Conroy was examined but there is no evidence of any such behaviour.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Workplace Relations

Welfare to Work

Senator WONG (South Australia) (3.05 pm)—I move:

That the Senate take note of the answers given by the Special Minister of State (Senator Abetz) to questions without notice asked today relating to proposed changes to welfare and to industrial relations.

We have had yet another display of Senator Abetz's arrogance in his answering, or failure to answer, questions in question time today and his failure to provide detailed information which is of concern to a great many Australians. I could talk for a while on the industrial relations legislation and the fact that he failed to correct the record when he clearly appeared to contradict an answer he had previously given to Senator McEwen. I would invite the minister to consider her question today and his previous answer to that question.

I want to focus today on welfare changes which have been announced—or selectively announced—to at least one newspaper in this country. On the front page of today's *Australian* is the headline, 'Prime Minister caves in on single parents'. There were a number of questions to start off question time asked of Senator Abetz in relation to this issue. The first dealt with the issue of whether or not he could defend the increased complexity of the system. The sad joke about this government's approach to welfare is that they have talked long and hard for years about welfare reform. They have talked long and hard for years about the increasing number of Australians under their government who are on income support payments. They have talked a long time about welfare reform, but what they have come up with is a system that is not only extreme but incompetent.

We know from previous question times that the government have no answer to the charge that they have done nothing more than decrease the incentive to work by ensuring that sole parents and people with a disability who are dumped onto the dole under the government's extreme changes will face very high effective marginal tax rates—in fact, far higher than they currently face on their welfare payments. The government have presided over a set of changes that make work less rewarding. What a brilliant strategy for trying to get people into work—make work less rewarding!

On the front page of today's newspapers we see a further backdown—the details of which were asked of Senator Abetz today. This is in fact the third time that the government have had to go back and amend aspects of their welfare changes. First we had the Prime Minister, after a question in question time, having to come out and say, 'If the costs of child care are too much, we might not have to make the parent work.' We then had a set of backdowns announced by Minister Andrews—I think that was in September—and now it appears that this week, when this legislation is tabled, we are going to see yet another set of concessions, because the government understand the politics of this is a problem for them.

Government ministers know that their own backbench and a great many of their electorates are extremely concerned about the extreme nature of their changes. The government know that. But instead of going back and dealing with the core problem—which is that at the core of these changes is a move from one low welfare payment to a lower welfare payment—the government are increasing the complexity of the system. So they are admitting the welfare changes will hurt and they need to do something but, instead of dealing with the problem, they are making the system more complicated. If the newspaper reports are correct, the government will have presided over a set of changes which move from two sets of payments for single parents and partnered parents to at least four payments and possibly more.

Senator Abetz was asked for the detail but, as is his fashion, he did not answer—instead engaging in yet another rant on the rhetoric. He was asked why it is that increasing the complexity of the system and the number of payment types is welfare reform. This is the government that said, 'We're about welfare reform.' This is the government that said, 'We want real welfare reform.' But what they have in fact engaged in is a set of extreme changes that move vulnerable Australians from one low welfare payment to a lower welfare payment. And, in order to deal with the concerns raised by their backbench and the community, they are coming up with a number of concessions which will do nothing more than increase the complexity of this system.

The government are not about welfare reform. The government are creating a bigger mess than existed previously in our social security system. Unfortunately, they are also creating more unfairness, more inequity, in the system, because the core of their changes, which they are not backing away from, is putting the vast majority of future parents and people with a disability—as per their changes announced on budget night—onto a lower welfare payment. All the political fixes that people on that side are arguing for will not change the central heart of their package. *(Time expired)*

Senator BARNETT (Tasmania) (3.10 pm)—It is a pleasure to speak on this motion regarding the answers provided in question time today by Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. The Welfare to Work changes are vitally important—and they will be addressed by my colleague Senator Humphries—but I would like to address the industrial relations changes and the rhetoric, which it clearly is, from the opposition. Their rhetoric is consistent with their strategy in 1996 when the industrial relations reforms were first promulgated under this government. They said that the sky would fall in and they made all sorts of allegations of lower wages dogging the economy and fewer jobs. Of course, their strategy was the same when the GST and tax reform came in in 1996. And what happened?

Senator Ferguson—They all got paid more.

Senator BARNETT—As Senator Alan Ferguson says, taxes went down for those on the other side and those around that country. Australians have more in their pockets. Taxes have been reduced. They said that the sky would fall in but it did not.

The Leader of the Opposition, the Hon. Kim Beazley, said: 'The industrial relations lemon has been squeezed dry.' That view is inconsistent with a former Labor Prime Minister's views—views brought to our attention by Senator Abetz. What did former Labor Prime Minister Paul Keating say on 21 April 1993 in a speech to the Institute of Company Directors? I remind senators opposite that it was Paul Keating who said:

> It is a model which places primary emphasis on bargaining at the workplace level within a framework of minimum standards provided by arbitral tribunals.

That is the type of system he supported. He went on to say:

> We would have fewer awards with fewer clauses ...
>
> … … …
>
> We would have sufficient harmony between State and federal industrial relations systems to ensure that they all head in the same direction and used the same general rules.

There you have it—the evidence is on the table, provided by the former Labor Prime Minister. And what do Labor opposition senators say today? They recant and are ashamed of the views of their former leader. But it is those principles and proposals which the government support, because we know that these reforms will deliver higher wages and more jobs.

What has happened since 1996 when the reforms of the Howard government were introduced? We have seen a 14.9 per cent increase in real wages for average mums and dads and families out there. Labor will not acknowledge that, but the writing is on the wall and money is in the pockets of Australian families. What has happened in terms of new jobs? There have been 1.7 million new jobs. Nearly 900,000 of those are full time and 700,000 of those are part time. It is a fantastic result in terms of economic development.

Why won't the Labor Party acknowledge these results? It is for political rhetoric. In fact, ACTU President Greg Combet said: 'This whole debate is about a change of government.' That is what he said. He put it on the public record. We know what this is: this is a political campaign by the Labor Party in cahoots with the union movement. That is it. They are one and the same. They are so hell-bent on staying together, intertwined, that they cannot see the wood for the trees.

We are looking at and listening to the small business community. Take my home state of Tasmania as an example. We have over 24,000 small businesses. They are employing 50 per cent of the private sector work force in that state. They want IR reform; they are calling for IR reform. They support the government's IR reforms because they know they will increase jobs and productivity and that the benefits will flow through, particularly to the rural and regional parts of Tasmania. This applies across the country. Rural and regional Australia is going to benefit from these reforms. This is something that the Labor Party simply does not wish to acknowledge. Let us remind the Labor Party that Tony Blair, Prime Minister of the UK, said that the best thing for the economy and the best IR system for any man or woman is to start with the opportunity of a job. *(Time expired)*

Senator McLUCAS (Queensland) (3.15 pm)—In taking note of the answers given by Senator Abetz to Senator Wong's and Senator Moore's questions today—which is somewhat different from what Senator Barnett was talking about—we note that once again we find out about changes in government policy by reading page 1 of the *Australian*. We now have the third set of changes to the government's extreme welfare proposals. This is the third change and one has to wonder what the social policy principles are that underpin the shift that we have seen today and, in fact, the legislation itself.

The government has leaked that it will allow single parents to stay on parenting payment single for an extra two years before it forces them onto the lower Newstart allowance. It will do that now when the youngest child turns eight rather than six. It is reasonable to ask: what is the basis of this policy shift? What is the underpinning principle that says it is more reasonable to force a parent to work when their youngest child is eight rather than six? Why is it not 13 or 15? We know that parenting a teenager can be fairly onerous and time consuming. Why is it eight? Why is it not six?

I put it to this place that there is no basis in evidence for this policy shift. This is simply a political fix. The purpose of the move from age six to age eight is simply to win support in the government backbench. We could then ask: why is this such a problem? Why is there so much nervousness in the government backbench? It is fairly evident that that is certainly the case. There is a real nervousness there, and I will talk about that in a moment. This has got nothing to do with the needs of children of single parents. It has got nothing to do with the needs of those parents seeking work. This is simply a political fix to get it through the backbench of the Liberal Party and National Party coalition.

Why are they so nervous? It is not so hard to work out why. It has taken groups such as the National Centre for Social and Economic Modelling and the Australian Council of Social Services to point out that these changes will leave the poorest people in our society even worse off. This government is completely out of touch with the reality that faces people with disabilities and single parents in getting on with life and in their quest and desire to get into work. This government has painted those two groups of people as being

not desirous of employment and that is completely false. Any test or assessment that has been done proves that both those groups of people desperately want to get into work but they want to be helped into work not penalised or have their payments reduced. That will do nothing to encourage people into employment. This government, as Senator Wong has said many times, is dumping people with disabilities and single parents from one welfare payment to a lower welfare payment.

NATSEM was asked by the National Foundation of Australian Women to find ways of improving the changes to welfare so they would reduce the extreme negative impact on vulnerable Australians. NATSEM found that the fall in the disposable incomes of affected sole parents will leave them up to $100 a week worse off under this proposed new system. That is a good indication of why this government backbench is nervous. Affected parents are going to be $100 a week worse off—no wonder the backbench is concerned. The Newstart allowance provides a lower payment rate than the parenting payment single, a much harsher income test and is associated with much less generous income tax concessions. Under the changes the Howard government is proposing the government would take back up to 75c of every dollar that people will earn. As I said, it is not hard to see why the backbench is nervous.

On top of that, in the government's own commissioned research, which was announced last week, the Social Research Centre in Melbourne revealed that 80 per cent of people do not support people with disabilities being punished. This is the government's own research—it set the parameters for the questions, and the answer has come back that 80 per cent of people do not support people with disabilities being punished. *(Time expired)*

Senator HUMPHRIES (Australian Capital Territory) (3.21 pm)—It is clear from the comments of senators on the other side today that the process of reforming Australia's work force and welfare system, which began in 1996 and has continued to today, is not supported by the Labor opposition. That is a pity because those changes—

Senator McLucas—They have not worked and they will not work.

Senator HUMPHRIES—as engineered by this government have worked, Senator McLucas. They have delivered jobs for hundreds of thousands of Australians, they have delivered a stronger, more effective safety net for people requiring welfare assistance and they have produced higher productivity and a higher and better standard of living for all Australians. That is the measure of what we have done in the last 9½ years. What we have done has quite evidently worked.

These Welfare to Work changes, like the IR changes that Senator Barnett spoke about, are about further extending and improving the process—making sure that we give Australia the best possible opportunity to maintain the standard of living that we have built up over the last 9½ years. The fact is that Senator Wong's suggestion that there has been some failure on the government's part to sustain our welfare reforms is simply not right. In the time that we have been in office we have widened the safety net available to Australians who need assistance and who need income support. It is true that in some categories there are more people receiving assistance than previously. That is because, in many cases, we have widened eligibility and improved the safety net. People such as carers can now receive support for the work that they do in the community caring for other people which they could not have received under the former federal Labor government.

What is more, we have maintained the value of that welfare safety net so as to ensure that people who are dependent on some kind of assistance are able to retain a decent standard of living. We have certainly done that. Most importantly, while these changes have taken place and while we have, in a sense, improved the quality of the welfare safety net, we have also engineered a situation where more and more Australians have moved into employment. That is, I think, the best test of how well our changes have done. We made massive changes back in 1996-97 under Senator Jocelyn Newman. Members will recall those changes. They were attacked viciously at the time by members of the Labor opposition, but they did the job—they got people into work and they maintained a real safety net around those who were unable to work. The changes have been effective in achieving reasonable social goals over that time.

Senator Sherry in the course of question time interjected with respect to outcomes for those sorts of people. He said, 'If the outcomes are so good, why change the current system?' That is a good question and it is one that we should answer in the course of this debate to take note of answers. First of all, the fact is that the original income support system devised for Australians who need income support was designed in a very different world to the one in which we now find ourselves. In those days, most jobs were full time, most unemployment was short term and mothers and married women did not work. That is no longer the case. We live in a different world and we need a different set of circumstances to deal with that reality. Currently, most working age recipients of income support are not required to seek work. Only 15 per cent of the 2.6 million working age Australians currently on income support are required to actively search for a job at any particular point in time.

However, we cannot afford to sustain that arrangement—we simply cannot. Australia's population is ageing. We are at a 29-year low with respect to unemployment: 5.1 per cent. That means that we should no longer, in a sense, be talking about unemployment; we should be talking about what the index of skills shortages is. It is estimated that 195,000 people in the next five years will be absent from the work force. We will be short that number of jobs in the work force to provide for the needs of the Australian economy. The participation rate in the work force is well below that of other OECD nations. That suggests that we need to make further reform possible. We need to make that happen, and that is what the government have been doing for the last 9½ years. We need to carry through with those changes. As usual, we are opposed by those opposite, who have no vision of their own. They have criticised our position but cannot put a replacement vision in place. They cannot say what their alternative would be. That is sad, but we will carry forward with the project which will deliver to Australians the benefits and the rewards, which we have done to date. *(Time expired)*

Senator MOORE (Queensland) (3.26 pm)—It seems like the usual suspects are back, Senator Humphries, to discuss changes in policy. In Minister Abetz's discussion around questions this afternoon—we really could not call them responses to questions—he said that he refused to speculate in terms of discussing proposed situations that Labor and other senators put to him about what the impact of the Welfare to Work changes could be. The changes that we were asking questions about were released to the media—and to gain information about proposed changes of government policy, the media seems to be the place where we must seek it.

There has been widespread media comment about proposed changes. Today, we asked about the third range of changes that

have been proposed, in the media, to what was loudly trumpeted by the government as their Welfare to Work changes. We first found out about the government's proposals through the media, through media release. Subsequently, we attempted to get involved in discussions about exactly how the proposed changes would impact upon people in our community. Our call has consistently been for open discussion and engagement with the people who most understand the issues and the people who will be caught up in them—people such as those in the various welfare groups who have been lobbying people of all flavours in this place and in the House of Representatives about their concerns with the proposed changes. We want to have discussion. We do not want to be scrambling afterwards to try to find out the details, because that is how people get hurt.

Today we were asking about proposals—which we, once again, learnt of from the media—that the government will somehow change the timing of their changes in which sole parents are being forced onto another form of welfare payment. We have asked questions about those changes in this place as well. The whole proposal seems to be to screw down on people in our community who need support and to enforce changes which can, and we say probably will, hurt. We have asked the minister to give us some detail to get us involved in the discussion. He refuses. He says, 'That is speculation.' He then, using the government's typical way of argument, abuses the people asking the questions with the terms 'whingeing' and 'whining'. In fact, we are trying to ask questions and be involved in the debate. We want to find out exactly what the impact will be on people being forced away from the payments that they have now.

When we asked questions in Senate estimates about the Welfare to Work proposals we were told they were owned, somehow, by another department and that we had to ask our questions of someone else. We are told that it is a whole-of-government response because there is involvement across the board. But, somehow, whenever we ask a particular question about how people are going to be impacted upon there is a problem. We are told, 'We cannot find that.' And then we fall back into exactly the same form of debate as I have mentioned, in which the people asking the questions are demonised.

If we ask quite openly about what the impact will be on people who are currently receiving a welfare payment because they are raising children alone or because they have significant disabilities that make it more difficult for them to access the work force, we are then lectured to about how the best way to improve someone's life is to get them a job. We do not argue about the value of employment. What we do argue about is the tone, the arrogance, the abuse and the refusal of the government to engage openly in any form of discussion.

We know that ACOSS has been working tirelessly to lobby politicians to point out the difference between legislation that actively engages and supports people and legislation that labels and punishes them. Minister, the question is: how can we work together as a community to ensure change? It is not whingeing; it is not whining. It is about realistically governing for all Australians and not selectively working out which of those are worthy of our support. We wish to have engagement in this process. We do not want to be drip-fed information through the media and then be accused, somehow negatively, that we only respond to the media. Minister, if that is the only way that we can get the information, of course we will ask questions. I think that is our job. Wouldn't a better way to have this discussion be to have the open agreement on the table? *(Time expired)*

Question agreed to.

Pregnancy Counselling Services

Senator NETTLE (New South Wales) (3.31 pm)—I move:

That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Patterson) to a question without notice asked by Senator Nettle today relating to pregnancy counselling services.

The government has told us previously:

The objective of the family planning program is provide a balanced approach to differing family planning service models ...

Yet this government and the Minister for Health and Ageing announced on Friday afternoon extra funding for three organisations that are all known for their strong antichoice views. This is not a balanced approach; it is a fundamentally unbalanced and biased approach. This is well illustrated by the standard of pregnancy counselling provided by organisations like those that received funding on Friday. By definition, counselling is not about imposing values on a client. Genuine pregnancy counselling should provide the latest medical and legal information about all three possible options available when somebody has an unplanned pregnancy—that is, termination of the pregnancy, adoption or proceeding with the pregnancy. The counsellors should then work with the woman involved and her own values to ensure that she comes up with the decision.

Organisations that provide genuine counselling, such as Family Planning Australia, will not be receiving any funding boost from the minister's announcement on Friday. It appears that Mr Abbott only wishes to help organisations whose values match his own narrow, religious and ethical views. These three funded groups are not interested in genuine counselling or the provision of accurate medical or legal information. Instead, they aim to push their own religion based view onto women who are seeking their help.

Two weeks ago, one of these organisations—the Caroline Chisholm Society—announced that one of its branches was going bust. After lobbying from another antichoice advocate, Family First Senator Steve Fielding, Mr Abbott has suddenly found $100,000 of taxpayers' money for this year to bail out this particular organisation so its doors do not have to close. Another of the groups that received funding on Friday is called the Foundation for Human Development, and it is important not to be misled by this organisation's characteristically neutral sounding name. This group was described by the executive officer of the New South Wales Right to Life Association, Mr Bruce Coleman, as 'the Right to Life's education and counselling arm', and it is well known for promoting its antichoice views with the publishing of misleading information.

We are told by the Department of Health and Ageing that the Australian Federation of Pregnancy Support Services, which also received funding on Friday, is funded to provide independent non-directive counselling for unplanned pregnancy. As I said in my question in question time today, counsellors who answer the phone at the Pregnancy Advisory Centre in South Australia have been noting down calls that they receive from women who have rung one of the two services in South Australia that fall under the umbrella of the Australian Federation of Pregnancy Support Services. As the minister said, we cannot always rely on information that is provided on help lines from counsellors, but a consistent pattern is being found in the advice that women receive when they access these services.

One woman who rang an organisation called Birthline, which falls under the umbrella of the Australian Federation of Preg-

nancy Support Services, was refused information about the termination of pregnancy. The counsellor told her that she would not provide such information because she did not believe in it; in fact, she said, 'No-one here does.' The mother of a young pregnant 13-year-old woman rang Genesis, another organisation that received funding on Friday through the Australian Federation of Pregnancy Support Services. She rang up for information regarding options for her daughter. She was told that if her daughter had her child adopted it would be 'the worst thing she could do'. If she terminated the pregnancy, she was told, 'That's just killing the baby.' She was advised that there would be support like cots and baby clothes for her daughter to keep the baby, and she was also told that the government would give her money to keep the baby—'a few thousand dollars'.

Such disturbing examples are hardly independent and non-directive counselling. But it gets worse. Not only is this funding approach unbalanced but the provision of misleading medical information can also clearly be dangerous. But there is nothing to stop these services providing such misleading information, and there is nothing to stop these services using false or misleading advertising that deliberately conceals their antichoice position. If these organisations were charging for their services, such false or misleading conduct could be stopped by the ACCC using the Trade Practices Act, but the ACCC say that they cannot do anything about these groups. These groups can continue to promote any old scare campaign about the medical and ethical evils of abortion. *(Time expired)*

Question agreed to.

CONDOLENCES

Dr William Robert Lawrence

The DEPUTY PRESIDENT (3.36 pm)—It is with deep regret that I inform the Senate of the death of Dr William Robert Lawrence, a former member of the House of Representatives for the division of Wimmera, Victoria, from 1949 to 1958.

PETITIONS

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

Trade: Live Animal Exports

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

This petition of the undersigned citizens of Australia draws to the attention of the Senate the stress and extreme suffering caused to cattle, sheep and goats during their assembly, land transportation and loading in Australia, shipment overseas, and then unloading and local transportation, feedlotting, handling, and finally slaughter without stunning in importing countries.

Further, we ask the Senate to note that heat stress, disease, injury, inadequate facilities, inadequate supervision and care, and incidents such as on board fires, ventilation breakdowns, storms and rejection of shipments contribute to high death rates each year, e.g. 73,700 sheep and 2,238 cattle died on board export ships in 2002. Many thousands more suffer cruel practices prior to scheduled slaughter.

We the undersigned therefore call upon the Senate to establish an inquiry into all aspects of live animal exports from Australia, with particular reference to animal welfare, to be conducted by the Senate's References Committee on Rural and Regional Affairs and Transport.

by **Senator Bartlett** (from 217 citizens).

Trade: Live Animal Exports

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

The Petition of the undersigned notes the inadequate numbers of livestock available for Australian slaughter, food consumption and hides; the increase in Australian abattoir closures; the grow-

ing negative economic, employment and social impacts on rural Australia; and the unnecessary suffering endured by Australian livestock because of this nation's pursuit of trade and financial benefits at any cost. Your petitioners call on the members of the Senate to end the live export trade now in favour of developing an Australian chilled and frozen halal and kosher carcass trade using humane slaughtering practices.

by **Senator Bartlett** (from 20 citizens).

Trade: Live Animal Exports

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

The petition of the undersigned protests in the strongest possible terms against the live export of Australian animals for slaughter in other countries.

The live export trade is cruel. Inhumane conditions are inherent to the trade, resulting in high death rates and unacceptable suffering for animals involved.

The live export trade costs jobs. Rural and regional Australians, already suffering under a lengthy drought, can ill afford to send animals overseas for slaughter when there are workers in Australian abattoirs who can perform this work. As long as animals continue to be sent overseas for slaughter, jobs in Australian abattoirs will suffer.

Furthermore, the live export trade is unnecessary. Australia's export markets in Asia and the Middle East WILL accept meat that has been slaughtered in Australia according to their cultural requirements.

There are currently 123 abattoirs in Australia with an approved Halal program that could slaughter livestock for export to markets that demand Halal procedures.

The live export trade for slaughter is both cruel and unnecessary. Your petitioners request that the Senate act immediately to abolish the live export trade and replace it with an expanded chilled meat trade.

by **Senator Bartlett** (from 58 citizens).

Trade: Live Animal Exports

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

This petition of undersigned citizens of Australia calls on the Australian government to end the export of live animals from Australia to the Middle East.

Australia has strict laws to protect the welfare of animals—based on sound scientific research and community expectation. It is therefore ethically and morally unacceptable to export Australian animals long distances to countries where they will endure practices and treatment that would be unacceptable or illegal in Australia.

We, the undersigned therefore call on the Australian government to end this trade and in doing so restore Australia's reputation as a compassionate and ethical nation.

by **Senator Bartlett** (from 582 citizens).

Asylum Seekers

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following motion:

"That this Synod regrets the Government's adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights."

We, therefore, the individual, undersigned attendees at St John's Anglican Church, Camberwell Victoria 3124 petition the Senate in support of the above mentioned motion.

And we, as in duty bound will ever pray.

by **Senator Kemp** (from 35 citizens).

Asylum Seekers

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following motion:

"That this Synod regrets the Government's adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights."

We, therefore, the individual, undersigned attendees at St Matthew's Anglican Church, Cheltenham Victoria 3192 petition the Senate in support of the above mentioned motion.

And we, as in duty bound will ever pray.

by **Senator Kemp** (from 12 citizens).

Anti-Vehicle Mines

To the Honourable the President and members of the Senate in Parliament assembled

The Petition of the undersigned shows:

That the undersigned note that like anti-personnel landmines, anti-vehicle mines are indiscriminate in who they affect, that they disproportionately kill and maim civilians, they delay relief efforts in war affected countries and they go on killing for decades after the conflict has ended. We note that Australia's existing stock of anti-vehicle mines is obsolete and only used for training purposes, so now is the perfect time to commit to supporting a ban on these indiscriminate weapons. We welcome the Australian Government's support for further restrictions on the use of anti-vehicle mines, but believe such measures to be inadequate to address the humanitarian problems caused by anti-vehicle mines.

Your Petitioners ask that the Senate should:

Legislate a ban on the production, transfer, importation and use of anti-vehicle mines in Australia and by Australians other than by the Australian Defence Forces for training in demining and avoiding the hazards of anti-vehicle mines; and

Pass a motion supporting the development of an international treaty that would ban the production, transfer, importation and use of anti-vehicle mines globally.

by **Senator Marshall** (from 378 citizens).

Petitions received.

NOTICES

Presentation

Senator Crossin to move on the next day of sitting:

That the Legal and Constitutional References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 8 November 2005, from 7.30 pm, to take evidence for the committee's inquiry into the administration of the Migration Act.

Senator Ellison to move on the next day of sitting:

That—

(a) the Senate meet from Monday, 5 December 2005 to Thursday, 8 December 2005; and

(b) on each sitting Tuesday until the end of the 2005 sittings:

(i) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm,

(ii) the routine of business from 7.30 pm shall be government business only, and

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

Senator Chapman to move on the next day of sitting:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 9 November 2005, from 7 pm, to take evidence for the committee's inquiry into the statutory oversight of the opera-

tions of the Australian Securities and Investments Commission.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes:

(i) that yet another child care centre is closing in the City of Port Phillip leaving 50 families without child care, and

(ii) that three centres have closed in the past 2 years and none has opened;

(b) calls on the Minister for Family and Community Services (Senator Patterson) to work with state governments to overcome the serious shortage of places in inner urban areas due to increasing real estate prices; and

(c) urges the Government to desist from again blaming other levels of government and to be prepared to contribute to the solution.

Senator Moore to move on the next day of sitting:

That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 10 November 2005, from 4 pm, to take evidence for the committee's inquiry into workplace exposure to toxic dust.

Senator Moore to move on the next day of sitting:

That the time for the presentation of reports of the Community Affairs References Committee be extended as follows:

(a) workplace exposure to toxic dust—to 2 March 2006; and

(b) petrol sniffing—to 30 March 2006.

Senator GEORGE CAMPBELL (New South Wales) (3.37 pm)—On behalf of Senator Chris Evans, I give notice that, at the time for dealing with business of the Senate notices of motion today, Senator Chris Evans shall withdraw business of the Senate notices of motion Nos 1, 2 and 3 standing in his name for today for disallowance of the following declarations made under subsection 1207P(4) of the Social Security Act 1991:

That Social Security (Means Test Treatment of Private Trusts—Excluded Trusts) Declaration 2005 [DEST], dated 17 May 2005, made under subsection 1207P(4) of the *Social Security Act 1991*, be disallowed.

That Social Security (Means Test Treatment of Private Trusts—Excluded Trusts) Declaration 2005 [DEWR], dated 29 April 2005, made under subsection 1207P(4) of the *Social Security Act 1991*, be disallowed.

That Social Security (Means Test Treatment of Private Trusts—Excluded Trusts) Declaration 2005 [FACS], dated 26 April 2005, made under subsection 1207P(4) of the *Social Security Act 1991*, be disallowed.

Senator George Campbell to move on the next day of sitting:

That the terms of reference for the Employment, Workplace Relations and Education Legislation Committee inquiry into the provisions of the Workplace Relations Amendment (Work Choices) Bill 2005 be amended as follows:

(a) omit "22 November 2005", substitute "28 November 2005";

(b) omit "reform of unfair dismissal arrangements;"; and

(c) at the end of the motion, add:

(3) That for the purposes of this inquiry the committee must meet and take evidence in at least the capital cities of each state and territory.

Senator EGGLESTON (Western Australia) (3.39 pm)—On behalf of Senator Watson and the Regulations and Ordinances Committee, I give notice that, at the giving of notices on the next day of sitting, Senator Watson shall withdraw business of the Senate notice of motion No. 2 standing in his name for four sitting days after today for the disallowance of the Electoral and Referendum Amendment Regulations 2005 (No. 1), as contained in Select Legislative Instrument 2005 No. 125 and business of the Senate

notice of motion No. 1 standing in his name for eight sitting days after today for the disallowance of the Health Insurance (Allied Health and Dental Services) Determination 2005. I seek leave to incorporate in *Hansard* the committee's correspondence concerning these instruments.

Leave granted.

The correspondence read as follows—

Electoral and Referendum Amendment Regulations 2005 (No. 1), Select Legislative Instrument 2005 No. 125

11 August 2005

Senator the Hon Eric Abetz

Special Minister of State

Suite MG.50

Parliament House

CANBERRA ACT 2600

Dear Minister

I refer to the *Electoral and Referendum Amendment Regulations 2005 (No. 1)*, Select Legislative Instrument 2005 No. 125. These Regulations substitute a new Schedule 1 for the existing Schedules 2 and 3 to the principal Regulations, specifying the prescribed authorities that can be provided with information from the electoral roll and the permitted purposes for the use of that information. The Committee raises the following matters concerning these Regulations.

First, the new Schedule 1 adds two new Australian Government agencies to the list of prescribed authorities: the Australian Communications Authority and ASIO. The Explanatory Statement merely notes the addition of two new agencies without identifying them or explaining the reasons why they have been added to the Schedule. Further, the Committee understands that the Australian Communications Authority is now part of the Australian Communications and Media Authority. It is not clear what effect this has on the instrument.

Secondly, the previous Schedule 3 contained Notes that specified those branches or units of the respective Departments and agencies that would be make use of the information. The new Schedule does not contain these Notes, and the Explanatory Statement does not give a reason for this.

Finally, these amendments remove the sunset clause in that was found in the pre-existing subregulation 10(3). No reason is given in the Explanatory Statement for the removal of the sunset clause.

The Committee would appreciate your advice on the above matters as soon as possible, but before 2 September 2005, to enable it to finalise its consideration of these Regulations. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson

Chairman

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5 September 2005

Senator John Watson

Chairman

Standing Committee on Regulations and Ordinances

Australian Senate

Parliament House

CANBERRA ACT 2600

Dear Senator Watson

Thank you for your letter of 11 August 2005 raising several matters about the *Electoral and Referendum Amendment Regulations 2005 (No. 1)*, Select Legislative Instrument 2005 No. 125.

The first matter relates to the addition of two Australian government agencies to the list of prescribed authorities in Schedule 1 of the *Electoral and Referendum Regulations* (Regulations), the Australian Communications Authority (ACA) and the Australian Security and Intelligence Organisation (ASIO). The Australian Electoral Commission (AEC) recommended and I approved access to roll information for these agencies in October 2003 and August 2004 respectively.

The *Commonwealth Electoral Act 1918* (Electoral Act) permits Australian Government agencies and authorities access to roll information. Prior to the

amendment of the Electoral Act by the *Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004* in July 2004, Australian Government agencies and authorities could be provided with microfiche rolls and information about the occupation, sex or dates of birth of electors by being specified as prescribed authorities in previous Schedule 2 of the Regulations.

The regulatory mechanism for listing a prescribed authority was contained in regulations 7 to 9 of the Regulations, prior to their amendment by *Electoral and Referendum Amendment Regulations 2005 (No. 1)*, Select Legislative Instrument 2005 No. 125. Prescribed authorities could then access roll information on tape or disk by listing the permitted purposes for the use of the roll information in previous Schedule 3 of the Regulations. The regulatory mechanism for listing the permitted purposes in previous Schedule 3 was previous subregulation 10(2).

On 27 August 2004, approval was given to amend previous Schedule 3 of the Regulations to list ASIO as one of the agencies permitted access to roll information. On 20 September 2004, the AEC wrote to the Office of Legislative Drafting and Publishing (OLDP) with drafting instructions for the amendment of the Regulations to permit ASIO access to confidential elector information.

However, OLDP indicated at that time that no amendments could be made to the Regulations because the Electoral Act (as amended) no longer contained a legislative basis for the regulations relating to roll access.

As the *Electoral and Referendum Regulations 2005 (No. 1)*, Select Legislative Instrument 2005 No. 125 aligns regulations relating to access by prescribed authorities with the Electoral Act (as amended), this was the first opportunity to include ASIO as an agency permitted to use roll information, for the purpose of confirming identity of Australian citizens to determine whether or not they are of security interest.

Similarly, in October 2003, approval was given to amend previous Schedules 2 and 3 of the Regulations to list the ACA as an Australian Government agency permitted access to confidential elector information for identifying offences relating to interference with radio communications or telecommunications. The ACA was included in the aligning regulations as a prescribed authority that can use roll information for this approved purpose.

On 1 July 2005, the ACA merged with the Australian Broadcasting Authority to become the Australian Communications and Media Authority (ACMA). ACMA has advised the AEC that roll information is still required for the above purpose. In accordance with s.19C of the *Acts Interpretation Act 1901*, the AEC may supply roll information to ACMA, as the ACA functions have been transferred to ACMA. A Safeguard Agreement is in place between the AEC and ACMA that reflects the merger of the ACA functions with ACMA and the purpose for use of roll information. The Regulations will need to be amended as soon as possible to replace the ACA with ACMA.

Regarding the omission of Notes in the previous Schedule 3, each prescribed authority listing contained a note at the end of the list of permitted purposes that detailed the branches or areas within the prescribed authority that would use the roll information. Frequent changes in the internal structures of more than fifteen prescribed authorities mean that these notes rapidly become out of date and need to be amended regularly to ensure the Regulations reflect the structures of the prescribed authorities. Each time a change occurred, the AEC needed to seek amendments to the Notes in the Regulations.

Given that the prescribed authority and the permitted purposes are already listed in the Regulations, there did not appear to be a good reason to also subject the areas within the prescribed authority that will be using the roll information to the same parliamentary scrutiny. The AEC is currently conducting a review of access by prescribed authorities and, as a result, has recently received requests from a number of prescribed authorities including the Department of Veterans' Affairs, the Department of Education, Science and Training, ComSuper, the Australian Crime Commission and the Department of Defence to amend the branches and/or areas that will be using roll information.

Administrative efficacy suggests that for these reasons, details of the area(s) of the prescribed authority using the information would be better

contained in the Safeguard Agreements that manage roll access negotiated between the AEC and the prescribed authority.

The non-inclusion of the Notes will enable the area(s) of prescribed authorities requiring access to roll information to be amended as appropriate in response to restructure within those authorities.

The final matter relates to the removal of the sunset clause that was found in previous subregulation 10(2). Previous subregulation 10(3) of the Regulations indicated that previous subregulation 10(2) and previous Schedule 3 shall cease to have effect on 24 June 2005.

Previous subregulation 10(2) and previous Schedule 3 of the Regulations were made in June 2000 following advice by the Solicitor-General that, while prescribed authorities could be given the roll in electronic form, they could not use the information unless there was a prescribed purpose permitted the use in the Regulations.

As a short-term solution, Cabinet agreed to the making of regulations that would prescribe permitted purposes in relation to prescribed agencies, pending an AEC review of section 89-92 of the Electoral Act, which was to be submitted to the Joint Standing Committee on Electoral Matters (JSCEM). Cabinet was of the view that any further legislation to resolve the situation should await the JSCEM's consideration of the review of sections 89-92.

As these regulations were intended as a temporary arrangement, a sunset clause applying to previous subregulation 10(2) and previous Schedule 3 was inserted at previous subregulation 10(3) of the Regulations.

The review of sections 89-92 of the Electoral Act was submitted to the JSCEM as Attachment D to submission 147 to the inquiry into the 2001 Federal Election. The JSCEM did not address the issue of the regulations or the sunset clause in its report on the inquiry into the 2001 Federal Election.

In light of the changes to the Electoral Act (as amended) and given that a single regulatory mechanism has been created for access to roll information by prescribed authorities and the purpose(s) for which they will use the information (new Schedule 1 of the Regulations), the sunset clause contained in previous subregulation 10(3) of the Regulations was no longer relevant and was removed.

With the commencement of the *Legislative Instruments Act 2003*, all regulations will be subject to a standard 10-year sunsetting regime. The prescribed authority and permitted purpose regulations will therefore be subject to regular review.

I trust this information will assist your consideration of the proposed Regulations.

Yours sincerely

Eric Abetz

Special Minister of State

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15 September 2005

Senator the Hon Eric Abetz

Special Minister of State

Suite MG.50

Parliament House

CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 5 September 2005 in relation to the *Electoral and Referendum Amendment Regulations 2005 (No. 1)*, Select Legislative Instrument 2005 No. 125. The letter addresses the Committee's concerns regarding the removal of a sunset clause from the Regulations.

The letter also provides information regarding the removal from the Regulations of Notes which specified the branches or areas within prescribed authorities that might make use of information obtained from the electoral roll. Specifically, you note that "details of the area(s) of the prescribed authority using the information would be better contained in the Safeguard Agreements that manage roll access negotiated between the AEC and the prescribed authority," and that the non-inclusion of the Notes "will enable the area(s) of prescribed authorities requiring access to roll information to be amended as appropriate in response to restructures within those authorities".

The implication of this approach is that the Safeguard Agreements are serving a function previously performed by the Notes. This, in turn, raises the question whether these Agreements are legislative in character and therefore legislative in-

struments under section 5 of the *Legislative Instruments Act 2003*.

The Committee would appreciate your advice on this matter as soon as possible, but before 4 October 2005, to enable it to finalise its consideration of these Regulations.

Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson

Chairman

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10 October 2005

Senator John Watson

Chairman

Standing Committee on Regulations and Ordinances

Parliament House

CANBERRA ACT 2600

Dear Senator Watson

Thank you for your letter of 15 September 2005 raising a further question about the *Electoral and Referendum Amendment Regulations 2005 (No. 1)*, Select Legislative Instrument 2005 No. 125 (the amending Regulations).

The question relates to the non-inclusion of 'Notes' detailing the branches or areas within prescribed authorities listed in new Schedule 1 of the amending Regulations, and the inclusion of these details in Agreements for the Safeguard of Roll Information (Safeguard Agreements) that are in place between the Australian Electoral Commission (AEC) and the heads of prescribed authorities.

The Electoral Act does not require details of the branches or areas within a prescribed authority that will use roll information to be specified in the *Electoral and Referendum Regulations 1940* (the Regulations).

Neither does the Electoral Act require Safeguard Agreements to be put in place with prescribed authorities. The Safeguard Agreements are an AEC initiative and simply document operational and administrative details in relation to use of roll information by prescribed authorities.

The AEC originally included 'Notes' specifying branches or areas within prescribed authorities that would use roll information in an effort to provide transparency in the use of roll information by prescribed authorities. There is no legislative requirement for these details to be included in the Regulations. The AEC took the decision to remove the 'Notes' to alleviate the need to amend the Regulations each time a prescribed authority underwent an internal restructure resulting in name change to areas using roll information. The AEC considered it would be more appropriate that these details be included in the Safeguard Agreements which can be more easily amended than the Regulations.

As Safeguard Agreements are not a legislative requirement, and their purpose is only to facilitate the AEC's administration of the access provisions of the Electoral Act and the Regulations, they are not legislative in character and therefore do not meet the definition of a 'legislative instrument' as it appears in section 5 of the *Legislative Instruments Act 2003*.

I trust this information will assist your consideration of the Regulations.

Yours sincerely

Eric Abetz

Special Minister of State

Health Insurance (Allied Health and Dental Services) Determination 2005

11 August 2005

The Hon Julie Bishop MP

Minister for Ageing

Suite M1.46

Parliament House

CANBERRA ACT 2600

Dear Minister

I refer to the Health Insurance (Allied Health and Dental Services) Determination 2005 made under subsection 3C(1) of the *Health Insurance Act 1973*. This Determination specifies that certain allied health and dental services that can be provided to people with chronic conditions and com-

plex care needs are to be treated as if they were listed in the general medical services table. The Committee raises the following matters concerning this Determination.

First, the copy of the Determination received by the Committee is marked 'Draft Only', although it bears the Minister's signature. The Committee would therefore appreciate your confirmation that this is the correct and final version of the instrument.

Secondly, the list of criteria specified for Dental Health Services in Schedule 2 to this instrument does not refer to certain criteria that are listed for Allied Health Services (as set out in Schedule 1). Specifically, Schedule 2 does not refer to the service being provided to the person individually and in person, and the service being of at least 20 minutes in duration. The Committee would appreciate your advice on the reason for this difference in criteria, and seeks an assurance that this is not an oversight in drafting.

The Committee would appreciate your advice on the above matters as soon as possible, but before 9 September 2005, to enable it to finalise its consideration of this Determination. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson

Chairman

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11 October 2005

Senator John Watson

Chairman

Senate Standing Committee on Regulations and Ordinances

Room SG49

Parliament House

CANBERRA ACT 2600

Dear Senator Watson

Thank you for your letter of 11 August 2005 to the Minister for Ageing, the Hon Julie Bishop MP, about the Health Insurance (Allied Health and Dental Services) Determination 2005 made under subsection 3C(1) of the *Health Insurance Act 1973*. Your letter has been referred to me as Minister for Health and Ageing.

The copy of the Determination received by the Committee marked as 'draft only' has been verified as being the correct and final version of the Determination. The copy I signed was inadvertently marked as 'draft only' due to a clerical oversight.

Your second point referred to the criteria for the Dental Services in Schedule 2. The criteria were developed in close consultation with the Australian Medical Association, the Royal Australian College of General Practitioners, the Rural Doctors Association of Australia, the Australian Divisions of General Practice, and the Australian Dental Association. The criteria were finalised through the Medicare Benefits Consultative Committee which ensure that the Schedule reflects and encourages appropriate clinical practice.

The difference in criteria between Schedule 1 and 2 has not arisen as a result of an oversight. It simply reflects the differences in practice between the different professional groups covered in each Schedule.

I trust that this information is of assistance.

Yours sincerely

Tony Abbott

Minister for Health and Ageing

Senators Crossin, **Allison and Milne** to move on the next day of sitting:

That the following bills be referred to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 6 December 2005:

Commonwealth Radioactive Waste Management Bill 2005

Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005.

COMMITTEES

Economics Legislation Committee

Extension of Time

Senator EGGLESTON (Western Australia) (3.40 pm)—by leave—At the request of

the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That the time for the presentation of the report of the Economics Legislation Committee on the provisions of the Energy Efficiency Opportunities Bill 2005 be extended to 8 November 2005.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 298 standing in the name of Senator Stott Despoja for today, proposing the introduction of the Privacy (Equality of Application) Amendment Bill 2005, postponed till 10 November 2005.

General business notice of motion no. 299 standing in the name of Senator Milne for today, relating to climate change, postponed till 8 November 2005.

SHARK FISHING

Senator SIEWERT (Western Australia) (3.41 pm)—I move:

That the Senate—

(a) notes:

(i) that illegal shark fishing is a major factor driving illegal fishing in Australian waters,

(ii) that most shark species are effectively extinct in the Indonesian archipelago and that this increases the pressure on Australian shark fisheries, and

(iii) with concern the declining shark numbers in Australian waters; and

(b) calls on the Government to demonstrate leadership by taking action to protect sharks in Australian waters and address illegal trade by:

(i) banning the export of shark fin products from Australia,

(ii) initiating the development of a international plan of action for sharks,

(iii) removing the exemption under the *Environment Protection and Biodiversity Conservation Act 1999* of Western Australian fisheries that target large sharks for finning, and banning long-lining in western and southern fisheries,

(iv) closing tropical shark fisheries until numbers return to sustainable levels, and

(v) providing more resources for the Australian Fisheries Management Authority in joint authority fisheries in the north in order to ensure that onshore and offshore inspections are being carried out by fisheries officers and not the Northern Territory Police.

Question negatived.

MR WILLIAM (EVAN) ALLAN

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.42 pm)—At the request of Senator Hill and the Leader of the Opposition in the Senate, Senator Evans; the Leader of The Nationals in the Senate, Senator Boswell; the Leader of the Australian Democrats, Senator Allison; the Leader of Family First, Senator Fielding; and Senator Bob Brown for the Australian Greens, I move—

That the Senate—

(a) records its deep regret at the death on 17 October 2005 of Mr William (Evan) Allan, the last Australian World War I veteran to have seen active service in that conflict;

(b) tenders its sympathy to his family in their bereavement; and

(c) expresses its heartfelt thanks on behalf of a grateful nation to all the men and women who answered the call to serve Australia in World War I.

Question agreed to.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT—Pursuant to standing orders 38 and 166, I present documents listed on today's *Order of Busi-*

ness at item 13 which were presented to the President, the Deputy President and temporary chairs of committees. In accordance with the terms of the standing orders, the publication of the documents was authorised. In accordance with the usual practice and with the concurrence of the Senate, I ask that the government responses be incorporated in *Hansard*. I also present various documents and a response to a resolution of the Senate as listed at item 14(a) and (b) on today's *Order of Business*.

The list read as follows—

Document certified by the President

Department of Parliamentary Services—Annual report 2004-05 (received 27 October 2005)

Committee reports

Procedure—Standing Committee—Second report of 2005—

Declaration of interests: registration of Senators' share tradings

Unanswered questions and orders for documents: proposed amendments of standing orders 74(5) and 164

Repeated motions for suspension of standing orders: ruling of the President of 14 September 2005 (received 28 October 2005)

Employment, Workplace Relations and Education Legislation Committee—Report—Workplace agreements, together with Hansard record of proceedings and documents presented to the committee (received 31 October 2005)

Legal and Constitutional Legislation Committee—Report—Provisions of the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005, together with Hansard record of proceedings and documents presented to the committee (received 1 November 2005)

Government responses to parliamentary committee reports

Joint Standing Committee on the National Capital and External Territories—Report—Quis custodiet ipsos custodies? Inquiry into governance on Norfolk Island (received 27 October 2005)

Foreign Affairs, Defence and Trade References Committee—Report—Taking stock: Current health preparation arrangements for the deployment of Australian Defence Forces overseas (received 4 November 2005)

Government documents

Australian Securities and Investments Commission—Annual report 2004-05: Patrolling a broad territory (received 14 October 2005)

Great Barrier Reef Marine Park Authority—Annual report 2004-05 (received 14 October 2005)

National Residue Survey—Annual report 2004-05 (received 14 October 2005)

Australian Trade Commission (Austrade)—Annual report 2004-05 (received 14 October 2005)

Australian Wine and Brandy Corporation—Annual report 2004-05 (received 18 October 2005)

Airservices Australia—Annual report 2004-05 (received 18 October 2005)

Director of National Parks—Annual report 2004-05 (received 19 October 2005)

Safety, Rehabilitation and Compensation Commission—Annual report 2004-05 (received 20 October 2005)

Remuneration Tribunal—Annual report 2004-05 (received 20 October 2005)

Veterans' Review Board—Annual report 2004-05 (received 20 October 2005)

Australian National Training Authority—Annual report 2004-05 (received 20 October 2005)

Australian Vocational Education and Training System—Annual report 2004 (received 20 October 2005)

Australian Industrial Relations Commission and Australian Industrial Registry—Annual report 2004-05 (received 20 October 2005)

Australian Maritime Safety Authority—Annual report 2004-05 (received 20 October 2005)

Productivity Commission Report No. 36—Private cost effectiveness of improving energy efficiency (received 21 October 2005)

Australian Safeguards and Non-Proliferation Office—Annual report 2004-05 (received 21 October 2005)

Family and Community Services—Annual report 2004-05 (received 24 October 2005)

Financial Reporting Council, Australian Accounting Standards Board and Auditing and Assurance Standards Board—Annual reports 2004-05, and Financial Reporting Council—Report on Auditor Independence 2004-05 (received 24 October 2005)

CSS Board—Annual report 2004-05 (received 24 October 2005)

PSS Board—Annual report 2004-05 (received 24 October 2005)

Commissioner of Taxation—Annual report 2004-05 (received 25 October 2005)

Defence Force Remuneration Tribunal—Annual report 2004-05 (received 25 October 2005)

Treasury—Annual report 2004-05 (received 25 October 2005)

Australian Office of Financial Management—Annual report 2004-05 (received 25 October 2005)

Department of Defence—Annual reports of the Services Trust Funds 2004-05 (received 25 October 2005)

Royal Australian Air Force Veterans' Residences Trust Fund—Annual report 2004-05 (received 25 October 2005)

Inspector-General in Bankruptcy on the operation of the Bankruptcy Act—Annual report 2004-05 (received 25 October 2005)

Migration Review Tribunal—Annual report 2004-05 (received 25 October 2005)

Refugee Review Tribunal—Annual report 2004-05 (received 25 October 2005)

Australian Research Council—Annual report 2004-05 (received 25 October 2005)

Telstra Corporation Limited—Annual review/annual report 2004-05 (received 25 October 2005)

Australian Broadcasting Authority—Annual report 2004-05 (received 25 October 2005)

Australian Communications Authority—Annual report 2004-05 (received 25 October 2005)

Australian Broadcasting Corporation—Annual report 2004-05 (received 25 October 2005)

Food Standards Australia New Zealand—Annual report 2004-05 (received 26 October 2005)

Department of Immigration and Multicultural and Indigenous Affairs—Annual report 2004-05 (received 26 October 2005)

CSIRO—Annual report 2004-05 (received 26 October 2005)

Aboriginal Hostels Limited—Annual report 2004-05 (received 26 October 2005)

Social Security Appeals Tribunal—Annual report 2004-05 (received 26 October 2005)

Comcare—Annual report 2004-05 (received 26 October 2005)

Health Services Australia—Annual report 2004-05 (received 26 October 2005)

Australian National Maritime Museum—Annual report 2004-05 (received 26 October 2005)

Australian Sports Drug Agency—Annual report 2004-05 (received 26 October 2005)

Film Finance Corporation Australia Limited—Annual report 2004-05 (received 26 October 2005)

Public Lending Right Committee—Annual report 2004-05 (received 26 October 2005)

Department of Agriculture, Fisheries and Forestry: Innovating rural Australia—Annual report 2004 (received 27 October 2005)

Department of Employment and Workplace Relations—Annual report 2004-05 (received 27 October 2005)

Commissioner for Complaints—Annual report 2004-05 (received27 October 2005)

Department of Agriculture, Fisheries and Forestry—Annual report 2004-05 (received 27 October 2005)

Department of Communications, Information Technology and the Arts—Annual report 2004-05 (received 27 October 2005)

Commissioner for Superannuation (ComSuper)—Annual report 2004-05 (received 27 October 2005)

Inspector-General of Taxation—Annual report 2004-05 (received 27 October 2005)

Corporations and Markets Advisory Committee—Annual report 2004-05 (received 27 October 2005)

Australian Nuclear Science and Technology Organisation (ANSTO)—Annual report 2004-05 (received 27 October 2005)

Department of Health and Ageing—Annual report 2004-05 (received 27 October 2005)

Department of Finance and Administration—Annual report 2004-05 (received 27 October 2005)

Inspector-General of Intelligence and Security––Annual report 2004-05 (received 27 October 2005)

Supervising Scientist—Annual report 2004-05 (received 27 October 2005)

The Carrick Institute for Learning and Teaching in Higher Education Limited—Annual report to 30 June 2005 (received 28 October 2005)

Department of Foreign Affairs and Trade—Annual reports—Volume 1—Foreign Affairs and Trade; Volume 2—Australian Agency for International Development (AusAID) (received 28 October 2005)

Tourism Australia—Annual report 2004-05 (received 28 October 2005)

Australian Institute of Marine Science—Annual report 2004-05 (received 28 October 2005)

Aged Care Standards and Accreditation Agency Ltd—Annual report 2004-05 (received 28 October 2005)

Defence Housing Authority—Annual report 2004-05 (received 28 October 2005)

Military Superannuation and Benefits Scheme––Annual report 2004-05 (received 28 October 2005)

Defence Force Retirement and Death Benefits Scheme—Annual report 2004-05 (received 28 October 2005)

Australian Prudential Regulation Authority—Annual report 2004-05 (received 28 October 2005)

Takeovers Panel—Annual report 2004-05 (received 28 October 2005)

Australian Reinsurance Pool Corporation—Annual report 2004-05 (received 28 October 2005)

Australian Radiation Protection and Nuclear Safety Agency—Annual report 2004-05 (received 28 October 2005)

Seafarers Safety, Rehabilitation and Compensation Authority (Seacare)—Annual report 2004-05 (received 28 October 2005)

Aboriginals Benefit Account—Annual report 2004-05 (received 28 October 2005)

Central Queensland Land Council Aboriginal Corporation—Annual report 2004-05 (received 28 October 2005)

Goldfields Land and Sea Council Aboriginal Corporation (Representative Body)—Annual report 2004-05 (received 28 October 2005)

Gurang Land Council (Aboriginal Corporation) Native Title Representative Body—Annual report 2004-05 (received 28 October 2005)

Kimberley Land Council—Annual report 2004-05 (received 28 October 2005)

South West Aboriginal Land and Sea Council––Annual report 2004-05 (received 28 October 2005)

Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation—Annual report 2004- 05 (received 28 October 2005)

National Transport Commission—Annual report 2004-05 (received 28 October 2005)

Department of Education, Science and Training—Annual report 2004-05 (received 28 October 2005)

National Archives of Australia and National Archives of Australia Advisory Council—Annual reports 2004-05 (received 28 October 2005)

National Gallery of Australia—Annual report 2004-05 (received 28 October 2005)

National Australia Day Council—Annual report 2004-05 (received 28 October 2005)

Commonwealth Ombudsman—Annual report 2004-05 (received 28 October 2005)

Australian Hearing—Annual report 2004-05 (received 28 October 2005)

Centrelink—Annual report 2004-05 (received 28 October 2005)

Department of Transport and Regional Services—Annual report 2004-05 (received 28 October 2005)

Australian Institute of Family Studies—Annual report 2004-05 (received 31 October 2005)

Insolvency and Trustee Service Australia—Annual report 2004-05 (received 31 October 2005)

Productivity Commission—Annual report 2004-05 (received 31 October 2005)

Department of Environment and Heritage—Annual report 2004-05 and Legislation annual reports 2004-05 (received 31 October 2005)

Reports of the Auditor-General

Audit report no. 13 of 2005-06—Performance Audit—Administration of goods and services tax compliance in the large business market segment: Australian Taxation Office (received 18 October 2005)

Audit report no. 14 of 2005-06—Performance Audit—Administration of the Commonwealth State Territory disability agreement: Department of Family and Community Services (received 19 October 2005)

Statements of compliance with Senate orders:

Relating to indexed lists of files:

Department of Finance and Administration

Australian Electoral Commission

Commonwealth Grants Commission

ComSuper

Commonwealth Superannuation Scheme

Public Sector Superannuation Scheme

(received 1 November 2005)

Relating to lists of contracts:

Health and Ageing portfolio (received 4 November 2005)

Documents tabled by the Deputy President

Letters from the Speaker of the Legislative Assembly of the Northern Territory (Ms Aagaard) transmitting the following resolutions of the Assembly:

Nuclear waste facility in the Northern Territory

Telecommunications infrastructure in the Northern Territory Commenced 3:43 PM

Response to a resolution of the Senate received from the Vice President, Sustainable Development and Community Relations of BHP Billiton Limited (Mr Wood)—Resolution of the Senate of 22 June 2005—Colombia

The government responses read as follows—

GOVERNMENT RESPONSE TO THE REPORT OF THE JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES: *QUIS CUSTODIET IPSOS CUSTODES? INQUIRY INTO GOVERNANCE ON NORFOLK ISLAND*

Introduction

In March 2003 the Joint Standing Committee on the National Capital and External Territories ('the Committee') accepted a reference to examine "measures to improve the operations and organisation of the Territory Ministry and Legislature on Norfolk Island, with particular emphasis on the need for a financially sustainable and accountable system of representative self-government in the Territory".

The Committee tabled its report *Quis custodiet ipsos custodes? Inquiry into Governance on Norfolk Island* ('the governance report') in December 2003. This report was the first of two reports and considers the accountability and governance aspects of the reference.

The Committee is currently considering the financial sustainability of Norfolk Island's governance arrangements and will present its findings in a separate report later this year.

A more comprehensive Government response will be provided once the Australian Government has considered both reports associated with this inquiry.

Improving the quality of governance

The governance report recommended that the Norfolk Island Government implement changes to improve the quality of governance on Norfolk Island. The Norfolk Island Government has responded to a number of the Committee's recommendations. While the Australian Government welcomes the response to date by the Norfolk Island Government, it also recognises that much remains to be done.

The Norfolk Island Government has introduced a Code of Conduct for Members of the Legislative Assembly, with penalties ranging from reprimand to suspension, removal from executive office to a fine. The legislation also sets up a register of pecuniary and non-pecuniary interests, and establishes a Privileges Committee to investigate and enforce breaches of provisions of the legislation.

To better align Norfolk Island's legal system with the Model Criminal Code, several pieces of Norfolk Island legislation have been introduced into the Legislative Assembly. These include the Summary Offences Bill 2005 and the Bail Bill 2005 (both introduced at the 21 September 2005 Legislative Assembly Meeting).

The Norfolk Island Government has held discussions with the Commonwealth Ombudsman concerning the extension of the Ombudsman's jurisdiction to Norfolk Island. This would require amendment of the *Ombudsman Act 1976* (Cth).

The Norfolk Island Government has passed the Annual Reports Act 2004 (NI) requiring annual reports to be tabled in the Norfolk Island Legislative Assembly within 4 months of the end of the Financial Year, although it is noted that detailed financial reporting still needs further development.

The Norfolk Island Government has introduced legislation to the Legislative Assembly to amend the *Social Services Act 1980* (NI) in order to change the eligibility criteria for pensions and to confer jurisdiction on the Norfolk Island Administrative Review Tribunal to hear appeals against decisions regarding eligibility and level of payment.

Reforming the structure of government

The Committee's report also recommends a number of changes to the structure of Norfolk Island's government, designed to improve the operation of the Norfolk Island Government and Legislative Assembly. The Norfolk Island Government has introduced, or has indicated its intention to introduce, some of these changes.

The Norfolk Island Government amended the *Legislative Assembly Act 1979* (NI) to reflect the amendments made to the *Norfolk Island Act 1979* (Cth) in March 2004 in relation to electoral matters. This amendment included making Australian citizenship a requirement to vote in Norfolk Island Legislative Assembly elections and provided that the period for which an Australian citizen must reside on Norfolk Island before being eligible to vote in Norfolk Island elections and referenda be reduced to a minimum of six months.

The Norfolk Island Government has indicated that it does not support a change to 4-year Legislative Assembly terms. However, it has advised that it proposes to change its voting system to a first-past-the post system, but has yet to introduce legislation to implement this change.

Sustainability

The Committee's report recommends that the Australian Government reassess its current policies with respect to Norfolk Island and the basis for Norfolk Island's exclusion from Commonwealth programmes and services. The Australian Government wishes to be quite clear that it will indeed consider these and other matters as part of its consideration of the Committee's forthcoming report on Norfolk Island's financial sustainability, and is prepared to re-examine aspects of current arrangements.

GOVERNMENT RESPONSE TO THE SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE TAKING STOCK CURRENT HEALTH PREPARATION ARRANGEMENTS FOR THE DEPLOYMENT OF AUSTRALIAN DEFENCE FORCES OVERSEAS

Recommendation 1

The Committee recommends that the current restricted use of presumptive policy and the concentration on medical scientific research continue.

Government Response

Agreed. Australian Defence Force (ADF) health policies and directives will continue to be based on extensive research and input from Defence Health Service Consultative Groups. These groups consist mainly of Reserve specialist health practitioners, a significant proportion of whom are pre-eminent in their chosen field. In addition, ADF centres of excellence in research maintain links throughout the world to similar research organisations, ensuring that policies developed in these specialist areas are world's best practice.

The recent establishment of the Centre for Military and Veterans' Health as a joint venture with Department of Veterans' Affairs (DVA), the University of Queensland, the University of Adelaide and the Charles Darwin University will enhance access to cutting edge research to support the development of health policy. DVA and Defence will also continue to work with the Australian Centre for Posttraumatic Mental Health to ensure that their policies and practices reflect current international thinking, particularly in regard to the considerable body of medico-scientific evidence relating to mental health issues.

DVA has recently reviewed the framework within which it conducts its own research. Greater priority will be given to applied research, to ensure that research outcomes have more direct and immediate effect in improving health care service provision, and programs of compensation and other support. In addition, DVA has recently begun negotiations with similar agencies in Canada, the United Kingdom, the United States of America and New Zealand with a view to increasing the level of international cooperation on research.

Recommendation 2

The Committee recommends that this type of data collection become an integral part of ADF and DVA assessment of deployed personnel, so that basic information is available for researchers on health status at return from deployment.

Government Response

Agreed. Defence is currently recording deployment health and exposure data to establish a database on the health status of ADF members post-deployment. The ADF has developed the 'Post-Deployment Health Screen' for all areas of operation in the last two years, including East Timor, the Solomon Islands and the Middle East Area of Operation. This screen is specific to the particular country's known environmental and occupational exposures at the time. Subject to appropriate ethics and privacy considerations, Defence, DVA and sponsored researchers will be able to access de-identified data for health research purposes. Where data on actual or possible exposure or risk is available in an individual's health or service record, this will be taken into consideration in the determination of future compensation claims. Defence is also developing the Occupational Health Assessment so that appropriate data on occupational exposures in the workplace can be identified, collected and analysed to facilitate the identification and minimisation of health risks. Periodic Health Assessment data is also being analysed to assist with the identification and management of work place-related hazards.

Recommendation 3

The Committee recommends that DVA and Defence ensure veterans are kept up to date about research on key issues and how these may have led to amendments in previous SOPs.

Government Response

Agreed. DVA consults with ex-service organisations (ESOs) on a wide range of policy and procedural issues, including research and health studies, through a number of forums. For example, the Operational Working Party (OWP), comprises of representatives from all major ESOs and is designed to provide two-way feedback on issues relating to claims and appeals processing, including amendments to SOPs. The OWP assists in resolving issues of concern to ESOs and allows

them to be informed on current issues that will affect veterans.

Similarly, consultative forums provide a further opportunity for feedback to the veteran community, allowing the ex-service community to participate and contribute to discussions on new and key issues and providing feedback on the actions and directions taken by the DVA. Additionally, the DVA website lists health studies in progress as well as providing access to the published reports of completed studies.

Defence, in consultation with DVA, will ensure that veterans are kept up to date about key research issues.

Recommendation 4

The Committee recommends that:

In respect of recent deployments, the ADF ensure that a report on all likely exposures, records of potentially traumatising events, and statements as to injury and illness be available for all personnel. Updates should also be provided; and

In respect of earlier deployments, DVA continue with its practice of reconstruction of evidence, ensuring that all appropriate methodologies are utilised including those from new research.

Government Response

Agreed with qualification. It should be acknowledged that, in an operational environment, the collection of such data would never be perfect. That said, improvements could and are being made. For example, Defence is considering the possible implementation of the Defence Injury Prevention Program in the deployed environment. This would allow the collection of additional information on injuries as they occur during operations. There is also the possibility of increasing the ADF's environmental and occupational surveillance capabilities to gather more accurate data on the environmental and occupational exposures that ADF members may experience while on deployment.

Defence requires ADF members returning from deployments to complete a 'Post Deployment Health Screen' which is used to record each individual's potential environmental and occupational exposures whilst deployed. This health screen also records any illnesses suffered during the deployment, including diagnosis, and checks the member's health since returning to Australia. Copies of the Health Screen are retained in the member's Unit Medical Record, Central Medical Record, and are also forwarded to the Directorate of Preventive Health Operational Health Surveillance section for data input and analysis.

DVA continues to attempt to reconstruct evidence of previous exposures. In particular, a major reconstruction of dose of the Australian participants in British nuclear tests in Australia will be released in the next few months.

Recommendation 5

The Committee recommends that:

With respect to future deployments, a protocol be established to ensure complete and accurate copies of medical records are provided; and

With respect to relevant past deployments, DVA establish the location of medical data and records and identify the most effective way of obtaining copies of these.

Government Response

Agreed. While every effort is made to do this, not every deployment includes sufficient ADF health personnel to ensure that this can be achieved. For deployments, such as Operations MAZURKA, PALADIN and POMELO, the size of the ADF contribution, and the presence of adequate health care already in the area of operations does not justify the inclusion of ADF health personnel. This reduces significantly the possibility of complete and accurate medical records being maintained.

Current health support plans direct that ADF members are to ensure that they obtain a copy of all treatment records completed by non-ADF medical providers for return to Australian and filing on individual medical records.

DVA and Defence are undertaking a joint records review to develop a comprehensive strategy for effective record management across both agencies. The outcomes of this review may go some way to addressing the issues underpinning this recommendation. Defence is also undertaking a Tri Service Health Records Review which is considering the management, access, storage and

disposal of Defence health records for both current and discharged ADF members.

DVA will continue to work with Defence to ensure continued maintenance of accurate medical records to assist with the claims process and to streamline access to those records.

Recommendation 6

The Committee recommends that the ADF and DVA work together to ensure that all relevant information, including that on illness, research and the impact of legislative change, is provided in a straightforward style and a user-friendly format. In particular, information provided on RMA Statements of Principle (SOPs) should use everyday terminology and provide links to specific SOPs.

Government Response

Agreed. Much has been done already and this remains a priority for both agencies, and with the Repatriation Medical Authority (RMA). Several recent initiatives demonstrate both agencies' commitment to ensuring a greater understanding of legislative changes, research findings and any consequential action to be taken. For example:

- A commentary was published with the recommendations contained in the report of the Australian Gulf War Veterans ' Health Study 2003;
- simple English explanations of the contents of several key volumes of the reports relating to the Study of Health Outcomes in Aircraft Maintenance Personnel (the F-111 deseal/reseal study) have been published;
- information prepared in relation to the introduction of the Military Rehabilitation and Compensation Act 2004; and
- DVA development of an online research register that will complement the research information already provided on its main website.

To assist in interpreting each SOP, DVA produces a commentary and a diagnostic protocol that assists claims assessors in ruling on claims for injury or disease. This additional information is also published in the Consolidated Library of Information and Knowledge which is available through the DVA website and which is also distributed to ex-service organisations twice yearly.

Further, the RMA has recently included on its website "A SOP Common Name Index" which identifies the disorders described in the SOPs by more common language terminology. This should be of assistance to claimants in identifying which SOP is applicable to their claim.

The RMA has also taken steps to ensure that the ADF is directly consulted during the development or amendment of SOPs and to familiarise its members with current operational issues. These initiatives will assist in ensuring, over time, that the wording of the SoPs reflects the modem operational environment.

The RMA noted the Report's comment at paragraph 3.56 about the USA VA model of listing compensable disorders by conflict. However, it suggests that, in the current Australian military compensation model, such an approach might actually be more confusing. There is also an issue of law as the SOP system depends on "causal agents" and specifically not "class of veteran".

Recommendation 7

The Committee recommends that the Links Program continue in order to ensure effective rationalisation of service provision and co-ordination of medical research by the ADF and DVA.

Government Response

Agreed. Both Defence and DVA are committed to maintaining the Links Program. The Defence/DVA Links Project Review Board will continue to provide the main means to coordinate and rationalise services across and within agencies. The Medical Advisory Panel—supported by its Health and Research Working group, and the Mental Health Focus Working Group—will also continue to advise the Board and agency Ministers in regard to health issues facing the ADF and related research.

Recommendation 8

The Committee recommends that detailed briefings on health issues be provided as much as possible in advance of deployment and that this information also be available in written format, for use on deployment and also for files. Updates must be communicated as soon as possible and

centrally stored on computer based information systems as accessed by the ex service community.

Government Response

Agreed. Defence already provides pre- and post-deployment health briefings, pre-deployment pamphlets and post-deployment wallet cards. The briefings cover the health risks associated with a deployment, the pre- and post-deployment medical requirements such as immunisations and protective measures that can eliminate or minimise risk. Each ADF member receives a pre-deployment health brief and a copy of the pamphlet prior to deployment. Each ADF member will also receive a post-deployment health briefing and a wallet card outlining the health risks associated with the deployment either prior to returning to Australia or immediately upon their return. The briefing also reinforces the necessity of completing all eradication medication on leaving the area of operation, and serves to ensure the member knows where and how to access assistance from health personnel on return to Australia.

This information is also available through the internal Defence website and is archived for future use and reference. Limited information is also publicly available via the Defence internet site.

Recommendation 9

The Committee recommends that a more effective electronic system of current health status be developed, allowing health service personnel to determine needs quickly pre-deployment and also providing opportunity for individuals to check their records and ensure these are accurate and complete.

Government Response

Agreed. Defence is developing HealthKEYS that will provide an electronic medical record database. HealthKEYS will assist in collating health information and summarising a member's health status and any outstanding issues. It will also enable a quick review of medical records prior to deployment.

Recommendation 10

The Committee recommends that all briefings and assessments on potential deployment psychological issues must be developed or cleared by a psychiatrist with relevant experience.

Government Response

Noted. The intention behind this recommendation is acknowledged and supported. However, the means of achieving that intention requires further consideration. The recommendation appears to presuppose that it is only clinically diagnosable conditions that would make an ADF member unsuitable for deployment, when the proportion of ADF members presenting with such disorders is in fact very small. Apart from clinical/psychiatric disorders, there are a number of sub-clinical psychological factors that might place a member at risk in a deployment situation. It is important that the primary role for assessment of psychological risks and factors remain with Defence. Moreover, the number (and availability) of appropriately trained and experienced psychiatrists outside of Defence is below that needed to meet this recommendation. Defence will continue to consider how the Committee's objective may be achieved.

Recommendation 11

The Committee recommends that priority be given to ensuring that accurate records are maintained of all post deployment briefings, checks and assessments, and that individuals be able to access these records.

Government Response

Agreed. Defence has clear policy on post-deployment screening. For medical screenings, specific forms to be completed and filed with the member's medical file. ADF members can request a copy of their medical record at any time. Once HealthKEYS is fully operational this information will be stored electronically.

A full record of all pre- and post-deployment psychological screenings is retained on the permanent psychology file. This includes all assessment results and forms raised as a result of the Return to Australia Psychological Screen and Post-Operational Psychological Screen processes.

Recommendation 12

The Committee notes and commends the improvements made in health status and data collec-

tion of deployable forces, and recommends that this continue to be a priority.

Government Response

Noted and agreed. Defence will continue to improve the health status and data collection of deployed forces. For example, Defence recently sponsored a study to develop a data set of information to be gathered on deploying personnel and the deployed environment.

Recommendation 13

The Committee recommends that terminology be clarified to ensure personnel are aware of the status of medical officers and medical personnel.

Government Response

Noted with qualification. Defence will consider how best the objective underlying the recommendation may be achieved. It is doubtful that there is systemic confusion amongst the ranks about the terminology in common use. The term 'medical officer' is used only when referring to an uniformed medical doctor. The exclusivity of this term avoids confusion between a medical doctor with a dentist who is also addressed as 'Doctor' or anyone with a PhD. A medical assistant, particularly within an infantry company is often addressed as 'Doc', but all personnel within the company are fully aware that he is a medical assistant and not a medical 'doctor'.

Information on the level of medical officers on deployment should be part of pre-deployment briefings.

Government Response

Agreed in principle. Pre-deployment briefings provide information on medical services and medical officers that ADF personnel will be able to access in the deployed environment. Changes in the nature and tempo of operational environments require that such briefings are broad in content. The 'level' of medical officers deployed will differ in capabilities and qualifications according to the level of operational and environmental threats.

Records of medical services provided by other forces must include information on the treating doctors so that any required follow up can be facilitated.

Government Response

Agreed. Recent revisions in Defence policy allows that where there is appropriate secure storage for documents, ADF personnel are deployed with their complete medical records into the operational environment. If a non-ADF doctor treats ADF personnel copies of the treatment documentation are to be provided to deployed Australian medical assistants for filing. Where ADF medical records not deployed, personnel are requested to obtain a copy of any record of treatment by a non-ADF doctor. The record is then given to the operational headquarters for

repatriation with the individual's health records or delivered to the Defence Health Service on the ADF members return to Australia. A basic tenet of medical care is that all entries in a medical record should be signed by the service provider with the name and location or unit clearly stated.

Recommendation 14

The Committee recommends that all information in manuals be checked against other data provided to ensure consistency.

Government Response

Agreed. Defence acknowledges that a lot of health information is provided in various documents and at times there has been some conflict between documents. Policy is constantly being reviewed and crosschecked to ensure that it is up to date and accurate. Health information is also widely researched using resources such as the World Health Organisation, the US Armed Forces Center for Health Promotion and Preventive Medicine and the US Center for Disease Control and Prevention. Pre- and post-deployment briefings are compared against past operation briefings to ensure consistency.

Recommendation 15

The Committee recommends that personnel be made fully aware of potential problems with their health records and provided with the opportunity to obtain a copy of these well before discharge with a view to identifying and rectifying information gaps.

Government Response

Agreed. ADF members should be of any changes made to, or potential problems with, their health

records (although such occurrences are believed to be unusual). ADF members are able to look at their medical records at any time and may obtain a copy of these when discharging. During service ADF members are readily supplied with copies of any components necessary to support their claims for compensation or other benefits. The same is true of psychology records.

Under the Transition Management Scheme DVA Coordinators are responsible for assisting members of the ADF discharging on medical grounds. In regard to these personnel, DVA can assist in ensuring that they are advised to obtain a full copy of their medical files, including X rays etc.

Recommendation 16

The Committee recommends that some form of electronic copy be made of health records of current personnel, both to facilitate their access to services if required and also to supplement HealthKEYS when this becomes operative. A copy of such information should also be held by Defence with ready access by DVA if required.

Government Response

Noted. Defence is undertaking a Tri Service Health Records Review which is considering the management, access, storage and disposal of Defence health records for both current and discharged ADF members. This review aims to identify the long-term electronic solution for medical data. An assessment of the effectiveness and efficiency of this recommendation can not be undertaken until this review has been completed.

Further, Air Force is also reinstating its electronic system for Micro Imaging RAAF Medical Records. This system failed in January 2000. Air Force now has a project, which commenced in 2004, to reinstate and upgrade this system, allowing capture of data missing from the cental

health record. When completed this should provide Air Force with an electronic medical record for all Air Force Service personnel which should be able to be migrated to HealthKeyS once it is operational. Indexing of the data will allow epidemiological studies to be undertaken. The success of this project will also inform our response to this recommendation.

Defence and DVA are considering options for trialing DVA access to appropriate data held in HealthKeyS and other Defence electronic data management systems. Arrangements for providing full access to appropriate data is still some time away.

Ordered that the reports of the Employment, Workplace Relations and Education References Committee, the Legal and Constitutional Legislation Committee and the Procedure Committee be printed.

Ordered that consideration of the report of the Procedure Committee be made a business of the Senate order of the day for the next day of sitting.

Northern Territory Legislative Assembly

Senator CROSSIN (Northern Territory) (3.45 pm)—by leave—I move:

That the Senate take note of the documents.

I want to take this opportunity to highlight to the Senate the two resolutions that have been forwarded to the Senate by the Legislative Assembly of the Northern Territory. In doing so, I particularly want to draw the Senate's attention to the motions in relation to the imposition by this federal government of the nuclear waste dump on the Northern Territory—legislation that is listed to be debated in the Senate this week; legislation which we hope, as a result of my notice of motion today, will go to a legislation committee for inquiry and report.

I particularly want to draw the Senate's attention to the fact that today the Deputy Chief Minister of the Northern Territory, Syd Stirling, and Alison Anderson, the MLA for the seat of Macdonnell in the Northern Territory government, have made a trip to Canberra to present to various people in this house over 9,000 signatures that have been collected in the form of a petition that will be tabled in the House of Representatives. Those signatures have been collected in the form of postcards petitioning Senator Scullion to stand up for the Territory and not support this legislation.

I think it is fairly significant that in the course of only three months, across all of the Territory, over 9,000 signatures have been collected. In proportion to the total voting population of the Territory, it is almost 10 per cent. Ten per cent of the population of Victoria or New South Wales would be an extraordinarily large number. Nine thousand signatures in the course of a few months is very significant and it demonstrates a very strong resolve from the people of the Northern Territory that they do not like this legislation and that they do not like this proposal by the federal government.

The Northern Territory government is a duly elected democratic assembly of this country. In fact, the last election was held on 18 June and Clare Martin was returned with a swing of over 12 per cent. She now holds 19 of the 25 seats in the legislative assembly. The bills that we have before us this week and the purpose of the motion that was moved in the assembly send a very clear message to the federal government that Territorians will not sit by, will not accept and will not cop that this federal parliament can put legislation through that overrides the democratic wishes of the people of the Northern Territory.

Last year the Northern Territory government put through legislation to ban the transport and storage of nuclear waste. That Territory government was overwhelmingly returned to power on 18 June. Territorians have categorically endorsed the work of Clare Martin, her cabinet and her caucus. Territorians have very loudly and very clearly signalled that they do not want this dump in the Territory. Not only that but they also do not want their legislation overturned. That is the issue here. The issue is about the fact that the federal government believe they have the power and the rights to overturn legislation in the Northern Territory.

It has been done once in this federal parliament by a single member of the house. It has never, in the history of the federal parliament, since self-government, been attempted by the federal government. So the issue that was debated in the legislative assembly on 13 October goes to the rights of Territorians. It condemns this government for overriding the rights of Territorians and for attempting to put through this house legislation that will overturn the laws of the Territory parliament. It notes that the proposed legislation in this house removes the rights of Territorians. Some people have said to me, 'What we could simply do is tear up the self-government act,' because that is essentially what the government are seeking to do in overriding the laws of the Northern Territory. We saw that the federal government did not move legislation to override the laws of South Australia when they wanted to put the dump in Woomera. Why was that? They could not because South Australia is a state. Why are they doing it for the Territory? Simply for that very same reason: because it is a territory and they can.

There is no reason why this legislation is going to go into the Senate this week other than the fact that the government can ride roughshod over the rights of Territorians, totally ignore the wishes of the democratically elected government, totally ignore the rights of the elected members of the assembly up there, totally ignore the work that Clare Martin and her team have done to protect democracy in the Northern Territory and simply have bullyboy tactics and put legislation through this parliament that will erode the rights of Territorians.

That may well be the wish of the federal parliament and the federal government, but the people in the Territory are very angry about the fact that Senator Nigel Scullion has not stood up for them in this debate. We have not seen Senator Scullion attempt to move

these bills to an inquiry and initiate that process; we have not seen Senator Scullion give any indication at all that he will cross the floor and support the rights of Territorians. Let us forget that the issue is about whether or not you put a dump there. Let us think that the crucial and central issue of this debate is whether or not the Northern Territory Legislative Assembly has the right to be recognised fully by this parliament. This legislation totally ignores that. This legislation totally seeks to override and remove the rights of Territorians.

Today I want to draw to the Senate's attention the fact that Jane Aagaard, the Speaker of the Northern Territory parliament, has forwarded to the Senate the resolution that was passed in the Northern Territory parliament on 13 October—a resolution that calls on this government to support the Northern Territory government's right to pass legislation in its own parliament and to determine its own future. It calls on the Commonwealth parliament to reject the Commonwealth Radioactive Waste Management Bill and to sit down and hold national consultative meetings that might actually have a consensual approach to where we are going to put our nuclear waste in this country, rather than simply steamrolling over the rights of Territorians. The letter from Jane Aagaard also attaches for the purposes of the Senate the record of each and every debate that was contributed to in the legislative assembly.

For those people opposite me who might want to rant and rave about this, I hope you do stand up and contribute to the debate when the bill comes into the chamber. I specifically ask you to read the contribution from Jodeen Carney, the opposition leader in the Northern Territory, the leader of the now diminishing, shrinking and sad party called the Country Liberal Party—the party that stood on a mantra of being the Territory party, the party that decided at some stage in the past that it stood up for the Territory's rights, a party that elects people like Mr Tollner and Senator Scullion under the mantra of the Territory party. This is not the Territory party anymore; it is a shrinking, sad replica of the CLP of the past that endorses federal members to come down here and simply be Canberra's boys in the Territory rather than the Territory's boys in Canberra.

Read Jodeen Carney's contribution to the debate. The leader of Senator Scullion's own party in the Northern Territory does not support this legislation. His party in the Northern Territory does not support this legislation. Members of his party in the Northern Territory want him to stand up for the Territory but they do not have the guts to discipline him in the way they disciplined former Senator Tambling when the interactive gambling bill was raging around up there. They do not have the guts to do that but they make long contributions in the Northern Territory assembly opposing the legislation, opposing the dump. What we have down here, as I have said, is a couple of guys who want to represent Canberra in the Northern Territory rather than representing the Territory in Canberra. I urge members of the government to read each and every one of those speeches, to go and have a look at the over 9,000 petitions that have been brought to Canberra today and to go and talk to the members from the Central Land Council and the traditional owners from Harts Range who are here lobbying to protect their country, before they stand up and try to defend this legislation. *(Time expired)*

Senator FERGUSON (South Australia) (3.55 pm)—I just want to respond briefly to a couple of the comments made by Senator Crossin, because she is not presenting a true picture of exactly what is at stake, and particularly the remarks she made about my colleague Senator Nigel Scullion, who is a

true Territorian. As a true Territorian, he voted for statehood. He voted for statehood for the Northern Territory and if you, Senator Crossin, had supported statehood for the Northern Territory you would not be—

Opposition senators interjecting—

Senator FERGUSON—Can I say on behalf of Senator Scullion that he supports the Territory, because he wanted the Territory to become a state. You voted against becoming a state, Senator Crossin, and if the Northern Territory were a state this law would not be able to be enacted. You know that, Senator Crossin. It is your fault and that of the Labor Party in the Northern Territory that debate on this bill is able to take place in this chamber, simply because—

Senator Crossin—Mr Deputy President, I rise on a point of order. For the sake of the record, Senator Ferguson ought to reflect the fact that it was the national Liberal Party's president, and Chief Minister at the time, Shane Stone, who ensured that the statehood vote in the Northern Territory went down.

The DEPUTY PRESIDENT—There is no point of order.

Senator FERGUSON—I will say that, in spite of Senator Crossin's additional little go when she could have ensured that this did not happen, there is nobody who supports the Northern Territory more than my colleague Senator Nigel Scullion. All of his activities in the Northern Territory in all of that time showed that he is a true Territorian. He wanted the Northern Territory to become a state. Had it become a state, the very legislation that you are railing against would not have been able to be brought forward. So the Labor Party in the Northern Territory have shown that they want to have their cake and eat it too. They do not want to become a state but they want us to treat them like a state. I want to say in defence of my colleague Senator Nigel Scullion—a true Territorian—that all of the remarks that have been made by Senator Crossin in no way reflect on his determination to do what is best for the Northern Territory. The one thing that Senator Crossin did not suggest is where the nuclear waste depository should be. She has no idea what to do with it. I say in defence of Senator Scullion that he is one person in this place who does know what is good for the Northern Territory.

Senator MILNE (Tasmania) (3.58 pm)—I also rise to note the document from the Speaker of the Legislative Assembly of the Northern Territory reporting to the house the motion in the Northern Territory, together with the *Hansard* record. Firstly, I rise to express my disappointment that the Minister for the Environment and Heritage is not present for this debate this afternoon. I want to remind Senator Ian Campbell that in the lead-up to the last election he said: 'Absolutely no. There will not be a nuclear waste facility sited in the Territory. It will not be on the mainland. Rest assured, Territorians.' There we are. Of course, now we have seen a complete turnaround. It would be interesting to have the minister come in here and explain why he said one thing in the lead-up to the election and is now saying quite the opposite.

Secondly, the Commonwealth government is contemptuous of its own laws, because this bill is amending the Commonwealth Environment Protection and Biodiversity Conservation Act and is basically exempting the process from the legislation because the Commonwealth government is determined to impose its will on the Territory. What is the point of having Commonwealth legislation if the Commonwealth then decides that it can exempt something like this nuclear waste dump site selection and the development process from its own laws?

It is also amending the Aboriginal and Torres Strait Islander Heritage Protection Act to prevent a request for a declaration of a sacred site under this act by Aboriginal people. This is an extremely serious matter. First, we have an exemption from the environment law and now the government is asking to exempt itself and to take away from Indigenous people their capacity to request a declaration of a sacred site under Commonwealth legislation. What does that say to the rest of the world about where Australia is coming from in relation to its own Indigenous people?

We have already had the global humiliation of former Prime Minister Bob Hawke standing up and saying that Australia should be the nuclear waste dump for the world, that a site in outback Australia should be selected and that the Indigenous people affected should be compensated accordingly. What sort of an abuse of human rights was that from a former prime minister of this country? We see the same contempt for Indigenous people, for their land and for their custodianship of country in what is being proposed by the Commonwealth in this legislation.

It is appalling that in this day and age we should see these standover tactics being taken on. Why are they being taken on? They are being taken on because the Federal Court ruled quite clearly, as a result of an action taken by the Rann Labor government, that the Commonwealth could not proceed to impose its will in relation to a site near Woomera in South Australia. This is incredible hypocrisy from the Premier of South Australia, Mike Rann, who is falling over himself to support the expansion of the Roxby Downs uranium mine, and is keen to expand exports of uranium to China, yet is not prepared to even consider what was being proposed in relation to the site for a small amount of waste. Where does he think the waste from Roxby Downs is going to go? Is he advocating that it be imposed on the people of China? Presumably that is his intention. He wants the money from the exports but he does not want to deal with the weapons and waste issues that inevitably come from mining uranium.

In relation to this matter, there are not only environmental considerations and considerations in relation to Indigenous people, but there is also the fact that the Commonwealth can impose its will on the Territory—and that is why it is going to do it, as opposed to coming to another process of discussion with the states and territories in a cooperative arrangement. The Commonwealth has decided to do exactly what that Prime Minister said he would not do, and that is to abuse his absolute power. We have here an abuse of the coalition's absolute power. It has control of both houses and it is going to use that control of both houses to sledgehammer the Northern Territory into imposing this legislation. The personal costs of this will be suffered by the Indigenous people who live in the area that is selected. That is what is so disgraceful about this.

The person who can stop it from happening is Senator Scullion. He has a responsibility to cross the floor and stop this legislation being passed, because he represents the Northern Territory. He was elected to stand up for the Northern Territory and presumably for the legislature of the Northern Territory and what the people in the Northern Territory want. It is clear from speaking to the traditional owners that they do not want this waste dump imposed on them. It is clear from the people of the Territory and the parliament of the Territory that they do not want to have their rights and their jurisdiction overridden by a Howard government out of control and arrogant with power. It is a classic example of absolute power corrupting. The Australian people are seeing example

after example of this kind of bludgeoning of the community and, in this case, it is the bludgeoning of a community that will have to suffer the consequences for a long, long time.

I am totally supportive of the Northern Territory government's position. I invite Senator Scullion to cross the floor and stand up for the Territory and I ask that the Minister for the Environment and Heritage, Senator Ian Campbell, explain himself in relation to the Commonwealth decision to exempt this particular piece of legislation from the provisions of the Environmental Protection and Biodiversity Conservation Act and the provisions of the Aboriginal and Torres Strait Islander Heritage Protection Act. He is the minister responsible and he should explain himself to this House.

Question agreed to.

COMMITTEES

Employment, Workplace Relations and Education Legislation Committee

Report

Senator MURRAY (Western Australia) (4.04 pm)—I seek leave to move a motion in relation to the report of the committee on workplace agreements, together with the *Hansard* record of proceedings and documents presented to the committee.

Leave granted.

Senator MURRAY—I move:

That the Senate take note of the report.

The report covered all agreements, but the most sensitive issue it dealt with was that of Australian workplace agreements, otherwise known as AWAs. Individual agreements, mostly common law, are the most common agreement of all and are particularly prevalent in and important to small business. Common law agreements are often verbal, not written. As the majority report—which I and my party support—showed, a large number of agreements are individual agreements, with 31.2 per cent of all forms of agreement making being unregistered individual agreements and 2.4 per cent being registered individual agreements, namely federal AWAs. Individual agreements are most often used by small business, generally to pay over award payments. In larger business, it is common for specialists, professionals, supervisors and managers to be on individual agreements.

The major advantages of unregistered individual agreements or common law contracts are their practicality, ease of use and understanding, and their wide acceptability. Their major disadvantage is that when there is a breach of contract or dispute they are hard and costly to enforce, since that requires resort to common law courts. In addition, there can be confusion when a relevant award or agreement will override the terms of a contract where there is a difference in entitlement. One of the reasons the Democrats support AWAs as a matter of principle is that we believe that the statutory protections provided in individual agreements will nearly always be additional to, and therefore superior to, common law protections which historically in jurisprudence are built on master-servant precedents.

The Democrats support individual agreements being statutory industrial instruments and oppose the notion that they should be exclusively common law in nature, although, of course, we do not oppose common law agreements. We supported the introduction of AWAs in the Workplace Relations Act, and among our successful amendments were the vital protections of the global no disadvantage test and the requirement that AWAs must be offered to all equivalent employees in a workplace. We note that those two protections we put into the law are going to be taken out of the law by the government's

new package. We support the view taken by the committee in chapter 2, which states:

> The committee does not take issue with individual agreements *per se*, both statutory and common-law, provided they are underpinned by a comprehensive award safety net and adequate processes and resources are set aside to ensure compliance.

Statutory industrial instruments, otherwise known as registered agreements, are of three categories: collective industry general awards, collective enterprise-specific agreements and individual agreements. Common law agreements are in two categories: collective enterprise specific agreements and individual agreements. The Australian Democrats strongly believe that a mix of agreement making—collective bargaining, both union and non-union, collective awards and individual agreements—provides necessary flexibility in a modern economy, but all agreements must be fair to both employees and employers, and there must be an adequate safety net for employees' wages and conditions. Of course, that is the major concern that we have with the proposed package that is before the Senate now.

The Democrats' view is that collective agreements and awards under the existing federal act are often better for workers overall than individual agreements, but we recognise that individual agreements are a common and necessary part of working life and statutory provision must be made for them. However, anecdotal evidence that workers were being forced onto AWAs and that some workers were worse off as a result led the Democrats to initiate this Senate inquiry. It has been over eight years since AWAs were introduced into federal industrial agreement making and we thought it was time they were reviewed to ensure they are meeting their stated objectives. Our conclusion is that improvements and greater protections need to be built into the system, as opposed to the much-reduced protections that the government are proposing in their latest package. That does not mean we oppose more effective process in the approval of AWAs.

The Democrats believe that the basic architecture of AWAs in the Workplace Relations Act is correct—that is: they are underpinned by a global no disadvantage test referenced to the relevant applicable award; AWAs must be offered to all equivalent employees in a workplace; they are available on a pattern format for small business in similar fields; duress in offering AWAs is prohibited; and a system of checks and approval is in place. That is the existing basic architecture. We accept that modest reform to improve the approval process is warranted. However, as the majority report has outlined, there are significant flaws in the current system, particularly with the regulation of the system. In particular, we are concerned with workers presented with a 'take it or leave it' contract; duress being regularly complained of with no effective remedies available; evidence of pressure and coercion into moving from collective agreements or awards to signing individual contracts; the failure of the Office of the Employment Advocate to diligently apply the global no disadvantage test; and the fact that the Office of the Employment Advocate is both the promoter and regulator of AWAs.

The failure of the present system means that some employers are taking advantage of workers not in a position to negotiate and are using AWAs to unilaterally end hard-won benefits and conditions. The government are proposing to make radical changes to the basic architecture of AWAs, which we are extremely concerned about and do not support—specifically, the government's plan, firstly, to abolish the global no disadvantage test adjudged against awards covering 20 allowable matters and to replace it with a

new five minimum conditions standard and, secondly, to allow agreements to come into force before they have been approved and checked. We are most concerned that workers with low bargaining power, such as casuals and part-timers, who are particularly women, youth, unskilled workers, single parents, and disabled and ethnic workers, will be forced onto the new version of AWAs, which will mean they will be required to sign up to only the minimum conditions and standards. This will lower wages across whole industries to the detriment of living standards and the Australian fair-go tradition. It will force better employers to bring down their wages to compete with less scrupulous employers and it will be detrimental to the Australian economy and society.

We agree with the majority report that an agreement-making system which includes individual contracts should be underpinned by a comprehensive set of awards and provide an arbitral role for the Australian Industrial Relations Commission to ensure that parties to a dispute enter and conclude negotiations in a reasonable, fair and proper manner. However, we further believe that there should be a national, well-resourced, independent regulator for workplace relations. We are concerned with the failure of the Office of the Employment Advocate—the promoter of AWAs—to properly apply the no disadvantage test and to police duress.

Although the government plans to take away the OEA's compliance function, it intends to hand it to the low-profile Office of Workplace Services, thus making the Department of Employment and Workplace Relations a much enlarged but far from independent regulator at the direction of the minister. There is the obvious danger of partisan decisions being made. We also agree with the majority report that it should be a requirement of the government's Work Choices bill that employers and employees bargain in good faith. Again, we go one step further in that we believe that genuine choice should be built into the system where if the majority of the employees want a collective agreement then they can get one and those who legitimately want individual agreements also can get one.

We are concerned that monopolist employers, such as governments, force whole classes of employees onto AWAs where they are inappropriate. We have never understood why large numbers of public sector workers all doing the same work and all in the same enterprise, should be pushed out of collective agreements onto AWAs. Finally, we agree with the majority report's conclusion that more time is needed to allow proper consideration of the range of issues raised so far during that inquiry. As mentioned, the committee were unable to examine key witnesses, and those witnesses would be very useful in the inquiry that is now coming up.

Question agreed to.

DELEGATION REPORTS

Delegation from the Commonwealth of Australia Branch of the Commonwealth Parliamentary Conference to the Fiji Islands

The DEPUTY PRESIDENT (4.15 pm)—I present the report of the delegation from the Commonwealth of Australia Branch of the Commonwealth Parliamentary Conference to the Fiji Islands, which took place in September 2005. With the concurrence of the Senate, I ask that the tabling statement of the President be incorporated in *Hansard*.

Leave granted.

The statement read as follows—

The 51st Commonwealth Parliamentary Conference held in Fiji in September took as its theme Commonwealth Partnerships for Global Development. Six workshops and three plenary sessions addressed a wide range of topics around this

theme. A plenary discussion on effective early warning, relief and reconstruction in relation to natural disasters was particularly topical in the wake of the Asian tsunami just a few months ago and the more recent hurricanes in the Caribbean/American region and earthquakes in Pakistan and its neighbours.

Several workshops and one plenary session addressed issues related to the United Nations Millennium Development Goals with a particular focus on how parliamentarians could play a role in the achievement of the goals. Delegation members participated actively in the sessions. Senator Crossin and the Member for Hughes Mrs Danna Vale also participated in the meeting of Commonwealth Women Parliamentarians which discussed ways to support the election and work of women parliamentarians.

While we perhaps felt that the discussions could have benefited from a few more provocative ideas from the lead speakers and more spontaneous contributions from the floor it was a valuable experience in a range of ways. The conference provides an opportunity for delegates to talk informally together, share experiences and build networks of support for the advancement of democratic practices across the Commonwealth. The conference is a key activity in the Commonwealth Parliamentary Association's aims of improving understanding and cooperation among Commonwealth parliamentarians and promoting the study of, and respect for, parliamentary democracy. The CPA presents a unique opportunity as a forum to assist healing and rebuilding for states that are more fragile than others.

The hosting of the conference by the Parliament of Fiji also provided an opportunity for us to hear something at first hand about the struggles our near neighbour has had with sustaining parliamentary democracy over the last two decades and its progress to re-establishing a stable and equitable democratic system. Hosting the conference was a significant milestone in that journey.

Delegates were privileged to hear frank assessments from the leaders of Fiji and were encouraged by the positive approach to the future and the lessons learned at the highest levels.

The Fijians are also to be congratulated on the efforts they put into running the conference so successfully. All of the staff were friendly and helpful and never failed to give a wide Fijian smile in the face of the constant demands placed upon them.

I would like to thank the members of the delegation—the member for Wills, Kelvin Thomson, the member for Hughes, Danna Vale, the member for Blair, Cameron Thompson and Senator Trish Crossin—for their companionship and active participation in the conference. I also thank the Parliamentary Relations Office, the Parliamentary Library and AusAID for the assistance they provided to the delegation.

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint

Report

Senator FERGUSON (South Australia) (4.15 pm)—I present the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled *Australia's free trade agreement: progress to date and lessons for the future*. I seek leave to move a motion in relation to the report.

Leave granted.

Senator FERGUSON—I move:

That the Senate take note of the report.

Mr President, 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 free trade agreements: progress to date and lessons for the Future*. In August this year the committee convened a half-day hearing, in the form of a roundtable, to review the progress of Australia's free trade agreements with Singapore, Thailand and the United States. The review was timely because, although these agreements have been in force for only a short time—the Singapore agreement since July 2003 and the other two since January 2005—Australia is conducting negotiations on several other free trade agreements.

The committee hoped the inquiry would identify issues arising from the current agreements that could assist with negotiating and implementing future FTAs. The roundtable discussions covered negotiations and consultations, the impact on trade and on business and industry, and lessons learned. The participants represented government, business and industry, unions and academia. The main message to emerge from the hearing is that it is too early to assess the impact of the agreements with Singapore, Thailand and the United States, and that the effects of some changes under each FTA could take five to 10 years to become apparent. The committee also heard that there are other difficulties in assessing the performance of FTAs. Measures such as exports and imports, for example, were seen as unreliable because they can be affected by factors totally unrelated to FTAs, such as exchange rate variations, and one-off or temporary events, such as cancelled wheat shipments.

Despite the difficulty of assessing the FTAs, the participants of the roundtable were largely satisfied with the conduct of negotiations and the performances of the FTAs to date. They also identified early benefits of the agreements, in particular increased interest from Australian exporters in doing business in Singapore, Thailand and the United States. Although the time frame might be longer than some had expected, participants were generally confident that the agreements will result in tangible benefits for Australian business, industry and consumers.

One of the reasons for this confidence was that the FTAs were viewed as living rather than fixed agreements by virtue of provisions that enable aspects of each agreement to be reviewed and improved over time. The need to include such provisions in future FTAs was regarded as one of the most important lessons to take from the FTAs with Singapore, Thailand and the United States.

In conclusion, I am very grateful to all those who gave evidence and participated at the roundtable. I also wish to thank my colleagues who took part in that roundtable—a considerable number of the members of the committee—and the secretariat, who, at all times, were at their efficient best. I thank them for their contributions in compiling this report and for the work they put in. I commend the report to the Senate.

Senator MILNE (Tasmania) (4.19 pm)—I am anxious to read the report. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Public Accounts and Audit Committee

Report

Senator JOHNSTON (Western Australia) (4.20 pm)—On behalf of the Joint Committee of Public Accounts and Audit, I present the 404th report of the committee entitled *Review of Auditor-General's reports 2003-2004: Third and Fourth Quarters; and First and Second Quarters of 2004-2005*. I seek leave to move a motion in relation to the report.

Leave granted.

Senator JOHNSTON—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—

One of the important functions of the Joint Committee of Public Accounts and Audit, is to examine all reports of the Auditor-General, and report the results of the Committee's deliberations to the Parliament. This report is the first review of Auditor-General's reports to be undertaken by the Committee of the 41st Parliament. The report includes the Committee's review of 10 performance audits and one financial audit by the ANAO.

Three of the Audit Reports included in this review were selected by the Committee of the previous Parliament. That review was suspended upon the dissolution of the House of Representatives in August 2004.

In December 2004, the new Committee of the 41st Parliament resolved to complete the review of the three ANAO reports begun by the previous Committee, and also to undertake a busy program reviewing a further eight Audit Reports, selected from the 37 ANAO reports that had been presented to Parliament in the previous few months.

The eleven reviews undertaken by the Committee have covered a broad range of Government agencies, and have included subjects such as grants administration; customer service; regulatory functions; management of assets; contract management; and program implementation. In each chapter of the report the Committee has made recommendations to improve agencies' efficiency and effectiveness in implementation of programs; and to ensure that the Auditor-General's recommendations are implemented.

Two of the Audit Reports, nos. 5 and 21 of 2004-05, have detailed major problems with financial management and project administration at the Department of Defence. In December 2004 the Audit Office and the Department of Defence both found that they had an 'inability to form an opinion' on the Defence financial statements. In layman's terms, this meant that there was so much uncertainty surrounding some of the figures which made up the financial statements, that the ANAO felt they could not verify the accounts. This was an unprecedented event in public sector accounting in Australia.

The Committee held a number of public hearings on this subject, and is concerned to note that further Audit Reports tabled since the beginning of this current inquiry, such as a report on the *PM Keys* personnel management system, have revealed more problems.

The Committee also looked at an Audit Report detailing Centrelink's management of customer debt. This report highlighted problems in planning, communication across regions, and consistency in managing customer debt across the Centrelink network. This report is just one of a series of Centrelink reviews undertaken by the ANAO. We are continuing our work in this area, with a new review of seven more ANAO reports on Centrelink's customer service; and a review of another report which details the failed *Edge* information technology system. This report will be presented to the Parliament early in the new year.

One of the reports we looked at concerned the Container Examination Facilities introduced by the Australian Customs Service. These container x-ray facilities are now at all major Australian ports. Our review of this program found no major problems with the implementation of the Container Examination Facilities. However, I would like to note that the Integrated Cargo System computer program was in the planning stages at the time of the Audit Report. The ANAO found that the Integrated Cargo System would involve a major review of Customs' practices. The new system replaced four existing processing systems. Of course we now know that the roll-out of the Integrated Cargo System has been problematic, with delays in clearing containers full of imported goods. This may well be something that the Audit Office needs to look at into in the future.

Another theme emerging from the Committee's review of a number of the Audit Reports is a need for Government agencies to pay closer attention to their responsibilities under the Constitution and the *Financial Management and Accountability Act 1997*; and other important issues such as implementation of appropriate risk strategies; proper project planning; and thorough record-keeping.

These are issues that the Committee intends to pursue throughout its reviews of Auditor-General's reports in this Parliament. We hope to see an improvement in agencies' adherence to their financial management, accountability and reporting responsibilities.

The Committee looks forward to continuing its reviews of Auditor-General's reports throughout this Parliament.

Mr President, I commend the Report to the Senate.

THERAPEUTIC GOODS AMENDMENT BILL (No. 2) 2005

HEALTH LEGISLATION AMENDMENT BILL 2005

NATIONAL HEALTH AMENDMENT (BUDGET MEASURES—PHARMACEUTICAL BENEFITS SAFETY NET) BILL 2005

Report of the Community Affairs Legislation Committee

Senator JOHNSTON (Western Australia) (4.21 pm)—On behalf of the Chair of the Community Affairs Legislation Committee, I present reports of the committee on the provisions of the Therapeutic Goods Amendment Bill (No. 2) 2005, the Health Legislation Amendment Bill 2005 and the National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005, together with the *Hansard* record of proceedings and documents presented to the committees.

Ordered that the reports be printed.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 4) BILL 2005

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT BILL 2005

Report of Employment, Workplace Relations and Education Legislation Committee

Senator TROETH (Victoria) (4.21 pm)—On behalf of the Employment, Workplace Relations and Education Legislation Committee, I present a report of the committee on the provisions of the Higher Education Legislation Amendment (2005 Measures No. 4) Bill 2005 and the Education Services for Overseas Students Amendment Bill 2005, together with submissions presented to the committee.

Ordered that the report be printed.

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

Leave granted.

Senator TROETH—I move:

That the Senate take note of the report.

These bills were referred to the Senate on 12 October 2005 for report by 7 November 2005. The committee received seven submissions and two supplementary submissions relating to these bills. Although there were certainly some comments made regarding the content of the bills, I must say that, by and large—although my fellow senators may differ on this—we found these reasonably noncontroversial.

The main purpose of these bills is to amend the Higher Education Support Act 2003 and the Education Services for Overseas Students Act 2000 to enable foreign universities which meet stringent accreditation processes to operate in Australia and to provide courses for domestic and international students. Specifically, the amendments contained in these bills will allow the establishment in Australia of a branch of Carnegie Mellon University, which is based in Pittsburgh, the United States, and which proposes to establish a branch in Adelaide.

The opposition supported these bills in the House of Representatives. Indeed, Ms Jenny Macklin, Deputy Leader of the Opposition, stated that they marked a significant point for the higher education sector. For that reason, I find it somewhat strange that the Labor Party in this place, I understand, will be putting forward another report separate to the government report.

The necessity for these bills, as I said, came from that university's desire to open a campus in Adelaide to commence operations in March 2006. This was the first application to be received under the national protocols for higher education approval processes from

a foreign owned and operated university seeking to establish a branch in Australia. Some would see this particular application as being not only a threat to our existing domestic universities but also possibly the start of a trend to set up institutions which simply process students so that they emerge at the end with a degree, with no thought of academic integrity on the way through. However, the government believes that this is not the case.

Carnegie Mellon University has undergone and passed a rigorous assessment process conducted by an expert panel established by the South Australian government. On that panel, there were three former vice-chancellors of Australian universities and two senior subject specialists currently employed at Australian universities. The application was assessed in accordance with the national protocols, including its existing status as a university in the United States, the quality of its courses and the viability of its proposed operations in Australia.

Not unnaturally, the South Australian government is very keen for this university to be established in Adelaide, and it would be delighted to see this particular university established there: it has a very strong international reputation in education and research and has been ranked No. 38 out of 200 in the *Times Higher Education Supplement* ranking of universities and No. 54 out of the world's top 500 universities in the Shanghai Jiao Tong University's ranking system. This is a prestigious university and I believe the fact that it would choose to establish a campus in Australia attests to the success of the Commonwealth government's higher education policy, which encourages openness and diversity in the sector.

The South Australian government has, I believe, committed up to $20 million to assist the establishment of this university in Adelaide because it believes the program will bring long-term benefits for the state. For instance, this new branch of CMU is expected to attract more students to Adelaide from the Asia-Pacific region and improve the state's industry and trade links with other parts of the world. It will also increase diversity and choice in the higher education sector and make Australia more globally competitive in the higher education marketplace, something that we should all be aiming for.

The campus will offer United States degrees and it is likely to attract, again, a new market for students who wish to obtain United States credentials but do not wish to study there. The university may also retain local students who wish to seek a United States qualification who would otherwise have travelled to the United States to study. I understand that the campus will initially offer a Master of Science in information technology and a Master of Science in public policy and management. There is a very well-credentialled advisory board, which has been established to support the new university.

The South Australian government's submission noted that 'any delay in the passage of these bills will significantly delay plans to open the branch campus in time for the planned student intake in early 2006'. Naturally, the South Australian government, as I said, would be very pleased that this campus will attract more overseas students to South Australia. The committee also believes that the government, following the Greenwich University experience, will ensure that normal accreditation processes apply so as to exclude what could be called degree mills and diploma factories. Indeed, if we allowed such establishments to offer such courses, that would debase the Australian education market, which I think enjoys a very high reputation both here and overseas. So, by and

large, the committee is convinced that these bills should be passed as soon as possible.

Any local students attending the Adelaide campus of this institution will be eligible for FEE-HELP so that students without the financial capacity to pay up-front fees will have the opportunity to study at a private university and have the same entitlement as those who obtain a full fee paying place at Australian universities. As far as numbers go, it is expected that approximately 50 domestic students will attend CMU in its first year of operation and up to 200 domestic students by the year 2009. The Commonwealth has budgeted expenditure under FEE-HELP for around 12 students at this campus in 2006, 23 in the year 2007, 35 in the year 2008 and 46 in the year 2009.

I believe that these bills, when they do come into the Senate, represent a welcome diversification of the tertiary study arena in Australia and in South Australia in particular, and I would hope that the advent of this institution means that Australia can look forward to the widest possible range of tertiary education being offered to those students who wish to study at a university. More diversity and choice in the higher education sector will make it more internationally competitive and capable of generating income for the sector and for the country. So the committee ended its report commending the bills to the Senate and it recommends their passage without amendment.

Question agreed to.

COMMITTEES

Public Works Committee

Reports

Senator TROETH (Victoria) (4.30 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present the 18th report of 2005—*RAAF Base Amberley Redevelopment Stage 2, Queensland*, and the 19th report of 2005—*Relocation of RAAF College, RAAF Base East Sale, Victoria and RAAF Base Wagga, New South Wales*. I seek leave to move a motion in relation to the reports.

Leave granted.

Senator TROETH—I move:

That the Senate take note of the reports.

I seek leave to incorporate my tabling statement in *Hansard*.

RAAF Base Amberley Redevelopment Stage Two, Queensland

The first of the proposed works is intended to ensure the continued operation of RAAF Base Amberley over a thirty year planning horizon. The proposed works are estimated to cost $285.6 million and will:

- provide new working accommodation and infrastructure for the Multi Role Tanker Transport and 9th Force Support Battalion elements; and
- upgrade and refurbish the Base's engineering services and infrastructure.

An inspection and public hearing was conducted at RAAF Base Amberley on Friday, 9 September 2005.

The Committee observed that the relocation and consolidation of the Multi Role Tanker Transport and 9th Force Support Battalion units is a major project, and wished to know what alternative options Defence had considered. Defence assured the Committee that consideration had been given to a number of alternative sites, but RAAF Base Amberley had been identified as the optimum solution on both financial and operational grounds.

As project delivery methodology is a key issue in PWC Inquiries, the Committee sought assurance that this large and complex project would be completed on time and within budget. Defence informed the Committee that it had employed individual contractors and consultants for each of the three major project elements of the proposal and gave assurances that specific contracting and delivery methodologies would deliver the project as scheduled.

During the site inspection, the Committee noticed services and facilities in proximity to the Base that may be affected during the redevelopment works, such as the near-by Amberley State School. Defence explained that measures would be incorporated into the project to minimise local impact, such as the re-routing of construction traffic to avoid the school area. Evidence provided by witnesses such as the Ipswich Region Chamber of Commerce and Industry, and the Ipswich City Council, was supportive of the redevelopment and emphasised the positive relationship between the Base and the local community.

The Committee was pleased to see that the proposed development would incorporate ecologically sustainable development initiatives such as multiple metering points to allow accurate measurement and monitoring of building energy usage. Defence stated that all project elements would comply with the *Ecologically Sustainable Development Design Guide for Australian Government Buildings*, a copy of which was tabled at the public hearing.

With Base redevelopment works scheduled to begin later this year, pending parliamentary approval, the Committee asked whether this would have an effect on the Base's operational capability. Defence responded that works would be planned so as to maintain full F1-11 and Caribou capabilities throughout construction.

Having given detailed consideration to the proposal, the Committee recommends that the proposed RAAF Base Amberley Redevelopment Stage Two, Queensland, proceed at the estimated cost of $285.6 million.

Relocation of RAAF College; RAAF Base East Sale, Victoria and RAAF Base Wagga, New South Wales

The RAAF College Relocation Project, which forms the subject of the Committee's nineteenth report of 2005, comprises the relocation of:

- RAAF College Headquarters from Point Cook, Victoria to RAAF Base Wagga;
- the Officer Training School from Point Cook to RAAF Base East Sale; and
- the No. 1 Recruit Training Unit from RAAF Base Edinburgh, South Australia, to RAAF Base Wagga.

The proposed works are estimated to cost $133.4 million, with at least $60 million to be expended at each site. The works will:

- replace aged facilities and infrastructure;
- ensure compliance with current occupational health and safety standards;
- produce cost efficiencies;
- address deficiencies associated with overcrowding and the dysfunctional layout of existing facilities.

Public hearings and inspections were conducted in both Sale and Wagga Wagga on 16 September 2005.

During its investigations, the Committee noted that some RAAF College elements would continue to operate at RAAF Base Richmond, New South Wales and RAAF Base Amberley, Queensland. Given the expected financial and operational benefits of partial collocation, the Committee was interested to know whether Defence had considered the consolidation of all RAAF College elements at a single site. Defence explained that this option had been rejected, partially due to studies conducted in New Zealand and the United Kingdom, which had recommended against the collocation of recruit and officer training. Further, Defence expects synergies and opportunities to arise from the development of discrete training centres of excellence at established, operational air-bases.

In respect of environmental impacts, members were pleased to learn that the works would be developed in accordance with the *Ecologically Sustainable Development Design Guide for Australian Government Buildings* and Section J of the Building Code of Australia, as appropriate. Defence also demonstrated that measures would be taken to protect native flora and birdlife at each site.

Defence submitted that the proposed relocation project may result in the demolition of redundant facilities at RAAF Base Edinburgh, pending the results of a comprehensive heritage study and asbestos survey. The Committee wished to know

the number and condition of the buildings to be demolished; the amount of hazardous materials to be removed from each base; and the impact that this may have upon the project budget. Defence reported that both RAAF Bases Wagga and Sale have comprehensive asbestos registers, and would be asbestos-free by 2007. Defence was unable to provide the number of buildings to be demolished at RAAF Base Edinburgh, but assured the Committee that the allocated demolition budget would be sufficient, as it had been calculated on the basis of full demolition of all surplus facilities.

The Committee recommends that Defence supply it with a comprehensive list of all buildings to be demolished at RAAF Base Edinburgh, and associated costs, as soon as the information becomes available.

The inquiry generated a considerable number of public submissions, all of which were highly supportive of the proposed works. The Committee was pleased to learn of the economic and social benefits that are expected to flow on to the communities of Sale and Wagga Wagga as a result of this project.

The Committee has thoroughly examined this proposal, and recommends that the RAAF College relocation project proceed at the estimated cost of $133.4 million.

Mr President, I would like to thank to my Committee colleagues and all who helped with these inquiries, and I commend the Reports to the Senate.

Question agreed to.

Treaties Committee

Report

Senator WORTLEY (South Australia) (4.30 pm)—On behalf of the Joint Standing Committee on Treaties, I present the 68th report of the committee entitled *Treaties tabled on 7 December 2004 and 9 August 2005*. I seek leave to move a motion in relation to the report.

Leave granted.

Senator WORTLEY—I move:

That the Senate take note of the report.

Report 68 contains the findings and recommendations of the committee's review of three treaty actions tabled in parliament on 7 December 2004 and 9 August 2005. The proposed treaty actions on which I will comment relate to: plant genetic resources for food and agriculture, enabling Australia to attend the East Asia Summit, and the transfer to sole Australian ownership of the Anglo-Australian Telescope.

The International Treaty on Plant Genetic Resources for Food and Agriculture will provide a binding international framework for the conservation, sustainable use and exchange of plant genetic resources for food and agriculture. This framework is designed to promote global food security and ensure the fair and equitable sharing of benefits arising from plant genetic resources for food and agriculture.

The plant genetic resources treaty was first tabled in December 2002 and reviewed by the treaties committee of the 40th Parliament until inquiry lapsed on the prorogation of the parliament. The committee received evidence from a number of industry groups, initially presenting reservations about the treaty. Industry reservations related to the ratification and implementation of the treaty, namely, the funding, legal implications and scope of the treaty. The committee also received evidence from the Department of Fisheries, Forestry, and Agriculture, AFFA, that industry concerns raised with the committee could best be addressed by Australia at the treaty's governing body meeting, the first of which is due to take place by June 2006. AFFA advised the committee that for Australia to partake in the governing body meeting, it would have to ratify the treaty. AFFA in turn addressed the concerns presented by industry groups. At the time of review, only one industry group maintained its reservations about ratification of the treaty. These reservations are included in the

committee's report. Having taken into consideration the evidence received, on balance the committee believes that the treaty will ensure that Australia continues to have access to overseas sources of plant genetic resources for food and agriculture.

The committee also reviewed the Treaty on Amity and Cooperation in Southeast Asia, which aims to promote peace, amity and cooperation between parties. The treaty on amity and cooperation is one of the foundation documents of the Association of Southeast Asian Nations, or ASEAN, and includes a procedure for dispute settlement between states parties.

In the short term, acceding to the treaty allows Australia to attend the East Asia Summit. The summit is significant because it is expected to provide a new forum for regional dialogue, with the potential to make substantial progress on regional economic issues and strategic cooperation. This includes areas such as terrorism, regional pandemics and other issues of regional significance.

During the course of its review, the Australian government informed the committee of its decision to accede to the treaty in order to prepare for Australia's attendance at the East Asia Summit, which is taking place in December of this year.

The third treaty examined by the committee will amend the existing agreement relating to the Anglo-Australian Telescope to provide for the UK's commitment to the telescope to continue until Australia obtains sole ownership on 1 July 2010.

Collaboration with the UK on the Anglo-Australian Telescope has been a key element in Australia's globally competitive performance in astronomy. In 2001, however, the UK advised Australia that it had other astronomy priorities and so intended to end its involvement with the Anglo-Australian Telescope. The committee was informed that the UK would be directing some of its astronomy assigned funding towards facilities such as the European Southern Observatory and Gemini Observatories, both of which operate next generation eight-metre optical telescopes. Instead of terminating the agreement with Australia, the UK agreed to amend the existing agreement to continue the UK's commitment to the Anglo-Australian Telescope, but at a reduced level until the termination of both agreements. The new termination and the telescope handover arrangements will ensure long-term access for Australia to a valuable scientific instrument in the lead-up to Australia's acquisition of the Anglo-Australian Telescope.

In conclusion, the committee believes it is in Australia's interest for the treaties considered in Report 68 to be ratified.

Question agreed to.

DELEGATION REPORTS

Parliamentary Delegation to China and Mongolia

Senator TROETH (Victoria) (4.35 pm)—by leave—I present the report of the Australian parliamentary delegation to China and Mongolia, which took place from 7 to 19 April 2005. I seek leave to move a motion to take note of the document.

Leave granted.

Senator TROETH—I move:

That the Senate take note of the document.

I was extremely honoured to be asked, at the very last minute, to join the Speaker, Mr David Hawker, on the delegation that he led to China and Mongolia. I had not visited either of these countries before, and I deem it a great privilege to have represented the Australian parliament in visiting both those countries. In China, which we visited first, we visited four cities: Shanghai, Beijing, Xi'an and Guilin. I must say that, as a first-time visitor to China, I was overwhelmed by

what is obviously a tremendous amount of development in harnessing the population and the resources of such a huge country. Certainly, we were made aware of challenges which still face China, and the commitment of the Chinese government in facing those challenges made a very strong impression on delegation members.

China has become a vigorous economy, with high levels of foreign investment and strong growth. I believe that continuing reforms, including reform of the financial sector and further development of infrastructure and energy capacity, will consolidate gains and further strengthen the economy. We were certainly made to realise on every day of the visit the way in which China is pressing ahead with what it needs to do and making use of its tremendous manpower to make those reforms come true.

We had a large range of meetings with a range of local and national officials, and we explored a number of very important issues in discussions with members of the National People's Congress and national and local officials, as I said. Some of the key issues which were raised included China's rapid growth in recent years and the challenges and opportunities associated with that growth and also the proposed free trade agreement between Australia and China. Given that China is now the world's sixth largest economy and among the fastest growing, with an average growth in GDP of above eight per cent over the last decade, this is obviously a country with which Australia would want to be associated in any trade negotiations.

The week after the delegation visited, the Prime Minister was due to visit. We felt sure that many of the issues that we did raise would be carried on by the Prime Minister at that level with meetings with Chinese officials. At the same time, it would be true to say that, as we moved around China, we noticed the increasing disparity between the amazing economic development and associated prosperity on one side but also pollution problems facing the environment, human rights issues and, of course, the ever thorny issue of Taiwan.

We were able to discuss these in a relatively unrestricted mode with Chinese officials and we also gained some interesting insights from Australian government and business representatives. That was extremely valuable, particularly with regard to the booming economy of Shanghai, which many Australian businesses seem to see as an open door through which they will immediately make a great fortune. Indeed, both the consul in Shanghai, Mr Sam Gerovich, and some of the Australian officials that we met pointed out that this could well be an illusion and that great care and skill are needed to negotiate the business atmosphere in China rather than just jumping in at the deep end.

The energy supply constraints certainly put pressure on the sustainability of China's growth but, from our point of view as a nation, they provide a significant export opportunity for Australia as a reliable energy supplier.

The hospitality of the National People's Congress could not be faulted. We were extremely well looked after at every turn. Every effort was made to provide information and briefings as well as tours of the places that we visited. As a tourist, I was extremely grateful for the opportunity to view the terracotta warriors, which must be one of the most amazing sights on this earth, as well as parts of the Great Wall of China, one of the greatest engineering feats ever executed by man. The scale of life in China is so much larger than anything which we can see in Australia that, for me, it was an extremely instructive visit.

We then moved on for a four-day visit to Mongolia. Again, we were very appreciative of the warmth and the welcome given to us and we want to thank everyone who contributed to that. Australia has a somewhat special relationship with Mongolia in that many of the present members of the Mongolian parliament have been educated in Australia. They obviously retain very fond memories of having experienced their tertiary education in Australia. They would like that opportunity for many more of their fellow countrymen and urged us to continue our support of the Australian development and distance education scholarships that we presently provide under our aid program. The graduates from Australia who have returned to live and work in Mongolia, their native country, have formed a support group in the Mongolian parliament known as 'mozzies'. Although that is quite a frivolous term, the group nevertheless provides a very good support base. The warmth of their welcome and the way in which they were overjoyed to see Australians and talk to us about the tertiary institutions that they had attended and their wish for continuing support from Australia was something to see. I think that capacity building of that kind is the best aid Australia could give. The current scheme has been running since 1998 and has supported 54 students. A further 29 students were supported from 1995 to 1997 under previous schemes. Eight Australian universities are currently involved, and 26 Mongolian students are undertaking courses that include public administration, commerce, law, business administration, education, environmental management and development studies.

Mongolia reflected the same economic atmosphere as China in that there are wide disparities in income between regions. The southern part of the country, which is slightly smaller than Queensland and where animal herding is the dominant economic activity and water resources are relatively scarce, has developed much more slowly than the north, which has the major industrial complexes and abundant water resources. Many rural communities lack electricity, water and sewerage. There is certainly very poor road and rail infrastructure. Different rail gauges used by China and Mongolia exacerbate transport problems, particularly when you consider that Mongolia is a landlocked country and has to depend on those particular links to get its major produce out.

The intensity of the climate was also something that was severely brought home to us. We were there in April and on at least one of those days it was minus two or three degrees and snowing, even though it was this country's spring. I was told that all outdoor work in the mining communities in Mongolia stops when the temperature drops to minus 20. We were told that outside temperatures in the winter sometimes drop to minus 40 degrees. Indeed, one of the members of parliament to whom we spoke said to me, 'The winter is our enemy and we prepare for it like a war.'

There have been drastic stock losses in Mongolia in recent years, and in this regard Australia has contributed further money to an aid program. I congratulate the Mongolian government on its efforts to bring the country rapidly towards a 21st century market economy. It has always been under the domination of either Russia or China and that domination only ended in 1990. It is doing a tremendous job. It now has a democratic parliament. Even though there are huge challenges facing it, the enthusiasm and industry with which it faces those challenges gave us great hope for that country.

I would like to thank Richard Selth, the departmental officer from the Australian parliament who accompanied us on this trip and

wrote our report. Indeed, it was a very successful delegation.

Senator BOB BROWN (Tasmania) (4.46 pm)—I was waiting to hear a little more about the human rights issues that the delegation raised while in China and Mongolia. Indeed, regarding the matter, it would have been good to have heard that the Mongolian authorities had been pressed to come good on the invitation to His Holiness the Dalai Lama to visit that country. This is what the people of Mongolia want, but their large communist neighbour is very desperate to see that thwarted—of course, I refer to China. Could Senator Troeth or any of the other delegate members tell us about the 240,000 people in forced labour and re-education camps? Did the committee ask the people representing the communist regime in Beijing what would happen to Prime Minister Howard were he to advocate and send people to set up a Liberal Party or somebody to establish a Labor Party or a Greens party in China? As the delegation to a person knows, anybody exercising such a freedom, which we take for granted in this country, would be arrested and jailed—and possibly be in far more difficulty than that.

Religious freedom in China was not mentioned. We know that hundreds of people of the Falun Gong, Catholic and other faiths in China have been tortured and have died under the current regime—and no doubt with the authority of some of those people that the delegation so recently supped and had tea with in China. The Greens and I believe in communications with other countries, but we also believe in looking people in the eye and calling a spade a spade. Once again, we have heard about a feelgood trip to China. No doubt it was made very comfortable by the Speaker of the House and the other several members, because they never traversed across the line to stand up for those people who are incarcerated simply because they wanted to practise freedom of speech, their right to a political or a religious belief or their right simply to criticise the country.

I wonder if any of the delegates from Australia asked about the 23,000 police currently in the service of the government of the People's Republic of China repressing anybody who, through the internet, wants to explore all those things that are available to us in the West—maybe even to find out what people are saying about Tibet or Taiwan and independence; maybe even just to ask about workers' rights; or maybe even to find a report on some of the large rural protests that occur based on poverty, inequity and unfairness that have seen thousands of people imprisoned and no doubt many sent to labour and re-education camp. People in police states rarely have the gumption to stand up for human rights and dignities, but those who have have been bashed, sometimes to death, as a result of that.

My Greens colleagues and I of course want to hear about China and want to know how we can better foster relationships and, indeed, trade. But it is not acceptable to have that if it comes at the price of acquiescence on not standing up for human rights and dignities that are universally valued, accepted and signed up to, including by the Chinese government and by the government of this country.

Senator MILNE (Tasmania) (4.50 pm)—I wish to concur with the remarks of my colleague Senator Brown in relation to this matter, and I would liked to have heard a great deal more in relation to what the delegation had to say about not only the human rights abuses in China but in particular the environment. What we do know is that at least 10,000 people, probably more, every year die in coalmining accidents alone. Just last week, rescue workers went into a coalmine in which the poisonous gases were such that

they were also killed. We have a situation in Shanghai and Beijing where the watertable is falling at a rapid rate every year, and it is to the point where those cities are completely unsustainable in relation to the use of freshwater. Beijing now has the worst air pollution in the world. Some 400,000 people face early death as a result of air pollution. One wonders how they are going to stage the Olympic Games in 2008, if they cannot bring the air pollution under control. It is hard to see how athletes will be able to perform in those circumstances. There are valleys in China where there is such intense air pollution as a result of rapid economic development, mining, smelting and industrial progress that, instead of dealing with industrial emissions, they have actually shaved the tops off mountains to try to relieve the pressure of the emissions trapped in those valleys because of atmospheric inversion layers.

There are mega human rights issues in China when it comes to occupational health and safety and the cost of rapid economic development. It is all very well for Australia to go over there and talk up the export of coal and uranium to China. We ought to also recognise the consequences of rapid industrial growth in a country which is not equipped to deal with the environmental consequences. There are a lot of things Australia can do in terms of environmental management technology and capacity building to assist in relation to environmental degradation in China.

I am rather concerned about this parliament sending a delegation to China and Mongolia which is happy to do the tourist things and look at the World Heritage sites. While I do not begrudge them that—the World Heritage treaty is a fantastic treaty, and it is great that they visited the Great Wall of China and the other sites mentioned by Senator Troeth—I do feel that it would have been more appropriate if the delegation had also addressed issues of human rights, occupational health and safety and environmental management and technology in China.

Australia is going to be seen in a poor light globally if we continue to talk up trade with China but look the other way on human rights. A whole generation of us recall those tanks going into Tiananmen Square and can see in our mind's eye what happened to young people who were protesting for democracy in China. Setting out to dinner on a parliamentary delegation and going out and having a nice look at the Great Wall of China while forgetting those young people who died on the streets as a result of their demonstrations for democracy seems to me to be a sell-out of the aspirations of those young people who were fighting for democracy in China.

I am one of the people who objected to the Olympic Games being held in China, because of the ongoing human rights abuses and the suppression of the democracy movement in China. And it is grossly hypocritical to talk about bringing democracy to Iraq without talking about bringing democracy to China. It seems to me that the coalition of the willing was ready to rush into Iraq on false pretences but is not prepared to speak the truth about China. It is not prepared to talk about China's nuclear weapons program and the consequences of selling uranium to China. Everyone in this parliament would have to acknowledge that the likelihood is that uranium will leak to the weapons program or displace uranium which is for the production of nuclear power and have that uranium go to the weapons program. Either way, we have not seen the end of human rights abuses, environmental abuses, and premature death because of poisoning from industrial pollution.

In my view, we are going to see pressure for territorial expansion from China because

of the huge weight of population and the consequent environmental scarcity. So many people in such an area will not be able to sustain themselves in terms of land, food and fresh water. China is a huge issue. The emergence of China and India as global economic powerhouses is the issue for this century. I do not think it is good enough for an Australian parliamentary delegation to go to China and Mongolia without confronting the lack of democracy in China.

Question agreed to.

LAW AND JUSTICE LEGISLATION AMENDMENT (VIDEO LINK EVIDENCE AND OTHER MEASURES) BILL 2005

First Reading

Bill received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.56 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.57 pm)—I table a correction to the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill demonstrates the Government's ongoing commitment to combating terrorism.

We have worked hard to ensure that there is a strong legislative framework in place, with tough laws that target terrorist activity.

We are also making sure that our terrorism laws are enforceable.

It is becoming clear that, to successfully prosecute a terrorist, it will often be necessary to rely on evidence from witnesses who are living overseas. In some cases a witness may be unable to travel to Australia to give evidence. For example, the witness may be incarcerated overseas.

This bill will ensure that, in terrorism cases, so long as the defendant's right to a fair trial is not infringed, important evidence from overseas witnesses can be put before the court using video link technology.

The new video link provisions will apply to the prosecution of terrorism and related offences, and to proceeds of crime proceedings relating to a terrorism offence.

The provisions will require a court to allow a prosecution witness to give evidence by video link unless to do so would have a substantial adverse effect on the right the defendant to receive a fair hearing.

They will also allow a defence witness to give evidence by video link unless to do so would be inconsistent with the interests of justice.

The new video link evidence provisions strike a balance between facilitating the admission of video link evidence whilst ensuring that fundamental safeguards are maintained.

The court will be able to require that an independent observer is present at the point where the witness is giving the evidence by video link. This person will be able to report to the court on the physical circumstances under which the evidence is given. This is a safeguard that will ensure that the court is aware of everything that is occurring at the point where the witness is giving the evidence.

Another important feature of the new video link rules is that, if a court refuses to allow a witness to give evidence by video link, that decision will be capable of being appealed.

The bill will also make corresponding changes to the Foreign Evidence Act 1994 to facilitate the

use of foreign material, such as video tapes and transcripts of examinations, as evidence in terrorism cases. This will be important in cases where it is not possible to use video link technology, perhaps because of the laws of another country.

These changes do not affect the rules of evidence, and the normal protections which apply under those rules will continue to apply to terrorism proceedings.

Although the major focus of the bill is on video link evidence, it also includes a number of other important legislative amendments.

The bill will amend section 4AAA of the Crimes Act 1914 to deal with a constitutional issue regarding the conferral of non-judicial powers and functions on Judges of the Federal Court of Australia and Federal Magistrates.

The bill will also amend the Crimes Act 1914 to facilitate the sharing of DNA profiles between Australian law enforcement agencies over a national DNA database system.

The bill will also expand the definition of "tape recording" in the Crimes Act 1914 to enable new technologies, such as digital audio recording technology, to be used by federal law enforcement agencies to record interviews.

The bill will also amend the Surveillance Devices Act 2004 so that, when a surveillance device has been installed under an authorisation, a warrant can be obtained to allow that surveillance device to be retrieved.

The bill also amends the Proceeds of Crime Act 2002 to ensure that third parties (such as the Administrative Appeals Tribunal), who carry out examinations for the Commonwealth, can be payed out of the Confiscated Assets Account. It will also address a technical problem which has cast doubt over the validity of a number of examinations that were conducted under the Proceeds of Crime Act 2002 after changes were made to the regulations authorising members of the Administrative Appeals Tribunal to conduct examinations.

I commend the bill.

Debate (on motion by **Senator Colbeck**) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT BILL 2005

ENERGY EFFICIENCY OPPORTUNITIES BILL 2005

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 4) BILL 2005

1998 BUDGET MEASURES LEGISLATION AMENDMENT (SOCIAL SECURITY AND VETERANS' ENTITLEMENTS) BILL 1998

THERAPEUTIC GOODS AMENDMENT BILL (No. 2) 2005

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.59 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 COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.59 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—

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT BILL 2005

This bill is fundamentally important to the future of our international education export industry. It highlights the value the Australian Government places on protecting our world-class quality assurance and consumer protection arrangements, and our commitment to responding to emerging challenges in a globally competitive environment.

The *Education Services for Overseas Students Act 2000* (ESOS Act) safeguards the reputation of our onshore industry to ensure that international students receive the education and training for which they have paid. It establishes key elements for the national regulation of international education and training services. It aims to protect the reputation of Australia's education and training export industry and strengthen public confidence in the student visa program.

These protections have brought world-wide recognition of our quality and innovation in education and training, and led to the development of an export sector which holds a pivotal role in Australia's future.

The bill before the Senate is a clear expression of the Australian Government's ongoing commitment to investing in Australia's international education engagement.

The amendments contained in this bill will enable high quality overseas education providers to establish institutions in Australia and offer education and training services to overseas students.

Specifically, as a consequence of amendments to the *Higher Education Support Act 2003*, a foreign owned university—in this case Carnegie Mellon University—will be able to operate as a registered provider of education services to overseas students in Australia.

The amendment proposed by this bill reflects the Australian Government's commitment to giving students greater choice in where they may choose to pursue their studies. That we are able to attract such an application by a prestigious American university is a recognition not only that the Australian Government's higher education reforms are working, but of international confidence in our own quality frameworks.

The other amendment proposed to the ESOS Act reinforces the capacity for registered providers to charge a tuition fee to international students which covers the costs incurred by those providers in meeting their obligations under the ESOS Act and its national code. The amendment recognises the ESOS Act's aim of strengthening public confidence in the student visa program by ensuring that only genuine students come to Australia. The ESOS Act seeks to ensure international students are appropriately supported in their choice to study in Australia and it requires registered providers to meet a range of obligations to do this.

I commend the bill to the Senate.

ENERGY EFFICIENCY OPPORTUNITIES BILL 2005

The purpose of the Energy Efficiency Opportunities Bill 2005 is to establish the mandatory energy efficiency opportunities assessments announced in the Government's energy white paper, Securing Australia's Energy Future, in June 2004.

The bill establishes the Energy Efficiency Opportunities programme, outlines the broad obligations imposed on large energy using businesses, and allows for regulation making to provide detailed requirements for assessment, reporting and verification, and other elements of the programme.

Energy efficiency opportunities will require large energy using businesses to assess the potential to improve their energy efficiency and report publicly on the outcomes.

The energy white paper identified the improvement of Australia's energy efficiency performance as a key part of the Government's energy policy, in order to achieve greater prosperity, sustainability and energy security.

EEO takes its place alongside a range of measures to pursue the benefits of using energy more efficiently—energy market reform, solar cities, improved appliance and building standards and targets for reduced energy use in government agencies.

The broad range of energy efficiency measures announced in the energy white paper has the po-

tential to increase economic welfare and lower the rate of growth in greenhouse emissions. Improved energy efficiency reduces overall demand for energy and will also delay the need for new energy generation equipment. Energy efficiency opportunities could deliver as much as $975 million even if only half of them were taken up.

The EEO measure is directed at increasing the uptake of commercially attractive energy efficiency opportunities in end-use energy in the industrial, resources, transport and commercial sectors. It will be targeted at Australia's largest energy users—those businesses using more than half a petajoule of energy per year. Half a petajoules would be regarded as a large amount, being equal to the electricity needs of 10,000 Australian households, and cost over $5 million.

The energy white paper estimated that up to 250 companies each use more than half a petajoule of energy per year in Australia. Together these large energy using companies account for 60% of total business energy use in Australian. Improvements in energy use in the business sector will have significant potential to improve Australia's energy and environmental performance, as well as that of individual firms.

Australia's energy efficiency is not improving as quickly as other countries. The energy white paper recognised that lagging energy efficiency in Australia could be for a number of reasons. These include information failures and organisational barriers, which work against businesses being able to properly identify, assess and implement what would otherwise be privately cost-effective energy efficiency opportunities.

To facilitate the uptake of these opportunities, the government announced in the white paper that it will require large energy users to undertake rigorous and comprehensive assessments of energy efficiency opportunities every five years starting in 2006, but that commercial judgements by firms will determine whether investments are pursued.

The white paper announced that businesses would publicly report the outcomes of their assessments. This approach ensures that all large energy users will be able to demonstrate to the community that they are efficiently managing their energy, without the government becoming involved in commercial decisions. Public reporting will be designed to provide the public with useful information while protecting firm's reasonable commercial interests.

From 2006, if a business uses over 0.5 petajoules in a year within its corporate group, it will be required to register under the programme. Once registered, it will have to prepare an assessment plan that spells out how it is going to assess the various parts of its business over the 5 year programme cycle.

In line with its plan, the business will have to undertake assessments of the energy use of various operations and to identify cost effective opportunities to more efficiently use energy. The business may wish to plan to do this in stages, to assess different operations in different years instead of assessing all parts of its operations in a single year. For example, a corporation may wish to focus on its coal mining operations in one year, and on transport or commercial retailing parts of its business in other years.

The business will then be required to publicly report on the results of these assessments, and to include its responses to the opportunities identified in the assessments. The firm will be free to make decisions on the opportunities identified as part of its normal business decision making processes.

The Government is working closely with industry and state and territory agencies to maximise energy savings for minimal additional regulatory burden. Some state and territory governments already require businesses to monitor energy. Some businesses already have systematic energy management in place, undertake energy assessments and report on energy management as part of sustainability reporting.

We will ensure that this measure is flexible enough to enable activities that already comply with the EEO to be recognised and minimise the burden placed on businesses.

Stakeholders are involved in intensive and continuing consultations to develop the program. This will ensure that businesses are fully informed about their obligations, and are confident that the program is practical and designed to fit their business processes.

The Government is working with industry and other expertise to build on the best of what works for business in identifying significant energy savings. The Government will continue to work closely with industry leaders to develop guidelines, materials, training and support to undertake effective assessments. Recognising and learning from leading companies and their innovative approaches to identifying and implementing energy savings will be an important strategy for achieving a step change in Australian industries energy efficiency performance.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 4) BILL 2005

Before I introduce the specific measures in this bill I'd like to recap some of our achievements in higher education reform to date in Australia.

The Government's continuing commitment to the higher education sector is to provide students with better facilities and more course options across a range of campuses. The Australian Government's priorities for higher education are to ensure that universities continue to diversify, that they are a part of an internationally competitive higher education system and that our best universities continue to remain in the top tier of world rankings.

Laying the foundation for this commitment is an increase in public investment in higher education of $11 billion over 10 years from 2005 to 2014. As Honourable senators would be aware, in this year's 2005-06 Budget, Australia's higher education sector will benefit from a record $7.8 billion investment from the Australian Government.

The bill now before the Senate is a clear expression of our commitment to students to provide real choice in their higher education studies.

The bill will amend the Higher Education Support Act 2003 to enable high quality foreign universities to establish institutions in Australia and offer education and training services to international and domestic students.

The first of these universities in the Carnegie Mellon University which proposes to establish a branch in Adelaide. This proposal has received the resounding support of the Premier of South Australia, Mike Rann, and the Minister for Foreign Affairs.

Carnegie Mellon is a high quality education and research institution which ranks 38 out of 200 on the Times Higher Education Supplement ranking of the top world universities, and 54 out of 500 on the Jiao Tong University's ranking of the top world universities. In 2006 Carnegie Mellon was ranked first by the US News & World Report magazine survey of graduate schools in information and technology management.

The Australian branch of Carnegie Mellon University is expected to attract more students to Adelaide from the Asia-Pacific region and contribute to their plan to transform Adelaide into a global university city of excellence. It will also further internationalise the South Australian economy bringing further revenue and prestige to that State.

The introduction into the sector of such a highly regarding international university will increase diversity and choice within the Australian higher education sector, make Australia more globally competitive and part of the global higher education market place and attract students from around the world who are seeking a high quality education experience.

Carnegie Mellon will welcome its first intake of students in March 2006. The students will be a mixture of both Australian and international students, who will be offered postgraduate courses in public policy/management and information technology. It is expected that the University will attract around 50 domestic students in the first year and up to 200 domestic students by 2009.

The amendments contained in the bill will extend limited Australian Government assistance to the Australian branch of the Carnegie Mellon University by enabling the University's eligible Australian students to obtain assistance such as FEE-HELP.

The application by Carnegie Mellon University to operate in Australia as a foreign owned and operated university, is the first such application to be received under Protocol 2, of the National Protocols for Higher Education Approval Processes which have been in existence since 2000.

On 4 July 2005, my South Australian ministerial colleague made a Determination under the South Australian Training and Skills Development Act 2003 recognising Carnegie Mellon University as a university for the purposes of that Act.

That legislative action made it possible for me, as the responsible Australian Government Minister, to proceed with this bill so that Carnegie Mellon University can begin operations next year.

This bill also contains a number of amendments to the Higher Education Support Act 2003 to strengthen and better reflect the policy intent of the tuition assurance requirements which all non-Table A providers are required to have.

Tuition assurance provides comprehensive and robust consumer protection for students in the event that a provider ceases to offer units in which they were enrolled. The amendments will improve the current protection mechanisms which allow students to choose either a 'course assurance' option of switching to replacement units in a similar course with another provider or a 'student contribution/tuition fee repayment' option of obtaining their money back for uncompleted units.

In addition, the changes will ensure that where students choose the option of student contribution/tuition fee repayment, their HELP debt will be remitted and their student learning entitlement and FEE-HELP balances will be re-credited. Where students choose the course assurance option, they will not incur any additional cost for those units undertaken with the second provider that replace units uncompleted with the first provider.

In the case of replacement units, the changes will protect students who are forced to withdraw because of 'special circumstances' and institutions which provide the replacement units without any fee. Students will be able to get a refund without any impost on the second provider and the Higher Education Provider Guidelines will set out the basis for this refund.

I commend the bill to the Senate.

NATIONAL HEALTH AMENDMENT (BUDGET MEASURES—PHARMACEUTICAL BENEFITS SAFETY NET) BILL 2005

The aim of the Pharmaceutical Benefits Scheme (PBS) is to ensure that Australians have affordable access to high quality necessary medicines in the community. It does this by subsidising the cost of PBS medicines and limiting the amount that people pay for prescriptions at the point of sale. In addition, the PBS Safety Net protects individuals and families who need a large number of medicines from high cumulative costs. The PBS serves Australians well and is justifiably regarded as one of the best systems of its kind in the world.

Expenditure on the PBS and the Repatriation Pharmaceutical Benefits Scheme (RPBS) for veterans has grown at an average rate of 12 per cent per annum for the last ten years. The cost to Australia of the PBS and the RPBS was around $6.5 billion in 2004-05.

This bill implements Government Budget measures designed to support the affordability of the PBS into the future. The bill increases the PBS Safety Net threshold over the next four years and introduces new Safety Net arrangements for early supply of some PBS medicines.

The measures recognise that the PBS is important to the health of Australians. The sensible and practical steps in this bill demonstrate determination to preserve this valued part of the Medicare system for our children, and future generations. We have a responsibility to keep watch on the cost of the PBS for the community as a whole, and the costs for the individuals and families at the time of purchasing PBS medicines.

The measures also recognise that everyone who obtains PBS medicines plays a role by accessing and using medicines wisely.

Increase in PBS Safety Net threshold

The proposed changes will increase the amount of the PBS Safety Net threshold. The threshold for general patients will increase by an amount equal to two general patient co-payments, and the threshold for concessionals by two concessional co-payments, each year from 2006 to 2009.

This means that the general Safety Net threshold, currently $874.90, will increase progressively by amounts equal to two indexed co-payments each year for four years, resulting in a Safety Net threshold in 2009 which includes 8 additional co-payments.

The concessional Safety Net threshold, which is currently $239.20 and equal to 52 prescription co-payments, will increase by two co-payments each year to 54 prescriptions in 2006; 56 in 2007; 58 in 2008; and 60 in 2009.

These increases will come into effect on 1 January each year and will be in addition to the usual annual indexation based on CPI.

These incremental changes will result in a gradual adjustment of the thresholds over several years and will help to rebalance the way costs for the PBS as a taxpayer-funded scheme are shared between the community as a whole and individuals using medicines.

The reduction in patient co-payments after reaching the Safety Net thresholds will remain the same. For concessional patients, PBS medicines will continue to be supplied free of charge after the concessional threshold is reached. For general patients, the co-payment will reduce to the concessional amount once the threshold is reached. The Safety Net co-payment rates apply for the remainder of the calendar year, except for an early resupply of a specified medicine which is not eligible for Safety Net entitlements.

New Safety Net arrangements for early supply of some PBS medicines

The amendments also introduce new Safety Net arrangements for some PBS medicines for long term therapy when a repeat supply occurs within 20 days of a previous supply of the same medicine, for the same person.

The existing PBS 'immediate supply' provisions allow for subsidised resupply of some medicines to occur within 20 days if the medicine has been destroyed, lost, stolen, or is required without delay for treatment. If this were to occur for a medicine subject to the new Safety Net 20 day rule, the co-payment will not count towards the Safety Net threshold, or, if the Safety Net threshold has been reached, the usual co-payment amount, not the reduced Safety Net co-payment amount, will apply.

The medicines which will fall under these new provisions will be subject to expert advice from the Pharmaceutical Benefits Advisory Committee to ensure that the new rules apply only to those medicines where it is appropriate.

The measure supports the Quality Use of PBS Medicines by discouraging patients from obtaining additional or early supplies in excess of needs. It will help to reduce wastage and reduce the risk that excess medicines in the community can pose to patients and others.

The proposal encourages responsible use of PBS entitlements and Safety Net arrangements. It removes the incentive to obtain extra PBS medicines for the purpose of accessing Safety Net advantages.

The Safety Net 20 day rule will mean that patients will achieve the best value for PBS co-payments by complying with standard PBS entitlements, not by attempting to maximise Safety Net benefits by obtaining excess supplies.

The Safety Net 20 day rule is a sensible way to reduce inappropriate demand. The new rule will only apply for PBS medicines where, on expert advice, it is appropriate. It is reasonable that if an additional or early supply of one of these medicines is required, it should be eligible for PBS subsidy but not be eligible for Safety Net benefits.

This approach will discourage unnecessary supply of PBS medicines and reduce wastage costs.

Importantly, this proposal continues to allow for access to additional supplies of PBS medicines under the 'immediate supply' provisions, when that is required. It is fair for the individual, the PBS, and the community as a whole.

The Safety Net 20 day rule will not apply to PBS medicines supplied on prescriptions relating to treatment at a hospital or day hospital facility. This means that PBS medicines prescribed in private hospitals; discharge medicines prescribed at participating PBS-Reform hospitals; and outpatient medications supplied at public hospitals will not be affected.

This bill delivers two measures which support responsible and affordable access to the PBS.

The Safety Net will continue to play an important role in protecting people from high out-of-pocket costs for PBS medicines.

The PBS and all who use it will benefit from changes which reflect sound management and a commitment to fair affordable access.

THERAPEUTIC GOODS AMENDMENT BILL (No. 2) 2005

The Therapeutic Goods Amendment Bill (No.2) 2005 being introduced today amends the Therapeutic Goods Act 1989 (the Act) to remove the need to undertake unnecessary patent searches for certain applicants seeking to list or register a therapeutic good on the Australian register of Therapeutic Goods.

The amendments seek to rectify an unintended consequence of previous amendments which came into force from 1 January 2005 to introduce into the marketing approval process certification requirements in relation to patents.

The current patent certification provisions under the Act require applicants seeking to include therapeutic goods in the Register to certify either;

that they will not enter the market in a manner that would infringe a patent on the product, or

if they intend to enter the market before the expiry of any applicable patent on that product, that they have notified the patent owner of their application.

This bill responds to concerns raised by representatives from the complementary medicines industry, over-the-counter medicines sector and the Australian biotech industry that the current patent certification requirements are onerous and are broader than they need to be.

This bill narrows the circumstances in which the patent certificate is required by applicants seeking to have therapeutic goods included in the Register.

This bill amends the Act so that patent certification will only be required by those applicants

who are required to submit safety or efficacy data for the purposes of applying for the inclusion of the goods in the Register, and

who rely on safety or efficacy data previously submitted to the Therapeutic Goods Administration (TGA) by another person in relation to an approved product, as part of the process for applying for the approval of that product.

Under the bill, all applicants seeking to list or register therapeutic goods (except therapeutic and medical devices) in the Register will either notify the Secretary that the patent certification requirements do not apply, or they will provide a patent certificate.

This amendment will remove the unnecessary requirement for the owners of those products for which the patent certification requirement under the Act is not relevant.

The practical effect of this amendment will mean that the majority of complementary medicines and over-the-counter products and originator medicines will no longer be subject to certification requirements.

Over ninety percent of over-the-counter medicines are registered medicines. Of these registered over-the-counter medicines, around eighty percent are formulated from well documented active ingredients where adequate information on the use and formulation are contained in standard reference texts. In these cases, the sponsors are not required to submit safety or efficacy data on the product. They would therefore not be required to certify in relation to patents.

For the other twenty percent of registered over-the-counter medicines, sponsors are required to submit both safety and efficacy data. They would therefore be subject to certification requirements if they rely on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

The two main exceptions to note for over-the-counter medicines are sunscreens and medicated throat lozenges, both of which are listable products. Listed products under section 26A of the Act do not have to submit evidence or information to establish the safety or efficacy of their product as part of the application process for the listing of

goods in the Register. They are therefore not required to provide a certificate in relation to patents.

In the case of complementary medicines, over ninety percent are listable. Listed products under section 26A of the Act do not have to submit evidence or information to establish the safety or efficacy of their product as part of the application process for the listing of goods in the Register. Therefore they are not required to provide a certificate in relation to patents.

The remaining ten percent are of complementary medicines are registered medicines. This is because they contain either higher risk ingredients, for example, ingredients that are scheduled or that have not been assessed as low risk ingredients, or make higher level claims.

For these registered complementary medicines, sponsors are required to submit both safety and efficacy data. Therefore they would be subject to certification requirements if they rely on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

For prescription medicines, which are registered medicines, sponsors are required to submit both safety and efficacy data. They would therefore be subject to certification requirements if relying on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

This represents a change from the current requirement whereby sponsors of all products-are required to provide a certificate in relation to patents, irrespective of whether they have relied on someone else's data in relation to the safety or efficacy of another product, to demonstrate the safety and efficacy of their own product.

In the case of originator medicines, the majority of products (including those registered by biotechs) will not have to certify because, although they are required to submit safety or efficacy data, they do not rely on safety or efficacy data previously submitted to the TGA by another person in relation to an approved product as part of the process of applying for the approval of that product.

Applicants who are required to submit data to establish the safety or efficacy of therapeutic goods as part of the process of applying for inclusion in the Register, and who rely on safety or efficacy data previously submitted to the TGA by another person, will continue to be subject to the certification requirements. This will ensure that sponsors of generic medicines will have to provide a certificate in relation to patents.

This amendment will have no added burden on industry. The notification process being introduced as part of the amendments is simply an administrative process to ensure that an application for marketing approval is not delayed by a failure to provide certification where it is not required.

This will not impose a burden as applicants will know whether or not they are required to submit evidence or information to demonstrate the safety or efficacy of their product and whether or not they are relying on the data submitted by another party.

Therefore, the notification process will be less of a burden than the current provisions around providing a certificate in relation to patents.

While the amendment simplifies the administrative burden on industry, it in no way changes or diminishes industry's responsibility in relation to supplying medicines that fully meet all the existing safety, quality and efficacy requirements as set out in the Therapeutic Goods Act.

Debate (on motion by **Senator Colbeck**) adjourned.

Ordered that the Education Services for Overseas Students Amendment Bill 2005 and the Higher Education Legislation Amendment (2005 Measures No. 4) Bill 2005 be listed on the *Notice Paper* as one order of the day, and the remaining bills be listed as separate orders of the day.

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT BILL 2005

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT (RELATED AMENDMENTS) BILL 2005

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.00 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 COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.00 pm)—I table two revised explanatory memoranda relating to the bills and 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—

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT BILL 2005

The purpose of this bill is to put beyond doubt the Commonwealth's power to make arrangements for the safe and secure management of the small quantity of radioactive waste produced by Commonwealth agencies from the use of nuclear materials in medicine, research and industry.

Radioactive waste management includes all of the activities that are involved in the handling, treatment, conditioning, transport, storage and disposal of radioactive waste.

Successive Commonwealth Governments since the Hawke Labor Government have endeavoured to make responsible arrangements for managing Australia's radioactive wastes. In so doing they have been defeated by the attitude of State and Territory Governments who fully agree with the need for such facilities providing they are "not in their backyard".

In an attempt to deal with such parochialism, an objective, scientifically based, study to find a highly suitable site for a national low-level radioactive waste repository was initiated in July 1992 by the then Minister for Primary Industries and Energy, the Hon Simon Crean MP. After considerable effort and expense this process ended last year following action in the Federal Court by the Rann Government to oppose use of the selected site near Woomera in South Australia.

In response to the intransigence of the South Australian Government, the Prime Minister announced on 14 July 2004 that the national repository project would be abandoned and the Commonwealth Government would examine sites on Commonwealth land, both onshore and offshore, for a co-located facility for management of low and intermediate level radioactive waste produced by Commonwealth agencies. State and Territory Governments are now expected to make their own arrangements for managing radioactive wastes in their jurisdiction, in a manner consistent with Australia's international treaty obligations.

In July 2005 I announced that, following a significant desk-top examination of Commonwealth sites, including offshore territories, the Commonwealth government will undertake detailed on-site investigations at three sites on Commonwealth owned land in the Northern Territory.

The three sites include a site called Fishers Ridge, about 43 kilometres southeast of Katherine. The second site is near Harts Range, 100 kilometres directly northeast of Alice Springs. And the third site is Mt Everard, about 27 kilometres directly northwest of Alice Springs. These three sites are currently Department of Defence sites owned by the Commonwealth.

Over the next year a detailed site selection process will be undertaken, with a range of studies being conducted to identify a preferred site or sites for detailed environmental impact assessment in accordance with the Environment Protection and Biodiversity Conservation Act. These studies will include assessment of site characteris-

tics such as security, transport access and geological, floral, faunal and heritage aspects.

Subject to environmental approval, the preferred site and related project proposals will then need to satisfy the licensing procedures for radioactive waste management facilities set out in the Australian Radiation Protection and Nuclear Safety Act. Subject to these further regulatory approvals, it is envisaged that the facility will be constructed and become operational in 2011.

While the Australian Radiation Protection and Nuclear Safety Act and the Environment Protection and Biodiversity Conservation Act provide authority to site, construct and operate the Commonwealth Radioactive Waste Management Facility, legislation is required to reduce the potential for costly delays by putting these powers totally beyond doubt. Recent statements from the Northern Territory Government that it will attempt to obstruct the project reinforce the need for this legislation in the interests of responsible management of Commonwealth radioactive waste.

Part 2 of the bill provides clear and express powers for the Commonwealth to proceed with activities necessary or incidental to further investigating the three sites the Government has identified in the Northern Territory. This is necessary because the Territory Government has introduced a specific law purporting to prohibit the Commonwealth from establishing a facility, which could include activities essential to the process of selecting a site for the establishment of a Commonwealth facility. Further, they have made it clear they will do everything possible to halt or frustrate the Commonwealth's actions.

Because of these very real concerns about politically motivated obstruction of the Commonwealth's activities and the need to progress this important project, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and the Environment Protection and Biodiversity Conservation Act 1999 will not apply to the site investigation phase of the project.

Part 3 of the bill provides that the responsible Minister may declare one, or part of one of the specified sites, as the place where a facility may be established and operated, subject to the Commonwealth regulatory processes I have mentioned earlier. Part 3 also allows for an access route to be declared in order to provide for all-weather road access to the site.

Part 3 of the bill also effects the acquisition or extinguishment of all interests, if any, which the Commonwealth does not already hold in the site selected for a facility. Part 5 of the bill, importantly, provides for affected parties, if there are any, to be compensated on just terms.

A number of existing State and Territory jurisdictions purport to prohibit or regulate the Commonwealth's activities in establishing and operating a facility and/or transporting radioactive material to a facility. State and Territory jurisdictions may introduce additional legislation purporting to prohibit or regulate the Commonwealth in these activities.

Notwithstanding any State or Territory legislation, Part 4 of the bill provides the Commonwealth with the express authority to do anything necessary or incidentally required to proceed with the establishment and operation of a Commonwealth facility at the selected site, and transport waste to the facility. To ensure there is no suggestion that the Commonwealth would seek to circumvent proper Commonwealth regulatory scrutiny, the bill explicitly provides that the processes under the Environment Protection and Biodiversity Conservation Act 1999, the Australian Radiation Protection and Nuclear Safety Act 1998 and the Nuclear Non-Proliferation (Safeguards) Act 1987, must be complied with.

In particular, the operation of the facility, including transport of radioactive waste will proceed in accordance with licences issued by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The highest standards of safety will be applied to ensure that operation of the facility does not present a hazard to people or the environment in the Northern Territory or along interstate transport routes. Transport of radioactive material has an excellent safety record internationally, and in Australia with around 30,000 packages of radioactive material transported safely around the country each year.

The Government would have preferred to act with the cooperation of the States and Territories, whose citizens receive direct and life saving benefits from the Commonwealth's activities in

this field. As a measure of this Government's intentions we have offered to allow access to the new facility by the Northern Territory for management of its radioactive waste. However despite the lack of cooperation, we will not shy away from doing what is required in the interests of all Australians. It is worth noting that the scientific basis for safely operating a facility such as the Commonwealth is proposing is well established and widely applied internationally. I have yet to hear a sensible, practical alternative from those opposed to the Commonwealth Radioactive Waste Management Facility.

It is extremely important all Australians understand that we can't expect to receive the benefits of nuclear-sourced radioisotopes and then totally disregard or even actively oppose the need for facilities for the safe, long-term storage of low-level and intermediate level waste.

On average, every single one of us will benefit from a medical procedure to either diagnose or treat a cancer or other disease using a radiopharmaceutical sourced from Australia's only nuclear reactor. Every year around 400,000 Australians undergo medical procedures that use the isotopes produced by Australia's only nuclear reactor and save peoples lives every day.

There are also a host of applications of radioactive materials that we rely upon in areas as diverse as sterilisation of bandages, syringes and women's hygiene products, minerals exploration and processing, ensuring the safety of oil and gas pipelines and accurate filling of bottles and cans containing food and beverages.

To ensure that these medical and industrial procedures and products are available in the future, we must provide the facilities needed for managing the small quantity of radioactive wastes that arise in their production and use.

Passage of the bill is essential if Australians are to continue to realise the benefits of the wide range of uses of radioactive materials in our daily lives.

Full details of the measures in the bill are contained in the explanatory memorandum that has been circulated to honourable Senators.

I commend the bill to the Senate.

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT (RELATED AMENDMENTS) BILL 2005

This bill amends Schedule 1 to the Administrative Decisions (Judicial Review) Act 1977 to include a reference to a decision to select a site for a Commonwealth radioactive waste management facility made by the responsible Minister under Section 7 of the proposed Commonwealth Radioactive Waste Management Act 2005.

In introducing the Commonwealth Radioactive Waste Management Bill 2005 I spoke about the importance of proceeding with the establishment of a safe and secure facility for the management of the Commonwealth's radioactive waste.

Let me make this clear. A number of existing State and Territory jurisdictions have enacted legislation that purports to prohibit or regulate the Commonwealth's activities in establishing and operating a radioactive waste management facility and/or transporting radioactive material to a facility. State and Territory jurisdictions may introduce further legislation purporting to prohibit or regulate the Commonwealth in these activities.

Recent statements from the Northern Territory Government that it will attempt to obstruct and delay the project reinforce the need for this bill to ensure the Commonwealth can act with certainty, and without undue interference from vexatious and wilfully obstructive parties to responsibly manage Commonwealth radioactive waste.

I commend the bill to the Senate.

Debate (on motion by **Senator Colbeck**) adjourned.

ACTS INTERPRETATION AMENDMENT (LEGISLATIVE INSTRUMENTS) BILL 2005

CONSULAR PRIVILEGES AND IMMUNITIES AMENDMENT BILL 2005

Returned from the House of Representatives

Messages received from the House of Representatives returning the bills without amendment.

ASBESTOS-RELATED CLAIMS (MANAGEMENT OF COMMONWEALTH LIABILITIES) BILL 2005

ASBESTOS-RELATED CLAIMS (MANAGEMENT OF COMMONWEALTH LIABILITIES) (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2005

AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA'S SKILLS NEEDS) BILL 2005

MEDICAL INDEMNITY (COMPETITIVE ADVANTAGE PAYMENT) BILL 2005

MEDICAL INDEMNITY LEGISLATION AMENDMENT (COMPETITIVE NEUTRALITY) BILL 2005

ANTI-TERRORISM BILL 2005

Assent

Messages from His Excellency the Administrator of the Commonwealth of Australia and His Excellency the Governor-General were reported informing the Senate that he had assented to the bills.

NOTICES

Withdrawal

Senator WEBBER (Western Australia) (5.01 pm)—At the request of Senator Evans, pursuant to notices of motion given at an earlier hour today, I withdraw business of the Senate notices of motion Nos 1, 2 and 3 standing in his name for today.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Reference

Senator BOB BROWN (Tasmania) (5.02 pm)—I move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 10 December 2005:

> All aspects of Australia's response to the earthquake catastrophe in Pakistan, Afghanistan and India, in particular, the timing, volume and substance of the Government's aid.

I simply put it this way: there are 120,000 people, including children, still not being reached by the emergency rescue efforts in Pakistan. The scale of the time is absolutely daunting. Winter is coming on and Australia has given one-tenth the aid of the Scandinavian countries, which have about the same population, to this extraordinary catastrophe in our neighbourhood. The $11 million that has been given or promised compares with $133 million from Saudi Arabia, $40 million from Norway, $21 million from Switzerland, $156 million from the United States, $38 million from Canada, $26 million from the Netherlands and $64 million from the UK. My case is this: we can do much better than that and we must do much better than that.

While I know the government has the numbers here, let me finally in this short presentation read what Zobaida Jalal, Pakistan's minister of social welfare, said last week:

> The earthquake was a natural calamity that nobody could do anything about, but if these people are allowed to die now, that would be more of a tragedy. It will be on the consciences of many people and many governments forever.

I urge the government to commit this country to a much more appropriate humanitarian commitment to the people suffering in Pakistan, in Kashmir, in India and in Afghanistan.

Senator HUTCHINS (New South Wales) (5.04 pm)—I rise to support, on behalf of the opposition, Senator Brown's reference to the Foreign Affairs Defence and Trade References Committee on this issue. Labor are very concerned that we have not, in our opin-

ion, contributed as much as we should have to the relief effort, particularly in Pakistan, a country with which we enjoy a special relationship, which I shall come to shortly. We are very concerned about the humanitarian situation in Pakistan, in particular, following the 8 October earthquake, and it is very much on our agenda as far as foreign affairs policy goes. Earlier today, the shadow foreign minister, Kevin Rudd, along with our shadow overseas aid minister, Bob Sercombe, renewed Labor's call for the Australian government to dramatically increase its aid to the victims of the South Asian earthquake.

Senator Brown outlined, in his brief contribution today, the amounts of money being spent by other nations on this particular catastrophe. You may or may not be aware, Madam Acting Deputy President, that early last week the official death toll for the disaster in Pakistan was 56,000 people. That has been revised to 73,276 people, and I am sure there will be more to be accounted for. It is a terrible catastrophe and I join with Senator Brown in inviting the government to agree to this reference so that we can at least in our small way put some pressure on the government to increase the amount of contribution it will make, particularly to our ally Pakistan. There are as many as three million people remaining homeless almost a month to the day after this terrible catastrophe, and we in the opposition feel that the government could do more.

As Senator Brown has outlined, even a number of countries that really cannot afford to make contributions to the overseas aid effort have done so. You only need to look at what the Afghan government has done for Pakistan—they have pledged $US500,000 in aid. Japan has pledged $US20 million in addition to other offers, including the dispatch of troops and transport helicopters. Senator Brown outlined the generosity that is being displayed by the European nations. The United States, in the midst of one of its most terrible natural catastrophes, Hurricane Katrina, was prepared to pledge $US50 million to the aid effort for that part of the world.

Through this motion, we are seeking that the government increase its aid. The UN has sought $US550 million to respond to the disaster. That is what it thinks is required for the disaster to be dealt with. At this stage Australia's contribution is $14.3 million, which is $US10.5 million, and that represents less than 0.2 per cent of the identified need. This is particularly shameful given that this is only one-third of the total amount of money that we have seen wasted on government advertising for the industrial relations agenda. The government has pledged $14.3 million to the emergency aid effort for this catastrophe, yet, as we know, it is quite prepared to spend $55 million of our money on an education campaign which is nothing more than a propaganda exercise.

We are concerned that, with the onset of winter, the plight of the men, women and children in Pakistan is going to become worse and their need for our generosity is going to increase. With heavy snowfalls predicted in the disaster area this week and three million people at risk of exposure, the Australian government's response has been to donate 1,700 blankets. The government's response has been inadequate, and the government must do more to help the victims of this devastating earthquake survive the coming winter.

As I said earlier, this is something that we should particularly take note of as Pakistan is one of our allies in the war against terror. You may recall, Madam Acting Deputy President, that in June this year President Musharraf made what I think was his first visit to Australia. It was definitely the first

visit by a Pakistan head of state to Australia. I have a copy of the speech the Prime Minister gave at the luncheon in the Great Hall, in which he praised the President of Pakistan for his personal integrity and courage. He also said a few things that we should take on board as Australians in dealing with this motion. To compliment President Musharraf, Mr Howard said:

> But to be the leader of a country and to survive two assassination attempts within a short period of time, and to know that there are people within your country whose only goal is not only to remove your government, which you can understand in a democracy, but also to remove it with violence and with force and, if necessary, including your removal from this life. So I pay tribute to somebody who has come through the fire of violent challenge to his position, somebody who has played a major role in the fight against terrorism, somebody who has understood the need to confront and defeat the extremist elements within our society, and they are to be found in many societies that seek to visit death and terrorism on people around the world.

The Prime Minister, in the Great Hall, said that of the leader of Pakistan, one of our allied nations. We are seeking, through this motion, to acknowledge that we have a special debt to Pakistan and that we should increase our aid effort to them. Further on in that speech, the Prime Minister said:

> Australia and Pakistan have many links of history and culture. We have many values in common. We share an inheritance to which both countries owe much to the British connection.

He went on to say:

> And the rich nations of the world, of which Australia is undeniably one, have obligations to the poor nations of the world. We have obligations of aid, we have obligations of helping to spread democratic institutions, we have obligations of helping to spread the advantages and the values of education, we also have obligations of helping to spread in many countries the values and the benefits of good governance.

It was only in June of this year that our Prime Minister sat shoulder to shoulder with the President of Pakistan, praised him for his own personal integrity and courage and outlined to all of us at that lunch how connected we are, not only through being part of the former British Empire, now the Commonwealth of Nations, but also through the people-to-people contact we have had since Pakistan became independent in 1947. It sticks in my craw that we cannot be a bit more generous towards this nation, which is experiencing terrible catastrophes at the moment.

I want to remind you, Madam Acting Deputy President, what the position is—73,276 people have now been accounted for as dead, three million plus are homeless and the plight of those people is going to become more and more desperate as winter approaches. We have a duty to our courageous ally in the war against terror to make sure that we look after the people in that country as best we can. We may seem to have been a little bit mean on this, particularly, as I said earlier, when we can afford to spend $55 million on a propaganda campaign for the people of our own country and at this stage all we can find is $14.3 million to give to these people in their dire need. Even the United States of America, in the midst of the Hurricane Katrina catastrophe, was able to find $US50 million for the people of Pakistan. We can at least do something for them. We should do more for them, and I hope the government takes on board the comments that have been made by the speakers in this debate.

Senator STOTT DESPOJA (South Australia) (5.14 pm)—The Australian Democrats will also be supporting the proposed reference before us regarding Australia's response to the earthquake in Pakistan, Afghanistan and India. We believe, as has been outlined by previous speakers, that there is a serious

imbalance in the Australian government's response to different international disasters and to the provision of relief aid. The significant differences in aid delivered following the Asian tsunami, Hurricane Katrina and the earthquake disaster in Pakistan, Afghanistan and India highlight the arguably ad hoc way which our government is taking in relation to emergency aid. This is something that is worthy of investigation.

I initially had some concerns with this motion, and it was partly because of its specificity. I think that there is time for a broader debate in this place about aid and relief generally. However, this motion has given us an opportunity to explore some of those issues and work out the criteria on which government does distribute aid. None of us want to be churlish about aid that is given, and I, on behalf of the Democrats as their foreign affairs and aid spokesperson, am always the first to commend government when it provides emergency relief or other relief, but there is a very strong argument, as I am sure many senators in this place are aware, for Australia to start doing a bit more. Certainly, as I think Senator Hutchins made clear in his comments, when you start putting the relief effort into context, you see that some of the decisions bear further explanation and investigation. Indeed, when one makes some comparisons, particularly in relation to those three incidents to which I referred, one starts to wonder on exactly what basis money is allocated and why it is so radically different in some circumstances.

In response to the Asian tsunami, in which, as we know, more than 220,000 people died, the Australian government pledged $1 billion through the Australia-Indonesia Partnership for Reconstruction and Development to assist the millions of people who lost their homes and livelihoods—and rightly so. Our government did the right thing. The government also responded to Hurricane Katrina, pledging $10 million to assist in the relief efforts for the 300,000 people who were forced to leave their homes and to support the families of the more than 1,000 people who were killed. Again, I commend the government for that response. In response to the recent earthquake in India, Afghanistan and Pakistan, the government pledged $14.3 million to assist the millions of people—and we are talking millions of people—who lost their homes and livelihoods and to support the families of the estimated 40,000 people who lost their lives.

There is a bit of a disparity here. Obviously I am not suggesting that all of these events are easily comparable, but there clearly is a disparity. It is time for a clarification of the way the government assesses its response to international disasters and events. I, the Democrats and, I am sure, the Australian people would be interested to know what criteria the Australian government uses to respond to international emergencies and other disasters. For example, what prompted the government to allocate $10 million in aid to assist the 300,000 people in New Orleans, while the millions of homeless in Pakistan and India are getting the same amount? There should be some further explanation. Perhaps through this committee there is an opportunity not just to examine the negatives but to actually look at constructive ways to deal with future allocations and responses.

Madam Acting Deputy President Moore, you and I both know through some of our work the good work of AusAID. Indeed, at times I am very proud when I go to other countries to witness the work of AusAID. I feel very proud on behalf of our country, our community and our government. However, there is a lot more that we could be doing, and I would like to see Australia doing more. I notice that in recent listings we are down to about 16th out of the 22 OECD donor na-

tions and, if we keep up our rate of aid, we are going to continue to slip further down—I think 18th place is estimated. That is not good enough for a relatively prosperous nation such as we are. We are way short of our UN recommended targets when it comes to aid. This is a debate we do not often have in this place. It is an investigation we rarely have. This motion for reference give us that opportunity.

I want to know whether the delivery of emergency aid is based on policy—foreign policy directives, for example—immediate human need or compassionate grounds. It was interesting listening to Senator Hutchins in relation to Pakistan. He made a good point. We should be supporting our allies—allies in whatever sense or respect. However, given the comments by President Musharraf on the weekend, he was not too pleased by the international community's response to this disaster. In fact, his words were very strong and pointed. Those words over the weekend gave me reason to reconsider Senator Brown's motion. Before you came back to the chamber, Senator Brown, I was saying that the specific nature of this motion was of concern to me initially because I do not want it to be just about a single event. I want us to look at the broader debate. But this does give us the opportunity to do that, and I think this particular event—the reference that has been mooted—highlights all the things that are right and all the things that are wrong, in a way. Those comparisons that we have all referred to make it very clear that there are disparities and problems.

The Democrats have put on the record that we would like to see a broader debate on and inquiry into foreign aid. We recognise, as I am sure everyone here does, that two-thirds of the world's poorest people live in Asia. However, we want to know why 51 per cent of country-allocated aid is budgeted to go only to the Pacific, despite the fact that the Pacific contains only 0.4 per cent of the very poor in the Asia-Pacific region. Again, I am not arguing for aid to be taken away from particular countries. I just want us to have a context and perspective when we are dealing with these issues. Unfortunately and tragically, as we have discovered, we deal with human disasters regularly. We need to have criteria and an action plan that make very clear what we are doing and why we are doing it. If we are favouring particular countries or regions then we need to know why.

On a concluding note: I agree with the speaker before me, Senator Hutchins, that when you look at the vast amount of dollars—the millions of dollars—being spent on an ad campaign, a propaganda campaign, in this country it does make this debate look a little obscene. We are talking about $14.3 million going in response to one of the greatest catastrophes we have seen in decades. We really could do a bit better. My role in this inquiry process, should it happen, will be to examine some of these issues with a view to the future and to a positive and constructive outcome. On that basis, I hope that the government will support the reference in the motion before us.

Senator JOHNSTON (Western Australia) (5.22 pm)—May I commence my remarks in responding to the earnest comments of senators on this subject by saying that Australia has extended and reiterates its condolences to families and victims affected by this major disaster in Pakistan, particularly in Kashmir, and adjacent in India. The earthquake, measuring 7.6 on the Richter scale—which is very high—occurred around 1.50 pm on 8 October this year, approximately 100 kilometres north of Pakistan's capital, Islamabad. It affected regions spread over a wide area, as one would understand, including Muzaffarabad, the Jhelum Valley, the Neelum Valley, the small city of Bhag and the Kaghan Valley, and the epicentre, at 7.6 of the Richter

scale, focused on the small town of Ghori, in Kashmir. Over the next number of weeks, major aftershocks, many reaching in excess of six on the Richter scale, followed, causing further damage and injury. The death toll now stands at more than 73,000 people, and it is expected to rise. It is currently estimated that over 69,000 people have been injured and 3.3 million people have been left homeless.

Funding to Australian non-government organisations has been provided to organisations that have an established presence or a Pakistan partner NGO responding to the disaster. These include the Australian Red Cross, Oxfam Australia, Care Australia, World Vision Australia, Caritas Australia, Save the Children Australia, Plan International, the Fred Hollows Foundation, AUSTCARE and TEAR Australia. These are all organisations which are working with partners or alone in Pakistan who have responded to this disaster.

In line with the geographic focus of the broader Australian government's development work, I can report to the Senate that our response to disasters remains primarily focused on the South-East Asian area and on the Pacific region. In response to Senator Stott Despoja's very reasoned argument, there is a rationale behind our approach. In responding to disasters in other parts of the world, AusAID's response and Australia's response is guided by our ongoing responsibilities to the Asia-Pacific region, the response by other donors and our capacity to assist and to make an effective contribution in circumstances that are not in our near neighbourhood.

With respect to many of the comments, there needs to be a greater understanding of what we have actually done in regard to this disaster in Pakistan. We have currently committed $14.5 million. It is largely focused on a whole range of individual measures. On 9 October, we immediately contributed $500,000 to the International Federation of the Red Cross and Red Crescent Societies, following the initial damage assessments, enabling the federation to mobilise staff and begin to provide medical and shelter assistance. Within 24 hours of this early response, we had committed a further $5 million to quickly support the United Nations, the Red Cross and non-government organisations that could immediately be effective and work closely with Pakistani authorities in getting to what is a very isolated region. Twenty-four hours later, Australia provided a further $4.5 million to assist in mobilising teams into the region. On 22 October, a further $4.2 million was committed to provide support to the ongoing relief efforts.

To date, we have provided $7.5 million to the revised United Nations flash appeal and we continue to monitor reporting from Islamabad on conditions in the quake-affected regions and progress in meeting the appeal. Concurrent with this funding, on 17 October AusAID also mobilised a five-person critical infrastructure assessment mission that spent 10 days in Pakistan looking at quake damaged medical and educational structures and public housing. So the government's response has been one of looking at where Australian taxpayers' funds might best achieve the most significant and positive outcomes on the ground in Pakistan. It is simply not a matter of writing a cheque and saying, 'Well, that'll be good—and the bigger the cheque, the better.' We have had to focus and target our aid so we can guarantee that the intended beneficiaries actually receive the benefit that all of us would want them to have.

The critical infrastructure assessment mission has conducted a preliminary briefing on the findings with the Pakistani authorities as well as the United Nations and the World

Bank infrastructure teams in Islamabad. So there has been a careful, proper and reasoned approach to how our aid dollars are expended. AusAID will await the advice of Pakistan of the priorities before formulating options for decision by the Minister for Foreign Affairs, Mr Downer. To meet immediate humanitarian needs—and, for the benefit of senators, can I say that these are some of the things that I have heard misquoted, and the numbers from some senators have been wrong to this point—the government's aid agency, AusAID, has provided 6,500 blankets, 330,000 water-purifying tablets, 1,080 vials of tetanus vaccine and 1,000 sleeping-bags. As an additional contribution to the United Nations flash appeal, AusAID has tasked the Australian Registered Engineers for Disaster Relief to provide staff to UN agencies already in the field. To date, two Australian engineers, one health official and one senior site planner have been deployed. These attachments will assist UN agencies that are currently mobilised to maintain their tempo in the short window we face before the onset of this winter.

Australia continues to monitor the situation in Pakistan and investigate options for further Australian assistance, bearing in mind that this is under the umbrella of us looking to make an effective contribution in the light of the response by other donors and ascertaining exactly what is appropriate for the circumstances on the ground. Australia's national and overseas response capability has been, over many years, proven and effective. I would reject any contention in this place that we simply have not responded in any adequate or timely fashion. We have considerable experience, with Cyclone Tracy, dating back over 30 years now; national bushfires; the Bali and Jakarta bombings; the tidal wave on the north coast of New Guinea, which I think was in 1997; and of course the Indian Ocean tsunami. Arising from all of these, we have a considerable, flexible, well-resourced and nationally coordinated capability to respond to these sorts of disasters.

When events in the Asia-Pacific region require an Australian response, we are prepared and equipped. The standing arrangement with the governments of France and New Zealand, the FRANZ agreement, guides and coordinates our respective responses to Pacific cyclones and natural disasters. FRANZ officials meet regularly, with annual planning meetings and biannual desktop exercises. When Australia responds to events in South and South-East Asia, AusAID, Emergency Management Australia and the Australian Defence Force have an established and well-rehearsed protocol. AusAssist Plan enables the Australian Defence Force and federal and state medical, bushfire, urban research and rescue assets and teams to be quickly deployed to areas in our region to assist our near neighbours in the event of such disasters. That is our priority. That is not to diminish our commitment to a disaster such as this, but our priority commitment is to our near neighbours in the Asia-Pacific region.

AusAID also maintains an emergency store in Sydney with commonly required relief items, namely blankets, water-purifying tablets, tarpaulins, plastic sheeting et cetera. Many of those were deployed to the province of Aceh. Currently, AusAID is exploring, with key Australian NGOs, the establishment of other emergency stores and facilities which may further assist the people of Pakistan. So the response, I can tell the Senate, has been swift and has been measured in seeking to ascertain precisely what is happening on the ground so that Australians can be assured that the government is providing a proper level of support to the government and authorities in Pakistan to alleviate this dreadful situation, but is not simply providing a blank cheque. We are providing as-

sistance where it is required and we are providing financial support where it will do the best work.

Senator MILNE (Tasmania) (5.32 pm)—I thank the government for their response. I rise to comment further and to support Senator Brown's motion. I note that on 19 November 2005 President Musharraf is going to address a special donors' conference in Islamabad because commitments for rehabilitation and reconstruction are far short of needs. The UN Secretary-General, Kofi Annan, will fly to that meeting in Islamabad, and I ask the government: who from the Australian government is going to be at the meeting in Islamabad on 19 November to listen to what is going on and to contribute appropriately? Whilst we obviously support this motion for a reference to a committee for inquiry, we know right now that this meeting is to be held on 19 November, and it would be totally irresponsible if Australia does not respond. So I would like to know from the government who is going to be attending that meeting on 19 November.

UNICEF has already described this disaster as 'the children's catastrophe'. That is because schools collapsed all over Pakistan and all over the whole region. Seventeen thousand children were killed, 10,000 schools were destroyed and thousands upon thousands of children have been left paralysed and with amputated limbs. Due to delays in reaching these children after their schools collapsed, their wounds became infected and this led to amputations.

This massive humanitarian disaster is by no means over. It is three weeks until winter. We are then likely to see even more deaths. As my colleague said, 120,000 children are still stranded with their parents in mountain hamlets. The ecological consequences also go on, with landslides, mudslides and flash flooding expected in the months to come. The damage to irrigation systems means that we are going to see a reduction in agricultural production in the next season and, therefore, a lack of capacity in the community to feed themselves. We are going to see migration to urban areas, where sanitation and water contamination are real problems. There is a strong risk of an epidemic of disease due to contaminated drinking water, lack of sanitation and so on.

It is all very well to say that our focus is the Asia-Pacific region, but we did come forth with money for New Orleans in a timely fashion. Is it appropriate to give the same amount of money when the scale of the disaster is so much larger in terms of loss of life and ongoing consequences? We cannot stand by and allow these people to freeze to death in the coming months—because that is what will happen. The other issue is the impact, particularly on women. The aid people working in the communities there say that clothes aid was spread everywhere, whereas other vital items such as tents were in short supply. Men were seen along the roadside and in the relief camps getting their portion of aid supply, while women and children were mostly seen in very rudimentary shelters in open spaces. Reportedly, communities of poor people in remote areas and single women faced difficulty in getting access to aid at all.

We are seeing death on a mega scale, and it is ongoing. As my colleague said, we could not have foreseen the earthquake but we can foresee the humanitarian and ongoing ecological disaster and the reconstruction that is going to be needed in the years ahead. The only way that you get peace in the longer term is to invest in peace. To do that, you assist with compassion and with appropriate capacity building. This is an unstable region, politically as well as geologically. We know that, and if we want to build a generation of people brought up with ecological scarcity

and with resentment because, at the time they needed help, people did not come to their aid then we are going the right way about it by not addressing this absolutely appalling humanitarian tragedy in Pakistan at this time.

I have a colleague who works with me in the World Conservation Union who says that nothing the media reports so powerfully prepares you for the shock and the horror that one experiences when you actually walk through the debris of this calamity. The paradox of the destruction taking place in some of the most spectacular landscapes on planet Earth gives the experience a bizarre facet even as the relief effort is bravely sustained against enormous odds. He reminds me that, to the best of his limited knowledge, no earthquake or natural disaster in recent recorded history has destroyed and disrupted so many lives in so difficult a terrain.

While all mountain ecosystems are fragile and vulnerable, post the earthquake, an imminent freezing winter, blocked roads and pathways, and unpredictable landslides make relief and rehabilitation an awesome, daunting challenge. Even with the extraordinary response by the people of Pakistan to this challenge and even with valuable support from overseas sources, the task remains formidable. So I ask again, in supporting the reference to the committee: who from the coalition is going to the meeting on 19 November in Islamabad to specifically speak for Australia as the world gathers at the behest of Kofi Annan, the UN Secretary-General, who recognises that the world is beginning to turn its back in the hour of greatest need in this part of our planet?

Senator BOB BROWN (Tasmania) (5.38 pm)—I thank those who have contributed to the debate. I do not know; there is something missing in the human psyche that very often allows busy people in very powerful places to fail to relate to people who suffer great tragedy, indignity and irreparable harm in their lives. To me, this is one of those cases. I was recently talking with a friend in Sydney who said that a friend of his had lost 11 family members in this tragedy in Pakistan. I have not read that anywhere in Australia. It is as if it does not relate to us. Quite a few other people in Sydney have also lost family members and friends in this appalling tragedy. When one reads the front page of the current *Guardian Weekly* about the kids who are having limbs amputated, who are going through terrible suffering and indignity and, above all, who have seen school friends flattened and have lost their parents and relatives, it is heart-rending, and we cannot undo that.

But we now have our eyes wide open to a possibly bigger death toll as the winter comes on. There is no sanitation, there is no clean water, there are no good food supplies and there is no protection. We read about kids who have already been picked out by unscrupulous people for prostitution and labour for years and years because they have got nobody left to defend them. What can we do? We can certainly rapidly come to the aid of Pakistan, which does not have the wherewithal to give these people medicine, food, shelter and warmth during the coming winter.

We can have a bit of lateral thinking. Lots of people I know have got sleeping bags which are stuck in their cupboards—good quality sleeping bags, bought for the once-only outdoors trip. The government says: 'We're sending a thousand sleeping bags to Pakistan.' On my calculation, with 3½ million people homeless, that means there is one sleeping bag per 3½ thousand people. I would guarantee that there are tens of thousands of high-quality sleeping bags just stuck in cupboards in Australia which could save lives. I ask the government: will it coordinate

an effort to get those sleeping bags together and take them in a plane across there and distribute them to the men, women and kids who are facing minus 10 or minus 20 degrees in the coming months out in the open?

I do not know; are ordinary tents that we take for granted of value here or do they have to be coordinated, the same size and taken in a uniform way? If not, I am sure there is a lot that Australians could do there as well. I take my hat off to the people in Queensland who raised the money and immediately got 1,000 tents across there by working in the public domain.

But I want to come back to the government's contribution. It is miserly—$14 million so far from a government that has spent, we are told, over $100 million this year on advertising and, we know, four times as much money just on advertising for the industrial relations campaign. It is money into thin air. Who is that really going to help? Sure, we live in a materialist society in which the impulse to buy promotes the economy and in which there is the chimera of belief that it makes us better people to have this or that good based on advertising, and the biggest advertiser in Australia is the government. Surely it could pull in the belt a bit there and send a few tens of millions of dollars instead to Pakistan.

These are our neighbours. On the planet these days, everybody is our neighbour except we are rich and they are poor. As a kid, I read with huge dismay about the Irish famine in the 1840s. Not a few of our forebears, luckily for them, managed to get out of that, survive it and get to this country one way or another and, of course, elsewhere around the world in the Irish diaspora of the time. The population of eight million was halved. It is not known how many million people—men, women and kids—starved to death in Ireland while England was a country of plenty. What is more appalling than that is that ships were actually taking some food out of Ireland to Liverpool and elsewhere because that country was rich. This was in the middle of highly religious Victorian Britain.

Surely we can do better 160 years down the line. Pakistan is our Ireland. The government is not going to come under criticism for rapidly sending much more money and goods to the aid of this stricken mega-disaster. The government says it is sending 1,008 doses of the anti-tetanus vaccine. Really? There are 3½ million people homeless and needing medicines and 120,000 children still stranded with their parents in the mountains and we are sending 1,008 anti-tetanus doses. Of course there is a limit to it. Of course this is being coordinated with international aid. President Musharraf, the ally who has risked repeated assassination attempts because he has supported the Bush administration and the Howard government with the intervention in Iraq—sorry; the war against terrorism, as it is described, not the intervention in Iraq—is now appealing to the world to help. And here is Pakistan with 12 helicopters in total, bless its heart. It has a massive population but with massive poverty—and with massive cruelty coming out of this natural event, which is leading into an oncoming disaster which, next time round, is human made. It is not because we are going over there to hurt people; it is because we are not going over there to help. We are a mega-rich country. This is an appalling human disaster. I appeal to the government to think this over again. I appeal to the government to look again at the words of Pakistan's minister for social welfare, Zobaida Jalal, who said just last week:

> The earthquake was a natural calamity that nobody could do anything about, but if these people—

referring to the millions who are homeless—

are allowed to die now, that would be more of a tragedy. It will be on the consciences of many people and many governments for ever.

If we cannot do it for the Pakistanis' sake, let us do it for the sake of our own consciences.

Question put:

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

The Senate divided. [5.52 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes……	31
Noes……	33
Majority……	2

AYES

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

NOES

Abetz, E.	Adams, J.
Barnett, G.	Boswell, R.L.D.
Brandis, G.H.	Calvert, P.H.
Chapman, H.G.P.	Colbeck, R.
Coonan, H.L.	Eggleston, A. *
Ellison, C.M.	Ferguson, A.B.
Fierravanti-Wells, C.	Fifield, M.P.
Heffernan, W.	Humphries, G.
Johnston, D.	Joyce, B.
Kemp, C.R.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Minchin, N.H.
Nash, F.	Parry, S.
Ronaldson, M.	Santoro, S.
Scullion, N.G.	Troeth, J.M.
Trood, R.	Vanstone, A.E.
Watson, J.O.W.	

PAIRS

Carr, K.J.	Campbell, I.G.
Hogg, J.J.	Patterson, K.C.
Hurley, A.	Payne, M.A.
Lundy, K.A.	Macdonald, I.
Marshall, G.	Hill, R.M.
Ray, R.F.	Ferris, J.M.

* denotes teller

Question negatived.

MIGRATION LITIGATION REFORM BILL 2005

In Committee

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Moore)—We are dealing with Greens amendment (1) on sheet 4637 revised.

Senator LUDWIG (Queensland) (5.55 pm)—When we were debating this earlier today, Senator Bartlett was making a submission about the Greens amendment, and I wanted to add something to that. We are considering the Migration Litigation Reform Bill 2005, in committee, to which the Greens have sought to move amendment (1), which is insertion 3AA, and goes to 'no detention without judicial review'. If you look at the way the Department of Immigration and Multicultural and Indigenous Affairs has operated in this area, it is no wonder the Greens are now seeking to move this amendment in respect of the way the detention regime should operate.

This amendment provides that a person who is detained can go before a court for a determination of the lawfulness of the detention and be released if the court finds that the detention is not lawful. There are two parts to that. It does not prevent the operation of the migration legislation in that compliance officers can detain an unlawful noncitizens;

that is what the legislation currently provides for in the operation of sections 189 and 196. Greens amendment (1) provides that, once a person has been detained, they can seek to challenge the lawfulness or otherwise of that detention.

In the Cornelia Rau or Vivian Solon cases, such a provision may not have been of any great advantage. But the issue is a bit broader than that, because of course we do not know whether they will be able to access legal assistance—whether the government will ensure that in the detention centres themselves there is sufficient information available for those people who have been detained to access legal assistance.

Putting all that aside for the moment, we do know that the government are examining 221 cases over which there is a question mark as to whether or not a person has been detained lawfully. While we have not yet got the full answer back from estimates, we do know that the government maintain that, from those 221, they pulled out all of the cases which are 'released not unlawful'. It is a quaint way of saying that they are not sure, I think—but perhaps some of them were detained unlawfully. The answer the government seem to submit is that there is a possibility that these people were detained unlawfully.

What we are faced with, and what I suspect the Greens amendment is aimed at—although they can argue it for themselves—is providing an avenue where, if a person does think that they have been detained wrongfully, there is a possibility that they can go before a court and have that determined at the earliest possible time. This would ensure that we do not see someone being detained for an extended period of time, only to find out that they have been detained unlawfully.

To argue from the government's perspective, there are a couple of points that can be made about that. Not all of them will be aware at the point of detention whether they are unlawful. There will be instances where the unlawfulness might arise through the operation of law or a decision of a court, which subsequently impacts upon their situation, and therefore creates a situation where they then would be considered not unlawful. The section might also be boosted by dealing with that situation, but it might not be amenable to that. But what it at least does ensure is that, for those cases where there is an argument that could be put that the person has been detained unlawfully, that at least can be decided by someone else other than DIMIA. Although DIMIA have, to this extent, sought to reform the area, they have not, as far as I can determine from questioning at estimates, sought to change or rewrite their policy—their Migration Series Instruction—in this area. I am happy for the minister to correct me on that.

The answer I got from estimates as to the detention regime—and the advice to the compliance officers as to how they operate, although they are getting additional training—does not appear to disabuse me of the view that errors could still be made and that matters could still arise where the detention would possibly be unlawful, or would become unlawful very soon after the detention, and that that would not be remedied by a third party—in this instance, by judicial review. Therefore, even in that narrow area, it is, I think, one of those amendments that the Labor Party can support. I think it does go to trying to address some of the problems that have arisen in this area.

On the other hand, the department could have corrected itself a lot earlier. It could have been a little bit more open about how the Vivian Solon matter and the Cornelia Rau matter occurred. It could have been a bit more forthcoming with the provision of the Penfold report—although I hear that it is a

cabinet document; but I am sure there are other ways to ensure that those recommendations are at least understood by all parties. But that is not the wish of this government. The wish of this government is to have a report and make it a cabinet document—make it inaccessible. The government can always make those public; they can choose to do that if they wish. They did not in this instance, so we do not know what recommendations might have been suggested. This might have been one of them. It might have been an area where the Penfold report decided it did require that check at the point of detention. Therefore, for those reasons, Labor is minded to support the amendment.

Question put:

That the amendment (**Senator Nettle's**) be agreed to.

The Senate divided. [6.08 pm]

(The Chairman—Senator JJ Hogg)

Ayes……	30
Noes……	32
Majority……	2

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Brown, C.L.	Campbell, G. *
Conroy, S.M.	Crossin, P.M.
Evans, C.V.	Faulkner, J.P.
Forshaw, M.G.	Hogg, J.J.
Hutchins, S.P.	Kirk, L.
Marshall, G.	McEwen, A.
McLucas, J.E.	Milne, C.
Moore, C.	Murray, A.J.M.
Nettle, K.	Polley, H.
Sherry, N.J.	Siewert, R.
Stephens, U.	Sterle, G.
Stott Despoja, N.	Webber, R.
Wong, P.	Wortley, D.

NOES

Abetz, E.	Adams, J.
Barnett, G.	Boswell, R.L.D.
Brandis, G.H.	Calvert, P.H.
Chapman, H.G.P.	Colbeck, R.
Coonan, H.L.	Eggleston, A. *
Ellison, C.M.	Ferguson, A.B.
Fierravanti-Wells, C.	Fifield, M.P.
Heffernan, W.	Humphries, G.
Johnston, D.	Joyce, B.
Kemp, C.R.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Minchin, N.H.
Nash, F.	Parry, S.
Ronaldson, M.	Santoro, S.
Scullion, N.G.	Troeth, J.M.
Trood, R.	Watson, J.O.W.

PAIRS

Carr, K.J.	Patterson, K.C.
Hurley, A.	Payne, M.A.
Ludwig, J.W.	Vanstone, A.E.
Lundy, K.A.	Hill, R.M.
O'Brien, K.W.K.	Campbell, I.G.
Ray, R.F.	Ferris, J.M.

* denotes teller

Question negatived.

Senator NETTLE (New South Wales) (6.11 pm)—I move Greens amendment (2) on sheet 4637 revised:

(2) Schedule 1, page 6 (after line 28), before item 11, insert:

10B After section 3A

Insert:

3AB Compensation for wrongful detention

(1) If a person is wrongfully detained as a result of action taken in accordance with this Act, the Commonwealth must pay that person:

(a) a reasonable amount of compensation agreed on between the person and the Commonwealth; or

(b) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.

(2) For the purposes of this section, wrongfully detained means to detain a person in accordance with this Act for longer than the time permitted by subsection 189(1).

This amendment ensures compensation for wrongful detention. The amendment says that, if someone is wrongfully detained, the Commonwealth must pay them a reasonable amount of compensation that can be agreed between the parties or by a court.

As with all of the amendments that I am moving today on behalf of the Greens, this amendment ensures pretty basic standards which already exist in detention that falls within a whole range of other Commonwealth, state and territory jurisdictions. The last amendment that was just negatived by the government was to ensure that, if someone has been wrongfully detained, they should be able to go before the court and test the lawfulness of their detention and be released if the court finds that they should be released. That is a basic standard of the way in which the rule of law should operate and a basic standard that all other jurisdictions who detain people have to comply with. But the government has just shown by their vote on the last amendment that they do not agree that such basic standards as exist in other jurisdictions who detain people should exist for the department of immigration.

There is a series of these amendments, and there is an opportunity for the government to make clear whether or not it is their belief that the department of immigration stands separately from every other state, territory and Commonwealth jurisdiction that needs to meet certain guidelines before they detain people and that needs to ensure that people are able to access judicial review. The amendment that we are discussing now ensures that, if someone has been wrongfully detained, the parliament's clear intention is that that person would have a right to compensation.

Vivian Alvarez Solon's case can be used as an example of how such an amendment would work. As we know, she is still in the Philippines many months after her tragic case was uncovered when she was located in a hospice for the dying. On the advice of her lawyers, she has not come back to Australia. I understand that the sticking point has been that the Commonwealth are playing hardball, to use the vernacular, over the level and the length of the care that Vivian Solon is entitled to what sort of care she could have back here in Australia and whether the Commonwealth would agree to arbitration on a compensation package if the mediation failed after six months. I do not know the very latest on where those discussions are at, but I understand that, some time ago, there were attempts to reach agreement between the lawyers and the Commonwealth on that, enabling Vivian to return home to see her two young children whom she has not seen for the last four years.

This amendment makes absolutely crystal clear the matter of compensation if someone is illegally detained. It does not relate exactly to Vivian. Vivian was not just unlawfully detained; Vivian was unlawfully removed from this country. All this amendment says is that, if someone has been wrongfully detained, the Commonwealth must pay compensation, and it allows that the amount to be either settled between the persons involved or settled by the court. It allows for that to occur in a variety of different ways. It says that if someone is wrongfully detained, it is the view of this parliament, this Senate and this government that people should be able to access compensation. This is another straightforward amendment that I would have thought was reasonably consistent with what exists in a whole range of other jurisdictions. All of these amendments are based on what occurs in other jurisdictions. These are not amendments that say, 'This is the Greens' position in relation to immigration detention.' If that were the case, we would be saying, 'Let's remove the entire system of

mandatory detention.' The amendments I am moving today are basic, standard requirements that exist in other jurisdictions where people are able to be detained. I commend this amendment to the Senate.

Senator LUDWIG (Queensland) (6.15 pm)—Section 3AB, 'Compensation for wrongful detention', is a matter on which the government does not seem to have a view, which is really surprising, I suspect, looking at the circumstances that have surrounded both the Cornelia Rau matter and the Vivian Solon matter. But it is not unheard of for the government to have not sorted out compensation for the wrongful detention of people. These are matters that the government has turned its mind to in a number of instances. I suspect that those persons had to start the litigation—and perhaps the government can confirm this—to ensure that they would receive compensation, rather than being able to enter into an agreement with the Commonwealth in the first instance, perhaps through conciliation or mediation.

The object of this amendment, at least in part, is to bring about a position where some procedures are set down for the government to look at how these matters arise and whether it should pay compensation. It does not specify the amount that would otherwise be payable. It provides an overview or a shorthand way of ensuring that the government does admit to its responsibilities in these areas. It says:

> ... the Commonwealth must pay that person:
>
> (a) a reasonable amount of compensation agreed on between the person and the Commonwealth;

It is not a case of an unreasonable amount of compensation, as the Commonwealth sometimes says. Failing agreement, it does not default to an unusual position. It defaults to a court or a competent jurisdiction determining the compensation, and that can be by mediation or conciliation. It is not necessarily determined that it has to be by a court. There might in fact be at least an encouragement for the parties to look at coming to an agreement rather than litigating, which is usually a much preferred position in these sorts of things. Rather than ending up with litigation, you would end up with a situation where the parties can at least talk about how to resolve these issues.

Perhaps Senator Nettle could confirm whether provision 3AC is being pursued.

Senator Nettle—Could you ask the question again?

Senator LUDWIG—I note your amendment inserts 3AB, 'Compensation for wrongful detention'. I recall that an earlier draft I had originally seen had 3AC as part of the amendment. That seems to have dropped off. I must say, without being too critical, that is probably a sensible thing. That particular section did present a number of problems.

The amendment can be supported whilst it continues to be 3AB without 3AC. It seems that 3AC is no longer being pursued. That section did present difficulties for us. As a consequence, Labor is prepared to support 3AB. In this instance, it seems to act within the scheme of the migration legislation. It is certainly not unusual of late for the immigration department to look at compensation and compensation issues. This seems to be one way of assisting them over that hurdle where they might start from an unreasonable position. This will start them from a position of being reasonable. Therefore, although I do not give us much hope of being able to convince the government of the need for this, it is still worth pursuing.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Ludwig, I remind you that 3AC has never been before the chamber. That is where there was some confusion.

Senator LUDWIG—It looks like it was in an earlier draft, but it was revised. Therefore, it has not been put before the Senate. I think 3AC was an earlier provision that the Greens had circulated, but it was not pursued.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.21 pm)—For the record, the government opposes this amendment put forward by the Greens and, for the record, the government opposes the other amendments proposed by the Greens. I spoke in general terms earlier today in relation to the amendments sought by the Greens, but the government does have a strong position and that is to oppose them. There are pending cases which I will not comment on, and Senator Nettle has referred to one of them. There are actions at common law which are available for matters like this, and this amendment really does not add anything.

Senator NETTLE (New South Wales) (6.22 pm)—I am a bit disappointed at the minister's response. We both did make general comments in relation to the set of amendments that the Greens are moving, but we are debating each of the amendments separately because they deal with different issues. On this issue, the question we are debating is whether or not the Commonwealth should pay compensation in a circumstance where a person has been found to be wrongfully detained.

In the contribution that the minister just made in relation to this particular amendment, he did not go anywhere near addressing what the amendment is about. I heard what the minister said: he has no intention of supporting any Greens amendments. But I did not hear from the minister why the government thinks it is unreasonable for somebody who has been wrongfully detained to be able to access compensation. I would ask the minister if he could address that point.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.23 pm)—Senator Nettle was not listening to what I said: the common law provides for this. That is the beginning and the end of the story. There is no need to put a provision in the legislation. It does mean that the Commonwealth does not believe there should be compensation for wrongful detention. The common law provides for an action of this sort. We do not have to codify everything by putting it into the statute. There are actions pending, which Senator Nettle has referred to, so it is not in any way able to be construed—from anything I have said—that the Commonwealth is in any way saying that you should not get compensation if you are treated wrongfully or are wrongfully detained. I repeat, for the fourth time, that the common law has an action available for this sort of thing.

Senator NETTLE (New South Wales) (6.24 pm)—I thank the minister for his answer, because, as Senator Ludwig mentioned previously, there are several circumstances in which the Commonwealth government have paid compensation—generally with a secrecy provision so that the public does not know how much has been paid—in relation to an individual who has been found to be wrongfully detained. In Villawood in New South Wales, there was a circumstance not so long ago where a French citizen was detained in Villawood and his embassy was not informed of the fact. I understand he was paid $25,000 for four days of wrongful detention in Villawood.

I have asked questions in estimates about the standard rate of compensation that the government pay when they wrongfully detain people, and I have been told there is no standard rate. In Mr Sacko's case, he was

paid $6,250 per day of wrongful detention. For the 222 cases that are being investigated by the Ombudsman—which add up to many thousands of days in detention—the compensation bill that the Commonwealth would be looking at is in the order of $170 million. That would be if you operated on the level that Mr Sacko was paid at. I accept that the government have said that they have no intention of doing that, where a standardised payment of $6,250 per day is made for wrongful detention in Villawood.

Question negatived.

Senator NETTLE (New South Wales) (6.26 pm)—by leave—I move Greens amendments (3) and (4) on sheet 4637 revised:

(3) Schedule 1, page 7 (after line 24), after item 14, insert:

14A At the end of subsection 189(1)

Add "for not more than 168 hours or 7 days, after which time the person must:

(a) be released in accordance with section 191; or

(b) be charged with a criminal offence; or

(c) be processed for a visa in accordance with this Act; or

(d) be permitted access to apply to the Federal Court or the Supreme Court of the State or Territory in which the person is held in custody for a writ of habeas corpus".

(4) Schedule 1, page 7 (after line 24), after item 14, insert:

14B At the end of section 189

Add:

(6) Notwithstanding anything contained in this section:

(a) where an officer proposes to detain a person for longer than 168 hours or 7 days, the officer must apply to the Federal Court or the Supreme Court of the State or Territory in which the person is held in custody for consent to detain the person for a period of time determined by the court; and

(b) an officer may make such further applications in accordance with paragraph (a) as may be required.

These two amendments ensure that initial detention of a person on the grounds that they are a suspected unlawful noncitizen cannot be longer than seven days.

As I said previously, I am not moving amendments that put the Greens' policy in relation to immigration detention into the law, because, as I have said many times in this place, the Greens do not support the current system of mandatory detention. What I am seeking to do in moving these amendments is to bring some judicial oversight, some standards, which bring the Department of Immigration and Multicultural and Indigenous Affairs closer in line with the other jurisdictions—state, territory and federal—in which people are detained. These amendments say that, after seven days, somebody should be brought before a court. That person might then be released, be charged with a criminal offence, or apply to the courts for release from detention. The department of immigration is required to go to a court and request consent for the continued detention of a person beyond that seven days, and it must provide evidence for the legality of that detention under the Migration Act.

This is a standard that exists in a whole range of other jurisdictions, and I might have a look at some of those. I have mentioned previously that, in my home state of New South Wales, the maximum period of detention is 'a reasonable time', but four hours is the maximum before you need to go before a court and have that confirmed. In Queensland it is eight hours and in South Australia it is four hours. A reasonable period of time is standard in other places. In the Common-

wealth, for non-terrorism offences, it is two hours if you are under 18, Aboriginal or Torres Strait Islander, otherwise it is four hours. These are the standards that exist in other jurisdictions. A person is detained for two, four or eight hours and, after that point, in order to continue the detention, an argument must be made before the court for continuing the detention. We have had these debates many times on ASIO legislation, and we will be back here in two weeks time having this debate again: what powers are needed to detain a person before the matter needs to go before a court.

These amendments say that detention must be for no longer than seven days. After seven days, the department of immigration has to go before the court. The onus is placed on the department to justify continued detention, rather than reversing that, where the detainee would have to justify their release. This is an important distinction and that is why the amendments are written in that way. There are reasons why it is unreasonable for a detainee to initiate proceedings for their release from detention. Some people have poor English or no English, or they have little understanding of the law. Other senators have mentioned that that is the case for the vast bulk of people who are in immigration detention. They might be frightened of upsetting authority, given the country that they come from and the experiences that they have had with authority elsewhere. They might have a mental illness, or there might be some other reason why they are incapable of understanding their situation and the possible remedies, and they could therefore be denied justice. We have talked in here on many occasions about somebody like Cornelia Rau.

Sitting suspended from 6.30 pm to 7.30 pm

Before dinner, I went through a range of other jurisdictions and outlined the maximum period of time for which somebody could be detained before they had to be brought before a court and a case had to be made to continue that detention. The maximum period you can hold somebody before you need to go before the court varies from two hours to eight hours. This amendment is to say that after seven days—even looking at it now, it is extraordinarily generous—you need to go before the court and argue that you should continue the detention. In the same way that police must charge a person or ask the court for an extension of the period of detention, so too should the department of immigration be required to justify its detention before an authority outside of the department of immigration.

I commend this amendment to the Senate, as I say, not because it is the Greens' policy of what we should do but because it brings in a level of judicial review that is more generous than exists in a range of other jurisdictions at the state, Commonwealth and territory levels. If the Senate fails to pass this amendment, we are essentially giving the green light to indefinite detention by the executive without judicial review of such detention. It is a dangerous precedent. The scandals of Cornelia Rau and Vivian Alvarez should provide a warning about the dangers of unreviewed detention, as should the other 222 cases that are currently being investigated by the Ombudsman in relation to unlawful detention.

Senator LUDWIG (Queensland) (7.32 pm)—When I preface my remarks with 'I understand the Greens' position', it usually means that I am not minded to support it. I thought I would get that out early. The difficulty is, notwithstanding the fine submission made, that the comparison troubles Labor. The comparison you have made is between the criminal law section and detention under

the migration legislation. They are different. There are situations where there is arrest and charges are laid. There is a criminal process to go through and a sentencing regime. There are also parts of the questioning at that arrest point. It is an entirely different situation, although I can understand why sometimes at the end point they look similar.

In these instances, under the Migration Act there is a decision, reasonably based, under section 189, for the detention of an unlawful noncitizen. The compliance officer from DIMIA has to come to the understanding, reasonable belief or reasonable suspicion that there is an unlawful noncitizen who should be detained, and then section 196 indicates how that detention should be proceeded with—in other words, the time a person cannot be released until. While Labor does not agree with this government's detention regime, there is the problem of saying at what point a person should be released. You have tried to construct a situation where, after a period of detention of not more than 168 hours or seven days, then the reasons for release will be A, B, C and D. But one of the drivers is to ensure that security and health checks are done and that a person's identity is also sought to be determined. In these instances it is not always clear with an unlawful noncitizen at the point of detention how long their identity and health checks are going to take. It is certainly Labor's view that it should be relatively quick. It should be as quick as possible, but we cannot second-guess how long it may be. We expect most people to be processed within a short period of time. It is Labor's view that at the next point, at the 90-day period, it would be picked up again.

This amendment tries to ensure there is a period which is short for the purposes of A, B, C and D, but it does not pick up the issues that I have outlined, and I think for that reason it fails. But I understand the persistence of the Greens in this regard. When you look at the detention that this department, or the minister—perhaps that is more apt—has imposed, there is certainly room for improvement. I think this department has recognised at least in part that there is further room for improvement in that regard, to ensure that there is appropriate treatment of people who have been detained lawfully if there is a situation where they are at least reasonably believed to be, or there is reasonable suspicion to believe that they are, unlawful noncitizens and should be detained. For the reasons I have outlined, Labor is not minded to support these two amendments.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.37 pm)—The government is equally minded not to support the two amendments that we are debating that are proposed by the Greens. Firstly, I certainly agree with the comparison that Senator Ludwig has made in relation to the examples that Senator Nettle has cited from the criminal jurisdiction. Being an unlawful noncitizen is not a criminal offence, and it is likening those people to being in a criminal situation—imputing to them some criminality, if you like. We believe that the criminal jurisdiction does not provide an example to be followed in this case. There are a number of other avenues available for review of a wrongful detention, such as a writ of habeas corpus. We certainly believe that these amendments do not fit with the government's policy of mandatory detention.

As well as that, if one were to adopt these amendments, consequential amendments would have to be made elsewhere and the legislation dealing with the courts would have to be considered as well. Relevant amendments would have to be made to legislation governing the courts, because of the role that the courts would have in this. So these are certainly amendments which do not have a place in this bill. This bill is dealing

with the streamlining of migration litigation. For the reasons that I have mentioned, the government will not be supporting these two amendments.

Senator NETTLE (New South Wales) (7.39 pm)—Both of the previous speakers have pointed out that immigration detention is different to what exists in the Criminal Code, in the criminal regime. It is useful to have those comments, particularly the comments from the government, on the record. Looking at the way this government treats detainees, I know, having previously worked in prisons and now being in a situation where I visit detention centres, that the systems are remarkably similar. Management units of Baxter and Villawood detention centres look exactly like the isolation and solitary confinement units in a number of prisons throughout New South Wales. It is good to have on the record those comments in which the government acknowledges the difference in the way these groups of people are considered by them, but I think the record of the government and the evidence of the way people are treated in these two institutions speak for themselves.

Senator Ludwig mentioned the issue of health, security and identity checks. I consider that, if those things had not been established, they would all be reasonable grounds and reasonable arguments for a court to continue a detention. Perhaps, if the comparison to the Criminal Code is something that others find difficult to deal with, we can look at things such as the mental health act and how it operates in a number of areas. Perhaps you would consider what occurs in immigration detention to be more similar to what occurs in detention in mental health institutions, whereby magistrates come to visit, a short proceeding occurs in the corner and the decision is made to continue or not continue the detention. In seeking to understand how such a model may work, that may be a useful comparison to make. The magistrate comes to visit the mental health institution and signs off on ongoing detention if it is the view of the magistrate that it should continue. It is a form of judicial review and judicial oversight of the ongoing detention of particular detainees.

Question put:

That the amendments (**Senator Nettle's**) be agreed to.

The committee divided. [7.46 pm]

(The Chairman—Senator JJ Hogg)

Ayes……	8
Noes……	42
Majority……	34

AYES

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

NOES

Adams, J.	Barnett, G.
Brandis, G.H.	Brown, C.L.
Carr, K.J.	Chapman, H.G.P.
Colbeck, R.	Crossin, P.M.
Eggleston, A.	Ellison, C.M.
Fielding, S.	Fierravanti-Wells, C.
Fifield, M.P.	Forshaw, M.G.
Hogg, J.J.	Humphries, G.
Johnston, D.	Joyce, B.
Kirk, L.	Lightfoot, P.R.
Ludwig, J.W.	Lundy, K.A.
Macdonald, J.A.L.	Marshall, G.
Mason, B.J.	McEwen, A.
McGauran, J.J.J. *	McLucas, J.E.
Moore, C.	Nash, F.
O'Brien, K.W.K.	Parry, S.
Polley, H.	Ronaldson, M.
Santoro, S.	Scullion, N.G.
Stephens, U.	Troeth, J.M.
Trood, R.	Watson, J.O.W.
Webber, R.	Wortley, D.

* denotes teller

Question negatived.

Senator NETTLE (New South Wales) (7.49 pm)—I move Greens amendment R(4A) on sheet 4637 revised:

R(4A) Schedule 1, page 7 (after line 24), after item 14, insert:

14BA After subsection 189(4)

Insert:

(4A) Where an officer has knowledge or reasonable suspicion which causes the officer to take action in accordance with this section, the officer must record that knowledge and grounds of reasonable suspicion in writing and must lodge a copy of the document with the Department and provide a copy of the document to the person for whom detention action is being taken or to that person's legal representative.

This amendment goes to the issue of section 189 of the Migration Act, under which an officer must either know or reasonably suspect that someone is an unlawful noncitizen before they are able to detain them. This has been the subject of many recent court cases and much discussion. I think both the Goldie case and the Taylor case went to this point about when an officer determines that they have reached a level at which there is reasonable suspicion. Of course, it is an issue that the government is seeking to address in response to the Palmer and Comrie reports by ensuring that a particular level of officer signs off on whether there is a reasonable suspicion that somebody should be detained.

This amendment requires the officer who makes the decision that there is a reasonable suspicion that someone is an unlawful noncitizen and should be detained to put in writing their reasons for detaining a person, requires those reasons to be lodged with the department of immigration and requires a copy to also be given to the detained person or their legal representative. This is one of the key areas in the Migration Act about which there has been substantial criticism, and I am sure the government has accepted some of that criticism. In the recent Palmer and Comrie reports it has been identified as an area in which it is important to be clear about at what point an officer determines—and what level of officer can determine—that there is a reasonable suspicion that somebody should be detained. It is a key point. It is the key point in the case of Cornelia Rau, which we have gone over in many estimates committees and at other times, and in the case of Vivian Solon: when was the decision made that there was a reasonable suspicion and that this person should be detained? The government has sought to make some moves to address what level of officer makes that decision. This clause says that the officer who makes that decision should write down their reasons.

I do not know whether there is an argument that the government might see that perhaps it is a good idea to ensure that those officers write down those decisions because, when you go back to court cases or to review the circumstances under which somebody was detained—if they were subsequently found to be unlawful or if they were not—there is value in ensuring that, at the crucial point when a decision was made to detain somebody, the officer responsible wrote down their reasons. That is what this amendment says: when an officer decides that somebody should be detained, they should write down their reasons, file a copy away in the department and give a copy to the detainee or their lawyer. Take responsibility for the decision, whatever level officer you might be, and, when you decide, write down your reasons. I would have thought it was a pretty straightforward, clear amendment to ensure that those people who are making the very serious decision to deprive somebody of their liberty at the very least write down their decision and write down

their reason. That is what the Greens are proposing here.

Senator LUDWIG (Queensland) (7.53 pm)—I hope the Greens will forgive me if I say it this way, but it seems that amendment (4A) provides for a situation where the officer must record their knowledge and grounds for reasonable suspicion in writing and must lodge a copy of the document with the department. It is perhaps an inelegant way of describing it, but I understand the driving force. If you look at both Cornelia Rau and Vivian Solon, in those instances those records that were kept—even the original interview records—were perhaps not the best, and perhaps they should have been improved. But what the Vivian Solon case particularly highlighted—although I think both cases highlighted this—was that, in relation to the point at which she was removed, the department was unable to find the document which was supposed to be a checklist of her removal. This department is not good at keeping documents. When you look at the Solon document which provided for her original detention, my recollection is that it was unsigned and that it indicated that the officer did not take it any further than that. Of course, that was at the point of detention, when the officer has to have a reasonable suspicion. One of the problems that might surround this is that that suspicion has to be not just at that point; it should be ongoing. The case should be revisited.

But, that aside, the driving force behind an amendment such as this is to make the department more accountable for its actions, to ensure that, when it turns its mind to detaining unlawful noncitizens, it does so in such a way that there is a record of the decision made by the officer concerned and that the decision is reasonably based. It is not a great impost to write that down, file it and keep it within the department—lodge a document. It is not an additional step that the department do not, in effect, already do in some parts. They do do a record of interview. That record of interview may in fact be that document, because it can be that document where the officer notes on what grounds they came to the knowledge or had reasonable suspicion. Some of it might be a bit obvious, but the process of filling out the form is able to be shortened if it is that obvious. It might be that, as departments are minded to, they can do a check list. They can have a short form, a pro forma, in some instances. But at least then, in those instances where there has been an unlawful noncitizen detected and detained, there is a record of what the officer considered. That can then be revisited by the officer or another compliance officer, should the circumstances change.

Of course, that will not always ensure that the department does not do it unlawfully but it is at least a way of ensuring that the compliance officers, when they lodge those documents with the department in writing, turn their minds to the actions that they have taken and ensure that their duty has been complied with fully and effectively. It might also encourage the department to ensure that they do undertake sufficient training and ensure that their MSIs are up to date so that officers can fulfil their duties effectively. For those reasons—although perhaps, looking at the way it is expressed, we might have taken into consideration some of the issues I have raised—I think it still deserves support.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.58 pm)—The government will not be supporting this amendment from the Greens. In the inquiry carried out by Mr Mick Palmer, there was a recommendation that improvements be made in record keeping. The government acknowledges this, but it believes that it is more appropriate to deal with it in an administration sense, and the department is moving to accommodate this recommenda-

tion administratively. We do not believe it should be contained in statute—particularly this aspect, which, as I said before, relates to the streamlining of migration litigation. Certainly we acknowledge the importance of good record keeping. We do not downplay or deny it in any way; we simply believe that the way we are going about it is preferable to having it prescribed in legislation. It is too prescriptive. This can be dealt with administratively, and we are responding positively to that recommendation by Mr Palmer.

Question put:

That the amendment (**Senator Nettle's**) be agreed to.

The committee divided. [8.04 pm]

(The Chairman—Senator JJ Hogg)

Ayes……	30
Noes……	33
Majority……	3

AYES

Allison, L.F.	Bartlett, A.J.J.
Brown, B.J.	Brown, C.L.
Campbell, G.	Carr, K.J.
Crossin, P.M.	Evans, C.V.
Faulkner, J.P.	Forshaw, M.G.
Hogg, J.J.	Kirk, L. *
Ludwig, J.W.	Lundy, K.A.
Marshall, G.	McEwen, A.
McLucas, J.E.	Milne, C.
Moore, C.	Murray, A.J.M.
Nettle, K.	O'Brien, K.W.K.
Polley, H.	Sherry, N.J.
Siewert, R.	Stephens, U.
Stott Despoja, N.	Webber, R.
Wong, P.	Wortley, D.

NOES

Abetz, E.	Adams, J.
Boswell, R.L.D.	Brandis, G.H.
Chapman, H.G.P.	Colbeck, R.
Coonan, H.L.	Eggleston, A.
Ellison, C.M.	Ferguson, A.B.
Fielding, S.	Fierravanti-Wells, C.
Fifield, M.P.	Heffernan, W.
Humphries, G.	Johnston, D.
Joyce, B.	Kemp, C.R.
Lightfoot, P.R.	Macdonald, I.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J. *	Minchin, N.H.
Nash, F.	Parry, S.
Ronaldson, M.	Santoro, S.
Scullion, N.G.	Troeth, J.M.
Trood, R.	Vanstone, A.E.
Watson, J.O.W.	

PAIRS

Bishop, T.M.	Campbell, I.G.
Conroy, S.M.	Barnett, G.
Hurley, A.	Payne, M.A.
Hutchins, S.P.	Patterson, K.C.
Ray, R.F.	Ferris, J.M.
Sterle, G.	Calvert, P.H.

* denotes teller

Question negatived.

Senator NETTLE (New South Wales) (8.08 pm)—I now move Greens amendment (R5) on sheet 4637 revised:

R(5) Schedule 1, page 7 (after line 24), after item 14, insert:

14C After Division 13A

Insert:

Division 13AAA—Obligations of departmental officers during questioning of persons in immigration detention

261KA Overview of Division

The purpose of this Division is to provide for the fair and proper management and control of questioning conducted by an officer under this Act where that questioning is of a person who is in immigration detention under this Act or where there are reasonable grounds to believe that the person is in immigration detention under this Act.

261KB Officer to caution and give summary of Division to person who is in detention

(1) As soon as practicable after a person is detained in accordance with this Act, an officer must orally and in writing in the language of the applicant:

(a) caution the person that the person does not have to say or do anything but that anything the person does say or do may be used in evidence; and

(b) give the person a summary of the provisions of this Division that is to include reference to the fact that the maximum investigation period may be extended beyond 7 days in accordance with section 189 and that the person, or the person's legal representative, may make representations on that matter in accordance with section 189.

(2) The giving of a caution under paragraph (1)(a) does not affect a requirement of any law that a person answer questions put by, or do things required by, an officer.

(3) After being given the information referred to in subsection (1) orally and in writing, the person is to be requested to sign an acknowledgment that the information has been so given and understood by the person.

261KC Right to communicate with friend, relative, guardian or independent person and legal practitioner

(1) A person detained in accordance with this Act has a right to communicate, or attempt to communicate, with a friend, relative, guardian or independent person in accordance with this section.

(2) Before any questioning in accordance with section 257 in which a person who is detained in accordance with this Act is to participate starts, an officer must inform the person orally and in writing that he or she may:

(a) communicate, or attempt to communicate, with a friend, relative, guardian or independent person:

(i) to inform that person of the detained person's whereabouts; and

(ii) if the detained person wishes to do so, to ask the person communicated with to attend at the place where the person is being detained to enable the detained person to consult with that person; and

(b) communicate, or attempt to communicate, with a legal practitioner of the person's choice and ask that legal practitioner to do either or both of the following:

(i) attend at the place where the person is being detained to enable the person to consult with the legal practitioner;

(ii) be present during any questioning under section 257 and give advice to the person.

(3) Where a person requests access to a legal practitioner or an interpreter, an officer must provide access to a legal practitioner or interpreter.

(4) If the person wishes to make any communication referred to in subsection (2), the officer must, as soon as practicable:

(a) give the person reasonable facilities to enable the person to do so; and

(b) allow the person to do so in circumstances in which, so far as is practicable, the communication will not be overheard.

(5) The officer must defer for a reasonable period any questioning in which the person is to participate:

(a) to allow the person to make, or attempt to make, a communication referred to in subsection (1); and

(b) the person has asked any person so communicated with to attend at the place where the person is being detained:

(i) to allow the person communicated with to arrive at that place; and

(ii) to allow the person to consult with that person at that place.

(6) If the person has asked a friend, relative, guardian or independent person communicated with to attend at the place where the person is being detained, the officer must allow the person to consult with the friend, relative, guardian or independent person in private and must provide reasonable facilities for that consultation.

(7) If the person has asked a legal practitioner communicated with to attend at the place where the person is being detained, the officer must:

(a) allow the person to consult with the legal practitioner in private and must provide reasonable facilities for that consultation; and

(b) if the person has so requested, allow the legal practitioner to be present during any such questioning and to give advice to the person.

(8) Anything said by the legal practitioner during any such questioning is to be recorded and form part of the formal record of the questioning.

(9) Questioning is not required to be deferred under subsection (4) for more than 2 hours to allow a friend, relative, guardian, independent person or legal practitioner that the person has communicated with to arrive at the place where the person is being detained.

(10) Questioning is not required to be deferred under subsection (4) to allow the person to consult with a friend, relative, guardian, independent person or legal practitioner who does not arrive at the place where the person is being detained within 2 hours after the person communicated with the friend, relative, guardian, independent person or legal practitioner. This does not affect the requirement to allow a legal practitioner to be present during questioning and to give advice to the person.

(11) The duties of an officer under this section owed to a person who is detained under this Division and who is not an Australian citizen or a permanent Australian resident are in addition to the duties of the officer owed to the person under section 261KD.

(12) After being informed orally and in writing of his or her rights under this section, the person is to be requested to sign an acknowledgment that he or she has been so informed and understands.

261KD Right of foreign national to communicate with consular officer

(1) This section applies to a person who is detained in accordance with this Act and who is not an Australian citizen or a permanent Australian resident.

(2) A person of the kind specified in subsection (1) who is detained in accordance with this Act has a right to communicate with a consular officer in accordance with this section.

(3) Before any questioning in accordance with section 257 in which a person to whom this section applies is to participate starts, an officer must inform the person orally and in writing that he or she may:

(a) communicate, or attempt to communicate, with a consular official of the country of which the person is a citizen; and

(b) ask the consular official to attend at the place where the person is being detained to enable the person to consult with the consular official.

(4) If the person wishes to communicate with such a consular official, the officer must, as soon as practicable:

(a) give the person reasonable facilities to enable the person to do so; and

(b) allow the person to do so in circumstances in which, so far as is practicable, the communication will not be overheard.

(5) The officer must defer for a reasonable period any questioning in which the person is to participate:

(a) to allow the person to make, or attempt to make, the communication referred to in subsection (3); and

(b) if the person has asked any consular official so communicated with to attend at the place where the person is being detained:

(i) to allow the consular official to arrive at that place; and

(ii) to allow the person to consult with the consular official at that place.

(6) If the person has asked a consular official communicated with to attend at the place where the person is being detained, the officer must allow the person to consult with the consular official in private and must provide reasonable facilities for that consultation.

(7) Questioning is not required to be deferred under subsection (5) for more than 2 hours to allow a consular official that the person has communicated with to arrive at the place where the person is being detained.

(8) Questioning is not required to be deferred under subsection (5) to allow the person to consult with a consular official who does not arrive at the place where the person is being detained within 2 hours after the person communicated with the consular official.

(9) After being informed orally and in writing of his or her rights under this section, the person is to be requested to sign an acknowledgment that he or she has been so informed and understands.

(10) This section does not apply if the officer did not know, and could not reasonably be expected to have known, that the person is not an Australian citizen or a permanent Australian resident.

261KE Right to reasonable refreshments and facilities

(1) An officer conducting questioning of a person in accordance with section 257 must ensure that the person is provided with reasonable refreshments and reasonable access to toilet facilities in the course of the questioning.

(2) The officer conducting questioning of a person who is detained in accordance with this Act must ensure that the person is provided with facilities to wash, shower or bathe and (if appropriate) shave if:

(a) it is reasonably practicable to provide access to such facilities; and

(b) the officer is satisfied that the investigation will not be hindered by providing the person with such facilities.

261KF Recording and retention of questioning

(1) All questioning conducted in accordance with section 257 must be recorded.

(2) A copy of a recording made in accordance with subsection (1) must:

(a) be provided to the person who was questioned or, where the person being questioned so requests, to that person's legal representative; and

(b) be retained by the department for not less than five years.

261KG Right to an interpreter

(1) A person detained in accordance with this Act has a right to an interpreter in accordance with this section.

(2) Where a person is detained for questioning in accordance with section 257, the officer conducting the questioning must arrange for an interpreter to be present for the person in connection with any questioning of the person if the officer has reasonable grounds for believing that the person is unable:

(a) because of inadequate knowledge of the English language, to communicate with reasonable fluency in English; or

(b) because of any disability, to communicate with reasonable fluency in English.

(2) Subject to subsection (3) the officer must defer any questioning in which the person is to participate until the interpreter is presents.

(3) The officer does not need:

(a) to arrange for an interpreter to be present if the officer believes on reasonable grounds that the difficulty of obtaining an interpreter makes compliance with the requirement not reasonably practicable; or

(b) to defer any such questioning if the officer believes on reasonable grounds that the urgency of the investigation, having regard to the safety of other persons , makes such deferral unreasonable.

(4) If an interpreter is not available to be present for any questioning of the person, the officer must arrange for a telephone interpreter for the person.

(5) If subsection (4) applies, the officer must defer any questioning in which the person is to participate until a telephone interpreter is available.

(6) The officer does not need:

(a) to arrange for a telephone interpreter if the officer believes on reasonable grounds that the difficulty of obtaining such an interpreter makes compliance with the requirement not reasonably practicable; or

(b) to defer any such questioning if the officer believes on reasonable grounds that the urgency of the investigation, having regard to the safety of other persons , makes such deferral unreasonable.

261KH Right to medical assistance

(1) A person detained in accordance with this Act has a right to medical assistance in accordance with this section.

(2) Where a person is detained for questioning in accordance with section 257, the officer conducting the questioning must arrange immediately for the person to receive medical attention if it appears to the officer that the person requires medical attention or the person requests medical attention on grounds that appear reasonable to the officer.

As I said in my opening remarks when we began in the committee stage, the intention of this particular amendment is to set out the obligations of DIMIA officials during questioning of a person in immigration detention. This amendment installs procedural safeguards to ensure that arrest and detention by the department of immigration respects people's human and legal rights. It requires officers of the department of immigration to grant people brought under their detention similar rights and provide them with similar assistance to what police officers are required to provide under the various state acts. The guidelines that exist in other criminal codes, for example, in other states for people when they are in detention are processes that have been developed over years so that people are not denied their rights under law.

As we heard in the minister's last comments—correct me if I am wrong, Minister—he said: 'There may be value in what you are doing but we'll do it administratively.' As the current Migration Act is set out, there is provision for the government to put in place regulations about how they will administer the detention of detainees, so there is provision for the government to bring in regulations that stipulate all these sorts of standards that I am setting out in this amendment. But they have never done so. Indeed, there have been a number of Federal Court cases—and the Finn judgment is a recent one—in which the judge has pointed to this failure of the government to put in

place regulations that stipulate how immigration detention should occur. I do not have the capacity to move regulations so what is open to me is to move amendments which stipulate how these things should occur.

I will just go through what the particular provisions are. I will actually amend the first section of the amendment because the Australian Greens amendments (3) and (4), which sought to ensure that a detainee was brought before a court after seven days of detention, were not supported. Proposed section 261KB, officer to caution and give summary of division to person who is in detention, is the 'anything you do or say may be used in evidence' clause. Because the previous amendments were defeated and so that it is not inconsistent, the reference to seven days should be removed in proposed section 261KB(1)(b). I seek leave to amend the amendment.

Leave granted.

Senator NETTLE—My amendment is to paragraph 261M(1)(b), and omits "that is to include reference to the fact that the maximum investigation period may be extended beyond 7 days in accordance with section 189 and that the person, or the person's legal representative, may make representations on that matter in accordance with section 189". 261KB now reads:

> ***261KB Officer to caution and give summary of Division to person who is in detention***
>
> (1) As soon as practicable after a person is detained in accordance with this Act, an officer must orally and in writing in the language of the applicant:
>
> (a) caution the person that the person does not have to say or do anything but that anything the person does say or do may be used in evidence; and
>
> (b) give the person a summary of the provisions of this Division.

I might go on to explain what the various proposed sections of the amendment are about. Proposed section 261KB, as I have explained, is the 'anything you do or say may be used in evidence against you' clause. It is about letting a detainee know their legal rights at the point at which they are detained. As I said, this is taken from the Commonwealth Criminal Code and the existing standards that apply in other forms of detention.

Proposed section 261KC, the right to communicate with a friend, relative, guardian or independent person and legal practitioner, requires officers to inform a detainee of their right to communicate with a relative, friend or lawyer and assist them. A lawyer or friend may be present during interview at the request of the detainee and the officers should allow two hours for a friend or lawyer to arrive at the place of detention. Again, all of these amendments are trying to bring immigration detention in line with other forms of detention.

Proposed section 261KD, the right of a foreign national to communicate with a consular officer, is about the right of somebody who is detained to contact their embassy. Of course, it has to be voluntary, because there are many asylum seekers who would not want to contact their embassy. But, as I mentioned before when we were talking about the clause on compensation, there was a case of a French man, Mr Sacko, who was recently detained at Villawood detention centre by DIMIA and who desperately wanted to contact the French embassy, who themselves later complained that they had not been contacted. This was the man who received $25,000 compensation for four days wrongful detention. So this is what this clause is about—ensuring that if somebody does want to contact their embassy then they should be allowed to do so.

The next proposed section, section 261KE, enshrines the right to reasonable refreshments and facilities. That is something you might think is pretty obvious, but it was reported that GSL, the current detention service providers, were recently fined half a million dollars in an instance where a group of detainees—I think there were six men—were taken in the back of a paddy wagon from Maribyrnong detention centre to Baxter detention centre in South Australia. They spent several hours in the back of a paddy wagon with no toilet stops, no food and no water along the way. You might think it is a bit over the top to put this into legislation but the government has not put in any regulations in this area. The Federal Court has pointed this out on several occasions. I cannot put regulations in, so I am moving amendments. You may still think this is over the top but, when we have instances of the detention service provider being fined in the order of half a million dollars because they took six men in the back of a paddy wagon for a five- to six-hour journey and did not stop to let them go to the toilet or to give them some water, I think there is a pretty strong case for ensuring that we put these guidelines and regulations in because, as they currently exist, what we think of as reasonable, decent and humane standards are not being adhered to.

The next proposed section, section 261KF, is about the recording and retention of questioning. It requires that interviews are recorded, as the police are required to do. Hopefully, this would lead to better evidence and more accountability on the part of departmental officers. It is possible that, if interviews were properly recorded in the case of Vivian Solon or Cornelia Rau, the opportunity to realise and rectify mistakes earlier may have occurred. There are two final proposed sections. The first relates to ensuring that people have the right to an interpreter. The final section ensures that there is a right to medical assistance.

In conclusion on these proposed sections, as I said, you may think that all of these things are obvious. They are all enshrined in either law or regulations for other forms of detention, setting the minimum standards. The department of immigration has chosen not to do that whilst the opportunity has been there. It has been chastised on more than one occasion by the courts for not doing so. Instead, the department of immigration likes to, as the minister put it last time, do it administratively. It produces guidelines, the migration series instructions, that do not have the same enforceability as if the legislation or regulations set down these minimum basic standards and guidelines for decency to ensure that people who are held in detention by the department of immigration have their legal rights and human rights respected, know their situation and are able to get proper breaks—a drink of water or whatever it might be.

It is unfortunate that these things have to be stipulated but, when you look at the recent behaviour of the department of immigration and the detention service providers, I think the case is strong for stipulating them. That is why the Australian Greens are moving this amendment—to put in place those standards that the government should have put in place at the time they created the Migration Act and when they had the opportunity to put in place these regulations. On more than one occasion the Federal Court has said to the government, 'You should've put in place these regulations.' I cannot move the regulations, so I am a moving the amendment here today. I commend it to the Senate.

Senator LUDWIG (Queensland) (8.18 pm)—We come back to the issue I think I raised last time. I think the minister may have at least stated the obvious in that there

are areas where a lot of this could, and perhaps should, have been dealt with by regulation. I think the last amendment was one that could and should have been dealt with by regulation. But this government has been incapable of—or unable or unwilling to, up to this point in time—dealing with some of these matters by regulation, or even by orders or migration series instructions, to ensure they are dealt with appropriately. It seems that, in this instance, unfortunately, the Greens have sought to thicken an already thick book by seeking to amend the migration legislation to include matters that would otherwise fall easily into migration series instructions, procedures or regulations.

Given that this department says it is moving—it certainly has the trinkets to demonstrate its bona fides—as far as I can determine the problem is that it does not have, at this juncture, anything surrounding what Senator Nettle is proposing here, which is ensuring the ability to communicate with friends, relatives and guardians, access to legal rights, the ability for foreign nationals to communicate with consular officers if they wish to exercise that right and the right to reasonable refreshments and facilities. The difficulty is the minister might tell me that is, in fact, the case. But what we have found, unfortunately, is that it does not seem to work in practice. Whether or not there was a regulation or a standard operating procedure in place, it was not complied with in the case that Senator Nettle raised. It was extraordinarily disappointing how that unfolded.

The department may in fact need legislation, black and white, in front of them, to ensure that they do provide these types of things, which would seem reasonable to most people, and that there is the ability to record and deal with questioning in that way. It is not unusual. These issues are dealt with in other areas by other administrative means. Mostly it does not need to be put into legislation. I can see why Senator Nettle thinks in this instance it should be in legislation; notwithstanding, it should and could be dealt with by regulation. The government may indicate that it has a view to put that into regulation. Until it does I think there needs to be clearer guidance; therefore, the opposition is prepared to accept and support this amendment on the basis that it seems reasonable that these types of things be dealt with and should be dealt with in that way.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.22 pm)—Again, the government will not support the Greens' amendment. At the outset, can I say that the provisions in the amendment again relate to a subject matter which is not that of the bill that we are dealing with in committee. In any event, the amendment provisions would implement obligations that already exist and that are already reflected in practice, such as the obligations regarding access to consular officials. They are also contrary to the existing provisions of the Migration Act.

As I understand it, the act provides in section 257 that statements by a person being questioned whilst in detention cannot be used in evidence against them, but the suggested amendment that we have here is such that the officials would have to say to the person being questioned that what they do say may be used in evidence against them. That is inconsistent with section 257, I am advised. Section 257 says that statements by a person who is questioned whilst in detention cannot be used in evidence against them. So there is a conflict there with this amendment. There is also the question of practicality—that is, if someone is detained in the field for a short while, do you have to go through this rigmarole of cautioning? Doing that could even prolong the detention.

What I am saying is that DIMIA has a basic duty of care to people in detention, and that duty of care covers the sorts of issues that Senator Nettle has mentioned. There is an existing obligation to provide consular access where sought and section 257 provides that statements made in these circumstances cannot be used in evidence. So that is covered on all three of those bases. There are aspects of the current situation which militate against the amendment proposed by the Greens. For those reasons, the government does not support this amendment. I say that not just because this amendment does not deal with the subject matter of the bill at hand but, more importantly, for the reasons that I have outlined.

Senator BARTLETT (Queensland) (8.25 pm)—Just briefly, I would like to put on the record the Democrats' support for this amendment—it has been obvious with most of the divisions, anyway, in our support for previous amendments. I am taking guidance in part from the dripping wet social conscience of the Labor Party here, Senator Ludwig, well-known standard-bearer of the Left, in his support of these amendments! Given that he thinks they are good, how could I possibly say otherwise? That is sarcasm, by the way, for people reading *Hansard* after the fact.

I should also say that the amendments do have merit. I think there is a case to be put about what is appropriate in black-letter legislation and what is appropriate in administrative instructions. I note the minister's comment about duty of care, but let us not forget that this is the department that actually had to be taken to court by people purely so they could get an appointment with a mental health professional. The court finding—eventually, after one of those cases went all the way through to judgment—was that there had been flagrant breaches of care by the department on something as basic and fundamental as access to adequate health care. I do not think anybody would think something like that needed to be spelt out in legislation; indeed, you would think it was so self-evident you would barely need to spell it out at all. When you have a situation where people have go to court to get that sort of basic assistance, it shows how seriously things have deteriorated.

I know there have been major changes since then and lots of money put in and lots of recognition of the need for cultural change, but the fact is that that is quite recent history. Again, I return to one of my earlier comments: if there were a genuine, consistent desire for cultural change then one of the first steps that would have been taken would have been the withdrawal of this legislation. In its earlier form, I think this legislation was around prior to the last election, and it was certainly reintroduced quite some time ago now. It was May, I think, when the report of the Senate committee inquiry into it was tabled. So, whilst the committee report into the bill does not predate the publicity surrounding Cornelia Rau and others—or even, from memory, the court case I just referred to, although I cannot recall precisely what month that was—it clearly predates the Palmer report being tabled, as well as the Cromie report and the major organisational changes announced by the government.

This is legislation that the minister keeps insisting is about streamlining migration litigation, despite the court cases this year where people had to go to court to get access to health services. I think that shows how warped the government's perspective has been in the past. For the government to continue to pursue this legislation, following all of that coming to light, shows that there is still a little bit of deprogramming required there, at least somewhere in the government or the department. The government continues to persist with not just this legislation but

also the furphy surrounding the rationale for it, let alone the quaint misbelief that it is actually going to have the effect that it is suggested it will.

In that context, it is not as unreasonable or as unusual as it might seem to have amendments such as this, which go into the sort of fine detail that you would otherwise expect perhaps in ministerial instructions, put forward. It is unfortunate that we have got to that stage but, certainly, in the absence of any indication of a consistent, comprehensive shift in attitude on the part of the government, these sorts of things, sadly, may still be necessary.

Question put:

That the amendment (**Senator Nettle's**) be agreed to.

The committee divided. [8.34 pm]

(The Chairman—Senator JJ Hogg)

Ayes……	31
Noes……	35
Majority……	4

AYES

Allison, L.F.	Bartlett, A.J.J.
Brown, B.J.	Brown, C.L.
Campbell, G.	Carr, K.J.
Conroy, S.M.	Crossin, P.M.
Evans, C.V.	Faulkner, J.P.
Forshaw, M.G.	Hogg, J.J.
Hutchins, S.P.	Kirk, L.
Ludwig, J.W.	Lundy, K.A.
Marshall, G.	McEwen, A.
McLucas, J.E.	Milne, C.
Moore, C.	Murray, A.J.M.
Nettle, K.	O'Brien, K.W.K.
Polley, H.	Siewert, R.
Stephens, U.	Stott Despoja, N.
Webber, R. *	Wong, P.
Wortley, D.	

NOES

Abetz, E.	Adams, J.
Barnett, G.	Boswell, R.L.D.
Brandis, G.H.	Chapman, H.G.P.
Colbeck, R.	Coonan, H.L.
Eggleston, A.	Ellison, C.M.
Ferguson, A.B.	Fielding, S.
Fierravanti-Wells, C.	Fifield, M.P.
Heffernan, W.	Hill, R.M.
Humphries, G.	Johnston, D.
Joyce, B.	Kemp, C.R.
Lightfoot, P.R.	Macdonald, I.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J. *	Minchin, N.H.
Nash, F.	Parry, S.
Ronaldson, M.	Santoro, S.
Scullion, N.G.	Troeth, J.M.
Trood, R.	Vanstone, A.E.
Watson, J.O.W.	

PAIRS

Bishop, T.M.	Campbell, I.G.
Hurley, A.	Payne, M.A.
Ray, R.F.	Ferris, J.M.
Sherry, N.J.	Calvert, P.H.
Sterle, G.	Patterson, K.C.

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.38 pm)—I move:

That this bill be now read a third time.

Senator BARTLETT (Queensland) (8.38 pm)—I know that it has been a long debate, but I think it is important to re-emphasise at the third reading stage of the Migration Litigation Reform Bill 2005 that this is significant legislation. It might be being overshadowed by other more contentious and momentous pieces of legislation in the public arena at the moment, but it is important to again put on the record the Democrats' overall opposition to the legislation. I am sure Senator Ludwig, after having shown a few outbreaks of commonsense and compassion in supporting a few of those amendments, will revert to

type and now support the legislation with all its very flawed components.

I emphasise that, when this legislation was looked at by a Senate committee in the first part of the year, there were unanimous recommendations that there should be some clear-cut safeguards put in the legislation. There were unanimous recommendations from both the Labor and Liberal members of the committee that there should be a report tabled in the parliament after 12 months of the bill operating about how some of the contentious provisions within it operate. There was also a specific and, again, unanimous recommendation contained in the committee report that there be an automatic repeal put in the legislation for the provisions in items 7, 8 and 9 of the bill that conferred the broadened powers of summary dismissal, that those be repealed at the end of 18 months from the date of the bill's commencement. Neither of those things have happened, of course. It was only subject to those two recommendations that the committee unanimously recommended that the Senate pass the bill. It is an indication that the government has not only failed to progress from where it was in this area some months back but has actually gone backwards from what its own party's members and, indeed, the Labor Party recommended back in May.

There was one dissenting voice in that committee report, and that was mine. I recommended that the bill should be opposed altogether. I am doing that again now. I do believe that the whole suggestion that there is a significant problem with unmeritorious claims before the courts is a furphy. It should also be emphasised that there have been a number of pieces of legislation in the past that have been put forward under the pretence of addressing the problem of the large amount of migration cases clogging the courts. Not only have none of those pieces of legislation worked but their effect has actually been to increase the amount of legislation clogging the courts. Until there is a recognition that the problem is caused predominantly by the governmental and departmental end rather than from the community end, that problem will not be addressed.

There is a provision in the Migration Act that should be amended if we are talking about streamlining and improving migration matters before the courts—that is, the provision that was put in in 1998 to make people less likely to have access to legal advice at the outset. If people get decent advice about how to put together a decent claim right from the start, we would have far fewer problems than we have.

I conclude by noting a few statistics from the recently tabled annual reports of the Migration Review Tribunal and the Refugee Review Tribunal, leaving aside the significant set-aside rates by those tribunals indicating the number of problems in the initial decisions made by DIMIA officers. Out of those tribunal decisions that were reviewed by courts from the Refugee Review Tribunal, 245 cases were remitted either by judgment or by consent back to the tribunal from the courts. That is 11 per cent. When you are talking about 245 cases to deal with refugee matters, that is 245 potential life and death matters, so it is not an insignificant issue.

From the Migration Review Tribunal, the percentage is even higher—that is, 17 per cent of matters that were pursued through the courts were remitted for reconsideration. That is 92 out of 540. That means that there were 337 individual cases in the last financial year where people did take a matter to court that was then remitted. I am sure if you balance that number against the number of people that might be seen to be taking unmeritorious claims through the courts, it would be minuscule. Indeed, according to evidence provided to the Senate committee,

the number of times that the government had previously requested to strike out court actions on the grounds of them being spurious—a power which already exists, I might say—amounted to four, three of which were successful.

It emphasises that, once again, we have the parliament's time being chewed up with legislation that is not focused on where the real problem is and we have rhetoric surrounding that process which seeks to reinforce the myth that a significant part of the problem is somehow or other at the community level with people abusing the process rather than with the process itself. That is why this legislation is flawed, why it is not going to work and why it sends a strong signal that the so-called culture change on the part of the government is not as comprehensive as they might like us to believe. For that reason, I thought it was important to specify those matters at the third reading stage and reinforce the Democrats' overall opposition to the legislation, particularly given that not a single amendment was accepted by the government along the way.

Question agreed to.

Bill read a third time.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Membership

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (8.45 pm)—by leave—I move:

That Senator Murray be discharged from and Senator Siewert be appointed to the Rural and Regional Affairs and Transport References Committee.

Question agreed to.

LAW AND JUSTICE LEGISLATION AMENDMENT (VIDEO LINK EVIDENCE AND OTHER MEASURES) BILL 2005

Second Reading

Debate resumed.

Senator LUDWIG (Queensland) (8.45 pm)—I rise to speak on the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005. The primary purpose of the bill is to create new video link evidence provisions under the Crimes Act 1914 that apply not only to proceedings for terrorism and other related offences but also to proceeds of crime proceedings relating to those offences. In the absence of compelling evidence to the contrary, important evidence from overseas witnesses that are unable to travel to Australia can be put before the court using video link technology. As a consequence, the bill also amends the Foreign Evidence Act 1994 and the Proceeds of Crime Act 2002.

The bill will also amend the following legislation for unrelated purposes: the Crimes Act 1914, to modify matching profiles rules for DNA databases; the Financial Transactions Reports Act 1988, to correct an unintentional omission from the Proceeds of Crime Act 2002—perhaps this should have been called the omnibus bill rather than the video link bill; the Proceeds of Crime Act 2002, to fix an error in regulations and enable payments out of confiscated assets accounts; and the Surveillance Devices Act 2004, to enable law enforcement officers to retrieve authorised surveillance devices under warrant.

On 4 October 2005, this bill was referred to the Senate Legal and Constitutional Legislation Committee for inquiry, and the committee delivered its report on 1 November. It was otherwise a short reporting period but reasonable in the circumstances. The opposi-

tion appreciates the time that was available for that committee to examine the submissions that were made. Nine submissions were received: six from federal agencies and three from the legal community. In addition, the committee took oral evidence in Sydney on 21 October 2005. While most of the bill is uncontentious in its effect, there were several issues that the committee investigated, including a differential treatment of prosecution and defence in relation to the use of evidence in both the proposed amendments to the Crimes Act 1914 and the Foreign Evidence Act 1994, the suitability of the observer regime in the bill, the integrity of the process under a video link evidence regime, retrospectivity for proceedings that have already commenced and the changes to the DNA evidence testing regime.

I will now give at least some detailed consideration to provisions, as time permits, in respect of the bill before returning to the findings and recommendations of the committee report. Video link evidence is widely used in civil proceedings in Australia. Under federal criminal law, it is currently available under the Crimes Act 1914, part 1AD, for child witnesses; the Crimes Act 1914, part 3A, for child sex tourism offences; the Mutual Assistance in Criminal Matters Act 1987; and the Foreign Evidence Act 1994.

Item 5 inserts a new part 1AE into the act to provide for video link evidence to be used in proceedings for certain terrorism and related offences. The coverage of these offences has been intentionally broad so that they cover not only direct terrorist offences but also peripheral and ancillary related offences such as the giving of false and misleading statements to ASIO while being questioned under warrant for a terrorist offence—for example, the provisions of the bill are to apply to all federal criminal proceedings, including committals, but they specifically exclude defendants from giving evidence.

The proposed 15YU(3) makes the effect retrospective for proceedings instituted before or after the commencement of the new part 1AE. While domestic laws permit retrospective criminal legislation in certain circumstances, such legislation is not often employed and criminal law is presumed not to have retrospective effect. However, the presumption against retrospectivity does not operate in connection with procedural changes except in some cases where the procedural changes adversely affect an accrued right or liability. Yet when we read the proposed 15YU(3) in conjunction with the differential tests for the prosecution as proposed in other parts of this bill, it does make this issue something of a concern. Issues that go to evidence are sometimes viewed as not procedural; they are more substantive. It is a question of whether that provision is viewed as a substantive change or one of procedure. The benefit seems to fall within the governance on this, but it is still an open issue and creates some concern.

While the use of video link, also known as television link or CCTV evidence, is well established overseas, it has also been present in Australian criminal law in a limited capacity. Legislative provisions to protect child witnesses and/or sex offence witnesses from intimidation, distress or psychological harm associated with recounting their experiences in a daunting courtroom environment are already in place and were supported by Labor. Video link can also be used in the Mutual Assistance in Criminal Matters Act 1987 and the Foreign Evidence Act 1994. Part 1AD of the Crimes Act 1914 already provides, in relation to sexual offences, for the giving of evidence by child witnesses under the age of 18 by closed circuit television, video recording or other alternative means

and that a child witness may be accompanied by an adult when giving evidence.

In addition, part 3A of the act in relation to child sex tourism offences makes similar provisions for the giving of evidences by witnesses of all ages, with the additional provision covering unreasonable expenses or inconvenience. Under the bill, the court must direct or by order allow a witness to give evidence by video link if they are available or will reasonably be available to do so. The compulsion is almost equally available to both the prosecutors and defendants, so long as the order is applied by either side and reasonable notice is given to the court of intent to make such an application.

There is a general common law requirement that a criminal trial be fair. However, the proposals in this bill in relation to the admissibility of video link evidence appear to favour the prosecution due to the difference in treatment of defendants and the power of a court to refuse the application. For the prosecution, a court can disallow the application if making the order would have a substantial adverse effect on the right of a defendant to receive a fair hearing. For the defendant, a court can disallow the application if making an order would be inconsistent with the interests of justice for the evidence to be given by video link. Therefore, there is a dual test which is at variance with that which is currently provided for in the act. The bill also proposes a dual test for non-video-link evidence from foreign jurisdictions by creating a separate regime for the prosecution of designated offences in the Foreign Evidence Act. The present test in section 25 of that act applies to both prosecution and defendant. Under this test it must be:

> ... to the court's satisfaction that, having regard to the interests of the parties to the proceeding, justice would be served if the foreign material were not adduced as evidence.

The test proposed under the new section 25A is applicable to the prosecution only, that is, designated offences, and it reads:

> ... the court may direct that the foreign material not be adduced as evidence in the proceeding if the court is satisfied that introducing the foreign material would have a substantial adverse effect on the right of a defendant in the proceeding to receive a fair hearing.

In both instances under this bill, the changes appear to weaken the court's discretion to disallow prosecution evidence. The inconsistency with current legislation, coupled with the problem of retrospectivity, does become a major concern for Labor.

I might move to some of the other provisions, as time permits. The bill will also include an amendment to forensic procedures to expand the number of DNA profiles a volunteer can be tested against and to remove the requirement that interjurisdictional matching be confined to a specific investigation. Items 6 and 7 amend the act to repeal the existing definition of tape recording at section 23B(1) and replace it with a definition that includes digital recording. This is not related to the taking of video link evidence but to the taping of police interviews.

Schedule 1, items 22 to 25 amend provisions of the Foreign Evidence Act 1994 which deal with other types of foreign material such as videotapes and transcripts of examinations to treat as foreign evidence. The two other acts that will be altered by this bill are the Proceeds of Crime Act 2002 and the Surveillance Devices Act 2004.

Schedule 1, items 26 to 28 amend the Proceeds of Crime Act 2002 to do a number of things. The amendment will clarify for the reader that the new video link evidence provisions of part IAE apply to the Proceeds of Crime Act 2002. It inserts a new provision to allow, with the approval of the DPP, payments out of the confiscated assets account

in relation to the conduct of an examination. The amendment will empower the DPP to approve payment to a third party which has carried out an examination under the act. This provision is not part of the video link provisions. Finally, this provision will correct the status of Administrative Appeals Tribunal members to retrospectively validate examinations conducted under the act by AAT members who were inadvertently divested of their power to conduct such examinations by an error in the regulations. It seems a sensible thing to correct.

Schedule 1, items 29 and 30 amend the Surveillance Devices Act 2004 to clarify that a law enforcement officer may apply for a retrieval warrant for a tracking device that was lawfully installed. The current act provides only for a surveillance device to be retrieved.

I now turn to the findings and recommendations of the Senate Legal and Constitutional Legislation Committee report. The committee said that it supports the need for the bill but is disappointed that it provides a regime only for designated offences. This I think reflects the haphazard and knee-jerk approach this government takes to law enforcement. The committee questioned the wisdom of using different wording between the Crimes Act and the Foreign Evidence Act. The committee found that there was not a consistency where there could have been a consistency.

The committee was also concerned about the defendant's right to a fair trial, notwithstanding the evidence provided by the Attorney-General's Department and the Commonwealth Director of Public Prosecutions, and considered that the courts should retain wide and flexible discretion in these matters. The committee was concerned about the observers' limited capacity to report on the circumstances relating to the witness's evidence and not just the granting of video link evidence. The committee accepted the need for retrospectivity in that it will apply only to proceedings already commenced and the impact will be procedural only—notwithstanding the concerns that I expressed earlier and still maintain.

Many of these findings reflect Labor's own concerns about the bill. Labor is particularly concerned at the haphazard approach by this government, especially in the way it seems to proceed in developing the criminal law in these areas. Nowhere in this bill is there evidence of strategic thought or planning in relation to how this provision fits into the general evidence regime. If this bill is passed, the Crimes Act 1914 will contain no fewer than three separate regimes for the adducing of video link evidence. There will be three effective regimes—one could think that they might have been able to reduce that in number.

The question is whether we wish to continue cobbling on video link evidence provisions to the act each time a new circumstance demands it or whether a comprehensive regime for video link evidence in criminal matters ought to be put in place. It is a question that the department should be able to answer. Labor believes in the other approach. The Howard government, or at least the Attorney-General, seems to believe in the former and prefers to cobble together new regimes each time it is necessary. The result is Australia may be left unprepared to take video link evidence in important cases that may cover drug smuggling, sex trafficking, illegal fishing and so forth.

Broader serious drug offences provisions now exist. It is not unforeseen that video link evidence may be used and we would then have to rely on the Mutual Assistance in Criminal Matters Act if that is available. We may have to rely on another amendment be-

ing promoted by this government to fix up a hole that might eventuate—unforeseen—that could have been overcome if a more comprehensive regime had been considered and thought through. It is the sign of a tired and perhaps slack government, an Attorney-General who is ready to retire and a justice minister who has let the bureaucrats determine the outcomes.

Then we have Labor's concern with the differential treatment of prosecution and defence in this bill. The government has failed to make the case for this measure and that is demonstrated in the committee report, where two recommendations are made concerning this area of concern. A read of the Senate committee report, which is a majority report supported by both Labor and the government, shows that in the absence of convincing argument to the contrary we are left with little reasonable choice but to oppose this provision. While the government fails, Labor have at least outlined an area where we will be moving an amendment to address the government's error in this regard. There is room for improvement in this bill. It does appear to be another case of a tired and inattentive ministry in allowing such a slipshod approach to develop, and when questioned upon the validity of its output it cannot even raise an adequate defence. The government intended the differential outcome in this instance.

The third major recommendation from the committee was in relation to amending the proposed subsection 15YW(7) to allow the court to request an observer to report on a wider range of circumstances relating to witnesses' evidence not just in relation to the giving of video link evidence. The court might like to be in a position to assure itself that if the witness is a prisoner, for example, the prisoner is being treated humanely. That may be something the court may wish to satisfy itself about. That does not stop a judge taking it upon himself to satisfy himself to those ends or those matters being raised. But there is an ability, I think, to provide at least a framework or point the way to ensure that these thing are not ignored or allowed to slip through. Labor will also be moving an amendment to widen the court's discretion in this area from that presently in the bill.

There are some additional comments in the committee's report from the Australian Democrats concerning (a) the use of torture and (b) the proposed changes to the DNA checking regime. Labor is opposed to the use of torture in procuring evidence, but we are not opposed to the enhancement of the DNA checking regime. Division 6B of the Crimes Act 1914 covers the regime for procuring DNA and other evidence from volunteers for forensic purposes. There is already an extensive regime that ensures volunteers give their informed consent, that the giving of informed consent is recorded, that the consent can be withdrawn and so on as the provision provides. In the absence of any substantial argument or evidence to the contrary, Labor believes that the current safeguards are satisfactory. Given the consent measures in place for volunteers, the arguments against the measures from privacy grounds are not sufficiently convincing for Labor to support the Democrats' position in that regard.

I have foreshadowed Labor's amendments and in conclusion I would like to express my thanks to the committee secretariat and participating members and members of the committee for their excellent work in providing the Senate with an excellent report and, particularly, the government backbenchers who also saw the error that the government has sought to put and have supported the committee recommendations to ensure there is fairness in these procedures. In conclusion, I express again my disappointment with the government. In particular, Ministers Ruddock and Ellison have approached this issue

in a weak, ineffectual and unstrategic manner.

Senator STOTT DESPOJA (South Australia) (9.05 pm)—I begin by stating first of all that the Democrats did support the majority report. I note that Senator Ludwig was saying that both Labor and the government supported it. I certainly support the chair's report and I commend it to the Senate and to the public. It is a comprehensive analysis of the legislation, and the submissions were impressive as was the evidence provided in the public hearing. I also note, in response to the previous speaker, that the additional comments I provided on behalf of the Australian Democrats were not necessarily in relation to the DNA issue and opposing the proposals within this legislation but were trying to put some of those proposals into a policy context. As people have heard me say on many occasions in this place—for at least seven years—we need to examine and deal with the issue of a comprehensive privacy regime that covers genetic privacy and, related to that, issues like genetic discrimination. I will not go on a tangent on that tonight, Madam Acting Deputy President, but I did, as advisers and the government would know, request information as to whether or not some of these changes were considered in the context of the ALRC and AHEC report, *Essentially Yours*, that deals with genetic privacy because, again, I think that is an issue we should be grappling with.

I put concerns expressed by others in my supplementary comments and, as Senator Ludwig has said, reiterated some of the concerns provided by witnesses in relation to the issue of possible use of foreign evidence that may have been obtained through torture. I agree with the comments that have been made by a number of witnesses but in particular I agree with the statement by the Gilbert and Tobin Centre of Public Law that this would be:

> ... an excellent opportunity for the Commonwealth Parliament to affirm its abhorrence of the use of torture in the procurement of evidence.

I agree with most of the comments that have been made in this place that there is a worthy aim to this legislation, and we understand why it has been introduced and the need for it. However, I think that fairness to which Senator Ludwig refers needs to be injected pretty quickly into this legislation.

The Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005 makes some changes, as we have heard, to the Crimes Act 1914 and the Foreign Evidence Act 1994. A couple of those changes are potentially quite disturbing. Certainly they are of concern to the people who provided information to the committee and, as you have heard in the preceding remarks, Madam Acting Deputy President, they have not been addressed in an effective way by the government tonight. The bill seeks to create new provisions to the Crimes Act to facilitate the use of video link evidence in terrorism and related offences and retrospectively amend the Foreign Evidence Act to facilitate the process of admissibility of foreign evidence in the related proceedings. The amendments to the Foreign Evidence Act will also ease the sharing of DNA profiles among Australian law enforcement agencies over a national DNA database system.

The Democrats are disappointed that the government tonight has not taken advantage of the evidence that was provided through the committee. Even if it was not referring to the information provided, we certainly hoped that it would adopt the recommendations contained in that majority report. Tonight I think the government has missed an excellent opportunity to improve this legislation in a way that its own committee members have signed off on. I can see through the various amendments that have been circulated to-

night, a couple from me and a number from the ALP, that between us we have sought to amend the bill in line with the recommendations of the Senate committee, and I hope that government members will perhaps at this late stage consider those amendments in view of the evidence that was obtained by the committee.

As we have heard, there is an argument that this legislation will disadvantage the defendant in any proceedings where video link evidence is sought to be adduced. It has been argued, and convincingly so, that the fundamental legal principles of the presumption of innocence and the right of the defendant to receive a fair trial are compromised in some way as a consequence of the changes. The bill allows for the use of different tests depending on whether the prosecution or the defence is seeking to adduce video link evidence. Under the new provisions the court must allow the prosecution to adduce video link evidence unless the defence can prove that it will have:

... a substantial adverse effect on the right of the defendant in the proceeding to receive a fair hearing.

I also note the amendments that have been circulated in relation to that definition tonight by the government.

In the reverse, if the defendant is seeking to adduce such evidence, the prosecution must establish that it is inconsistent with the interests of justice that this evidence be allowed. The submissions of the Gilbert and Tobin Centre of Public Law, Australian Lawyers for Human Rights and the Human Rights and Equal Opportunity Commission to the Senate Legal and Constitutional Committee inquiry into the bill opposed, and I think strongly so, the application of a different test to each party to proceedings—or a dual test, as the Labor Party would refer to it. In fact, the chair's report expressed concern at the:

... distinct lack of support for the narrower prosecution test in evidence received by the committee, other than from the Department—

the Attorney-General's Department—

and the DPP.

The report also noted:

... the evidence of the need to maintain public confidence in the court system—

and I think everyone would agree with that sentiment—

especially in relation to the trial of terrorist offences ...

It also noted that the Australian court system should not be left open to criticism in relation to such convictions. Obviously it is indisputable that the integrity of our justice system is the paramount issue here. I think that is what everyone is trying to get to grips with—whether the so-called dual test in some way compromises that integrity and whether we are open to criticism as a consequence of the amendments.

The seemingly differing burdens on each party were objected to on various grounds. Importantly, Australian Lawyers for Human Rights have raised an objection to this construction on the basis that it:

... clearly offends Article 14(3)(e) of the *International Covenant on Civil and Political Rights*.

This provides that:

All persons shall be equal before the courts and tribunals

… … …

... everyone shall be entitled to the following minimum guarantees, in full equality:

… … …

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

Similarly, the Human Rights and Equal Opportunity Commission have expressed their concern at the bill's potential to infringe international law. We believe that the recommendation of the Senate Legal and Constitutional Committee that the same standard should apply to both parties should be heeded. Indeed, we think it is imperative that tonight we make that particular change so that this legislation is seen to be, and also is, fair and impartial. We believe, according to the evidence presented to us, that the government risks offending some pretty well established and fundamental legal principles when it comes to its obligations under international law if it does not consider the recommendations in amendment form tonight.

In my opening remarks I touched on the issue of evidence that may be obtained as a result of torture. I note that Senator Ludwig made some comments as well. But I cannot emphasise enough that this is an issue of concern not only to the Australian Democrats but, I am sure, to everybody in this place. We note that the Human Rights and Equal Opportunity Commission is concerned that the bill does not:

> ... provide sufficient safeguards to ensure that Australian courts exclude evidence obtained as a result of torture ...

We think that, in line with the recommendations of the committee and the requests of the witnesses who appeared before that committee, there are some simple things that we could do to reaffirm as a parliament and a government our abhorrence of the use of torture in the procurement of any evidence. Indeed, I have a second reading amendment which obviously does not amend the legislation but which makes a clear point. I hope that all senators will support that amendment. So we do support the idea of the Gilbert and Tobin Centre of Public Law that it is a wonderful opportunity for the Commonwealth parliament to reaffirm—or affirm if you believe that we have not made it clear previously—our abhorrence of the use of torture in the procurement of evidence or in any other circumstance. I will seek to do that through a second reading amendment.

The adoption of the recommendation of the Senate Legal and Constitutional Committee to widen the role of an observer in relation to the giving of video link evidence would facilitate the determination of any use of torture—I do not suggest that it completely cures the problem. It is for this reason that it is vital that the courts are able to request a report on observations not just in relation to the giving of evidence but also in relation to circumstances surrounding the giving of the evidence. We need to ensure that the right to be free from torture and inhuman or degrading treatment is protected, and this is one way of doing it. As senators would be aware, a couple of amendments have been circulated—one in my name and one in the opposition's name—that try to deal with the widening of the role of observers. Again, this was another issue of debate, or certainly hearty exchange, during the committee processes.

As Senator Ludwig pointed out, it is evident that the bill has a retrospective effect. The Democrats refer to the evidence provided by Mr Simeon Beckett of the Australian Lawyers for Human Rights at the Senate inquiry, where he argued in relation to the retrospectivity of this bill that his concern:

> ... is not so much whether it is substantive or procedural; the issue is whether there is prejudice to the defence case.

The Democrats therefore believe that it is important that the court's discretion ensures that the retrospectivity be limited to procedural matters—and I think I am echoing comments from the opposition—and always considers the potential prejudice to the defence case. Additionally, the retrospective

effect must only apply to proceedings which have already commenced.

I touched briefly on the provisions concerning the sharing of DNA evidence among law enforcement agencies, but the Law Society of New South Wales did put forward a view casting doubt on the necessity of the provisions relating to volunteers. As the government would know, we asked questions in relation to this issue. The law society stated in its submission that it could not see a justification for:

> ... why DNA that is provided for a specific purpose by a volunteer should then be made available for investigations of any offence.

I do note—and senators can refer to the *Hansard* of the committee—that, in response to the questions that I asked the departments and the advisors, they were very forthcoming in explaining why particular privacy rights were not going to be breached and that the idea was that the use of the information provided by a volunteer would be for a specific purpose. However, they would obviously be aware of the submissions that cast some doubts, or at least raised some questions, in relation to this issue. Indeed, the Australian Privacy Foundation, which I think admitted in their submission that they did not have time to look at the legislation in detail, noted that they could not comprehensively assess the legislation in relation to privacy implications, which is fair enough given the short time frame in which a lot of these committees take evidence—that is, asking for submissions, having public hearings and then reporting—but they wanted to check whether there was some kind of function creep, which is the terminology that is often used in privacy circles now, in relation to these particular issues. Hence our questions at the committee stage. I am happy for the government to correct me if I am wrong, but I did ask some questions. I think the government advisors were going to get back to me on that. If the government has given me the answers, I have not seen them. There are a couple of answers to questions on notice in relation to these issues that I look forward to receiving.

There is always potentially cause for great concern in the area of the collection of people's DNA information. I put the issues on record once again: privacy, discrimination and consent. I think all of those issues need to be addressed in the context of a debate about a comprehensive privacy scheme. While Senator Ellison is here, because he knows that I am completely obsessed with this issue, I ask whether in his comments he might answer the question of whether this legislation was considered in light of that wonderful ALRC report that deals with genetic privacy.

In their submission to the committee inquiry, the Australian Privacy Foundation highlighted what they considered to be a lack of response by the government to the recommendations of the ALRC in 2003. It is not just their opinion; I think a lot of people have that opinion. That report was tabled in March 2003. There is still no government response, and it is not like these issues are going away. I note that last week we saw the release of the information from the Genetic Discrimination Project. We have documented evidence of genetic discrimination in this country, so, come on government, it is about time you responded to the ALRC report and introduced some legislation that deals with that issue.

While the Democrats are supportive, understand the basis of this legislation and do support the need to facilitate the use of video link evidence, this bill in its current form needs some work. It does potentially have an impact on whether defendants receive a fair trial. Even if the government comes back and suggests that that is not the case, I am sure

the perception is there now. We are getting it from learned lawyers and academics in the Australian community and from reputable and distinguished bodies such as the Human Rights and Equal Opportunity Commission, the Gilbert and Tobin Centre of Public Law, the Law Society of New South Wales et cetera. I think there are a couple of amendments that could be made to improve this legislation to make it fairer. I hope that the government will, at this late stage, at least consider the recommendations in the committee report and, indeed, support the amendments that are before them in order to ensure this legislation is both fair and appropriate. I move the second reading amendment standing in my name on behalf of the Australian Democrats:

At the end of the motion add:

"but the Senate:

calls upon the Government, as a signatory to the Convention Against Torture, to ensure that evidence given under this bill is not obtained as a result of torture, coercion or any other inhumane treatment. It is fundamental to any Australian law that the use of such evidence is, and remains inappropriate and prohibited. Legislation passed by this Parliament must reflect Australia's obligation and abhorrence to cruel and inhumane treatment and the use of torture".

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.22 pm)—I acknowledge the contribution to the debate on the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005 made by Senators Ludwig and Stott Despoja. I also wish to place on record the government's appreciation of the Senate Legal and Constitutional Legislation Committee's work in relation to the review of this bill. That committee made three recommendations, which I will refer to shortly. The government does have an amendment which it will be moving during the committee stage. That is in relation to the 'substantial adverse effect', which is a query that was raised during the course of the hearings conducted by the Senate Legal and Constitutional Committee.

I turn to the recommendations made by the Senate Legal and Constitutional Committee. Firstly, the Senate's recommendation was that the same test should govern the court's discretion to allow video link evidence or foreign evidence, regardless of which party makes the application, and that the appropriate test is whether allowing video link evidence or foreign evidence would be inconsistent with the interests of justice. The government does not support this recommendation. I might add that, in relation to the hearings that were conducted, the Senate committee noted that there were two provisions which applied—one for the prosecution and one for the defence. It said:

2.6 Where the prosecutor has applied for the direction or order, the court must direct or allow the witness to give evidence by video link unless the court is satisfied that the direction or order would have a substantial adverse effect on the right of the defendant in the proceeding to receive a fair hearing ...

2.7 On the other hand, where the defendant applies for the direction or order, the court must direct or allow the witness to give evidence by video link unless the court is satisfied that it would be inconsistent with the interests of justice for the evidence to be given by video link ...

The committee canvassed at length the different views in relation to whether a consistent test should be applied and whether or not the proposal contained in the bill should stay. Certainly the Director of Public Prosecutions argued that the bill would not give the prosecution a greater advantage than the defence in seeking to adduce video link evidence. That was also made out by the department, which gave evidence in the course of the hearing. That is important, because

some of the commentators held a different view. The government believes that there should be a differing test, because the roles of the prosecutor and the defence are quite different. The decision not to support that recommendation, Senator Ludwig would be heartened to know, was one made not by bureaucrats but by the government. The rationale for it is that the bill requires a court to allow a prosecution witness to give evidence by video link unless to do so would have a substantial adverse effect on the right of the defendant to receive a fair hearing. Of course, the different wording of the test for the defence and the prosecution is appropriate because of the different roles played by the defence and the prosecution in these sorts of proceedings.

The objective of the bill is to remove or at least to minimise as much as possible for both parties the risk that judges will refuse to allow video link evidence merely because they would prefer to see the witness physically in the courtroom. The test as currently drafted achieves that objective. Of course, the defendant always has the right to receive a fair hearing. That is of paramount consideration for a judge when assessing an application from either party. That is a right which does not quite attach to the prosecution in the same way as it does to a defendant.

The Senate committee made other recommendations. Its second recommendation was that the court should be required to consider the circumstances of the proceeding as a whole when deciding whether to allow evidence to be given by video link. As currently drafted, the video link evidence tests already allow the court to take proceedings as a whole into account. What we are saying is that this aspect is already covered. The third recommendation by the Senate committee was that the bill should allow the court to request an observer to report on a wider range of circumstances relating to the witness's evidence, not just in relation to the giving of video link evidence. The government does not support this recommendation, because it is unnecessary. The provisions in the bill are broad enough to allow the reporting of circumstances that come to the observer's attention during the course of performing their role as an observer, before or after the witness has given evidence.

As I understand it, there are amendments which will be moved by the opposition. As I have mentioned, the government has two amendments it wants to move. The Democrats also have amendments. But I think it is fair to say that the opposition has got its amendments from the recommendations of the Senate committee. I have outlined broadly why the government will not be supporting those amendments.

When you look at this bill, it is an important bill. It is not something that has merely been cobbled together without any aforethought. I totally reject Senator Ludwig's comment that this is slipshod in any way. We have listened to what the Senate committee has said. There was a query raised. We are accommodating it. The bill itself is a very important one. It ensures that the tough laws that will be put in place to target terrorist activity are enforceable. Experience has shown that, to successfully prosecute a terrorist, it will often be necessary to rely on evidence from a witness who is overseas or unable to travel to Australia. Of course, such is the nature of terrorism today. It is global by its very nature, and there are links which are international.

The bill will ensure that, wherever possible in terrorism cases, important evidence from overseas witnesses can be put before the court using video link technology. If the evidence cannot be given by video link, perhaps because the laws of the other country do not allow it, the bill will ensure that the

witness's testimony can be put before the court using alternative means. For instance, this can be done by way of a written transcript or a videotape of that witness giving testimony.

The new video link and foreign evidence rules are balanced with appropriate safeguards. The bill does not alter the substantive rules that govern the admissibility of evidence. This bill does not allow, for instance, testimony obtained by torture or duress to be introduced into our courts. Video link evidence and foreign evidence cannot be adduced if it would compromise the defendant's right to a fair trial. As I said earlier, in running these proceedings, the defendant's right to a fair trial is of paramount consideration. An independent observer can be required to be present at the place where the video link evidence is given to safeguard against any impropriety in the giving of that evidence. In all cases, the normal rules of evidence and the protections provided by those rules will continue to apply.

Senator Stott Despoja raised some aspects dealing with privacy, and there was a question asked of and given on notice to the Attorney-General's Department at a hearing of the Senate Legal and Constitutional Legislation Committee on 21 October 2005. The question that was put at the time, as I recall, was, 'I am wondering when the department is going to respond to the Australian Law Reform Commission AHEC report *Essentially yours*, because there are privacy implications in relation to DNA databases.' I can only say to Senator Stott Despoja that the timing for the response to that report is a matter for the government. I am unaware of any date that I can give to the Senate in response to the question that was asked, but as soon as I am aware of one I will advise Senator Stott Despoja. I know it is an area that Senator Stott Despoja has maintained a keen interest in, and it is an area which is very important. But at this point in time I am unable to provide any date as to when the government response will be provided to that report.

This is an important bill and one which goes to the very heart of the enforcement of our laws against terrorism. Of course, you can give law enforcement the powers that they need, but you have to follow up with the necessary procedural laws. I say 'procedural' because that is quite relevant to the argument of retrospectivity. The government does not believe that this bill is retrospective. It applies to cases or proceedings forthwith and is not one which changes past procedure. It will deal with procedures in the future. No right is taken away by it, and I think that is important to remember.

The second reading amendment proposed by the Democrats was touched on by Senator Stott Despoja. I mentioned the fact that torture will not be allowed or permitted in any way and that the normal rules apply. The government does not support the motion, which it believes is unnecessary and is misconceived. For that reason, the government will oppose the second reading amendment. But, otherwise, we have a bill which is very important for the fight against terrorism and one which I strongly commend to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—The question is that the second reading amendment moved by Senator Stott Despoja be agreed to.

Question negatived.

Senator Stott Despoja—Rather than take up the time of the Senate with a division, can I ask the Labor Party if they are comfortable with indicating on record how they voted? My understanding is that they were supporting that amendment. That might save the Senate's time.

Senator Ludwig—I meant to mention in my speech in the second reading debate that

we were happy to support the second reading amendment moved by the Democrats. I did not mean to purposely omit the Democrats from being a part of the committee report that was in favour of it. I was making the point that the government backbenchers were there and that the government should perhaps have listened to them.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.35 pm)—by leave—I move government amendments (1) and (2) on sheet QS342:

(1) Schedule 1, item 5, page 6 (after line 16), at the end of section 15YV, add:

Definition

(3) In this section:

substantial adverse effect means an effect that is adverse and not insubstantial, insignificant or trivial.

(2) Schedule 1, item 25, page 17 (after line 6), at the end of section 25A, add:

Definition

(4) In this section:

substantial adverse effect means an effect that is adverse and not insubstantial, insignificant or trivial.

This motion is fairly straightforward, I think, in relation to the amendment of this bill. The government amendments address a query that was raised by the Senate Legal and Constitutional Legislation Committee as to the meaning of the phrase 'substantial adverse effect'. The committee noted that this phrase is defined in the National Security Information (Criminal and Civil Proceedings) Act 2004 but is not defined in this bill. The purpose of the amendments is to allay any concerns that the phrase used in this bill will be interpreted differently from the phrase used in the other act or given a more narrow meaning than the definition in that act.

The amendments will define the phrase 'substantial adverse effect' in the same way as it is defined in the National Security Information (Criminal and Civil Proceedings) Act 2004. Accordingly, 'substantial adverse effect' will be defined as 'an effect that is adverse and not insubstantial, insignificant or trivial'. That, I believe, provides a consistency to the phrase and gives it that application across the board which is desirable. We acknowledge the work done by the Senate Legal and Constitutional Legislation Committee. That query was raised during the proceedings of that committee. It is a query we have taken on board and addressed with these amendments. I commend the amendments to the Senate.

Senator LUDWIG (Queensland) (9.36 pm)—As we have pointed out, it is more that a definition is not contained within the bill rather than a concern raised. But, be that as it may, we think that there would not be a need for it if you adopted our approach and sought to have a test that was more sensible than the one that you have proposed, which seeks to have one test for the prosecution and one test for the defendant. Because of that, Labor opposes the government's amendment. We do think there should be clarity but the clarity should be between the tests—that is, there should be one test.

We will not seek to divide on this issue but it is important to note that Labor supports the video link bill in the sense that if there is a requirement to have a video link then it should be a sensible approach. What we do not support is where you then seek to have a test that applies which is unfair or which may create a situation of unfairness. What we do not see as being sensible is to then have legislation where you have one test for the prosecutor and one test for the defendant.

If the idea was to ensure that there was going to be greater use by the judiciary, if there is or was a perceived view, even by the government, that the judiciary was not using it, then the word 'must'—in other words, turn the judiciary's mind to using video link evidence—is there. It would then seem sensible to ensure that the courts then have the discretion, as they have always had, to deal with it appropriately and to let the judiciary decide whether or not the video link is reasonable—not so much whether they should turn their mind to using it. You can do that by putting the word 'must' into this legislation, which you now have.

Be that as it may, we are not going to support these government amendments. It is disappointing that the government has not taken heed of its backbench committee, which, with the Democrats and Labor, produced a committee report that provided a sensible approach for this government to adopt to ensure that there are laws that assist both the prosecution and the defence in ensuring that there is a fair trial.

Senator STOTT DESPOJA (South Australia) (9.39 pm)—The Australian Democrats have similar concerns to those of the Labor Party, as articulated in my speech on the second reading and our committee report. We prefer the amendment that has been moved by the opposition.

Question agreed to.

Senator LUDWIG (Queensland) (9.40 pm)—by leave—I move amendments (1) and (2) on sheet 4728:

(1) Schedule 1, item 5, page 5 (lines 28 to 30), omit "giving the direction or making the order would have a substantial adverse effect on the right of a defendant in the proceeding to receive a fair hearing", substitute "it would be inconsistent with the interests of justice, considering the circumstances of the proceedings as a whole, for the evidence to be given by video link".

(2) Schedule 1, item 5, page 6 (line 16), after "justice", insert ", considering the circumstances of the proceedings as a whole,".

These amendments are inconsistent with government amendment (1) on sheet QS342, but I suspect that, because of where the numbers lie, it is not going to matter in that sense. The government has really failed to demonstrate any need for there to be different tests. In fact, in the committee's final report, recommendation 1 states:

> The committee recommends that the proposed sections 15YV of the Crimes Act 1914 and 25A of the Foreign Evidence Act 1994 be amended to ensure that the same standard governs the court's discretion to allow video link evidence ...

That is the essence of what we have been submitting, both in the second reading stage and by moving this amendment, to ensure that there would be the same test. That recommendation covers the court's discretion to disallow video link evidence. As the bill stands, there is, as I have said, a different test for the judge to apply when assessing whether the application comes from the prosecution or the defence. The government, in truth, has been unable to provide a proper rationale for the differentiation for the test between the prosecution and the defence. Therefore, Labor cannot support the treatment of the bill which gives the prosecution, under proposed section 15YV, a different position from that which the defence has.

This item would replace the 'substantial adverse effect' provision or test for disallowing prosecution evidence with the same 'inconsistent with the interests of justice' test that applies to the defence. This would be the same test that already applies in the Crimes Act for disallowing video link evidence for child sex tourism offences under section 50EA, and under section 15YI, which covers special facilities for child witnesses to give evidence by CCTV. Because the government has not provided either to the committee or

here any real reason for a differential test, Labor believes that the government should use the test that is already there in the act—not once but twice—and any consistent treatment of video link evidence would contain a consistent test for its disallowance. Labor believes this amendment affects such a consistent test and therefore commends this amendment to the Senate.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.44 pm)—For the record, the government opposes these amendments. I think the reasons we outlined in the reply in the second reading debate really provide the basis for that. I will not take any longer due to the hour but I table a supplementary explanatory memorandum relating to the government amendments which have been moved to this bill. The memorandum was circulated in the chamber on 7 November this year.

Senator STOTT DESPOJA (South Australia) (9.44 pm)—The Australian Democrats will support the Labor Party's amendments. We do believe, as has been indicated, that this is a defining part of the bill. It is pretty much a defining moment as to whether or not the legislation should be supported. I think it is a necessary amendment so that this legislation is supportable. The Democrats would have moved this amendment in line with the recommendation of the Senate committee had the Labor Party not done it first.

Senator LUDWIG (Queensland) (9.45 pm)—I did not particularly want to take up any further time, but it is worth saying that we disagree and do not accept the government's position in respect of recommendation 2. I think Senator Ellison outlined that position earlier. HREOC, in its submission to the committee, recommended that the court should be required to consider the circumstances of the proceedings as a whole for the purpose of determining whether it will be inconsistent with the interests of justice. A belt and braces approach, even if the government believes that it is already there, is one that this government is familiar with, and has used in the past. Notwithstanding that, we do not think it is a belt and braces approach in any event; we think that it is necessary.

Question negatived.

Senator LUDWIG (Queensland) (9.46 pm)—I move opposition amendment (3) on sheet 4728:

(3) Schedule 1, item 5, page 7 (lines 32 and 33), omit "what the person observed in relation to the giving of evidence by the witness", substitute:

"": (i) what the person observed in relation to the giving of evidence by the witness; and

(ii) such other circumstances relating to the witness's evidence as may be determined by the court to be necessary in the case; and".

Effectively, it omits 'what the person observed in relation to the giving of evidence by the witness' from what is more generally called the observer's provision. It is in line with the recommendation made by the Senate Legal and Constitutional Legislation Committee. Labor supports the use of observers in relation to the taking of video link evidence. However, in the committee's view, the proposed section 15YW(7) unnecessary limits the observer's role. Section 15YW(7) limits the report an observer can give to the court to 'what the person observed in relation to the giving of evidence by the witness.' Labor considers that there may be other circumstances that the court might want to consider.

In my speech in the second reading debate earlier this evening, I outlined a circumstance where a prisoner gives evidence in a

court and where the court may well be interested to hear from the observer about other factors, those observed not in relation to the giving of evidence. These factors could include the treatment of the prisoner and behaviour observed before or after the prisoner gives evidence, observed in a combination of arrangements. I think there was evidence from the government that this could be a matter that a court could take into consideration in any event. What we want to ensure is that it is clear that that role can be played by the observer, and it makes sense to leave the court to exercise its discretion in this regard. I commend amendment (3)

Senator STOTT DESPOJA (South Australia) (9.48 pm)—The Australian Democrats support the amendment moved by the opposition. I will take this opportunity to briefly state that the amendment that follows this, moved in my name on behalf of the Democrats, similarly looks at an expanded role for observers and deals with similar issues. I think mine is perhaps a little more specific, a little more expansive. Let us view this as an opportunity to pick one or the other of the two options, or maybe just view it as two chances, given the way the numbers lie in this place. But we will support the Labor Party amendment and, if that goes down, obviously we commend our amendment to the Senate as well.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.48 pm)—The government rejects this amendment because, as I said earlier, we believe it is unnecessary. The bill does allow the court to request and observe a report on what was observed in relation to the giving of evidence by the witness. We believe that is broad enough to allow the reporting of circumstances that come to the observer's attention during the course of performing the role of observer before or after the witness has given evidence. So, accordingly, we oppose this amendment.

Question negatived.

Senator STOTT DESPOJA (South Australia) (9.49 pm)—I move the Democrats amendment (1) on sheet 4739 standing in my name:

(1) Schedule 1, item 5, page 8 (after line 2), after subsection 15YW(7), insert:

Other duties of an observer

(7A) If:

(a) a direction or order is in force under section 15YV; and

(b) the direction or order specifies a person for the purposes of this section;

the court may:

(c) direct or allow the specified person to assist the witness; and

(d) such assistance may include the provision of documents to the witness during cross-examination in the court and the inclusion in any report prepared in accordance with subsection (7) of information relating to the intimidation, treatment or circumstances of the witness, whether in the court or elsewhere.

This amendment relates to an expanded role for observers with a specific emphasis on intimidation or treatment of the witness.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.49 pm)—The government's position on this amendment is the same as for that put forward by Labor in the previous one.

Senator LUDWIG (Queensland) (9.49 pm)—We agree with the Democrats.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.50 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

The DEPUTY PRESIDENT (9.50 pm)—The noes of the Democrats and the Labor Party will be recorded against the third reading motion.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Workplace Relations

Senator NASH (New South Wales) (9.51 pm)—I rise tonight to talk about industrial relations reform. A recent report released by the World Economic Forum shows Australia has climbed from 14th to 10th in the World Economic Forum's 2005 competitiveness ranking. The report said Australia moved up four places because of, among other things, its sound public finances and the innovative nature of its business sector. Discouragingly, Australia only ranked 77th on flexibility of wage determination and 75th on hiring and firing practices.

For more than nine years, it has been a goal of the Liberal-National coalition government to bring about industrial reform—reform which will increase productivity and allow opportunities for flexibility in the workplace. If we are to remain internationally competitive, we need to make our workplace relations system simpler. We also need to make our workplace relations system fairer and we need to provide a better balance in the workplace for employees and employers.

The Work Choices legislation will establish a national workplace relations system and will go a long way towards simplifying the 130 different pieces of industrial legislation and 4,000 different awards that operate across the country. The changes to the unfair dismissal laws are a particularly important part of this legislation. For years now, as I have travelled around different rural communities right across New South Wales—places like Tweed Heads, Tamworth, Temora and Tumut—small business owners keep saying to me, 'We'd put more people on, but we just can't do it because we can't afford an unfair dismissal claim if it doesn't work out.' This is happening right across the state: everywhere I travel, employers are not game to put people on because of the current system.

The new system will create jobs for the most marginal people in the work force by exempting companies with 100 employees or fewer from the unfair dismissal laws. The changes are sensible, they are practical, they allow for greater flexibility in the workplace and they will ensure that Australia's productivity grows into the future.

Workplace relations reform has been a long-held goal of The Nationals. For years, we have supported the move towards a more flexible workplace that serves the best interests of both employers and employees. In fact, seven weeks ago, in September, The Nationals federal council unanimously gave its support for workplace relations reform.

We have seen a concerted scare campaign from the Labor Party and the unions, trying to terrify workers about the government's changes. You do not have to be a Rhodes scholar to work out that the scare campaign is nothing more than Labor and the unions trying to protect their patch—a patch that has been in steady decline. Today less than one in five Australian workers are members of a union.

Senator George Campbell interjecting—

Senator NASH—Perhaps I should repeat that: today less than one in five Australian workers are members of a union. But the unions have firm control of the Australian Labor Party.

Senator Boswell—They've certainly got it in the Senate.

Senator NASH—Look at the Labor Party's frontbench: 17 of them owe their political careers to the unions—

Senator Boswell—They all owe them in the Senate.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Senator Boswell, please do not interject.

Senator NASH—eight in this place and nine in the other place. And I believe Senator George Campbell owes his allegiance to the unions as well. In fact, there are 18 Labor senators in this place alone and 23 Labor MPs in the other place who owe their political careers to one union or another. That is 41 Labor politicians in the federal parliament beholden to their union masters. In fact, the entire ALP are beholden to their union masters. According to the Australian Electoral Commission, in 2003-04 the unions gave the ALP a whopping $47,135,361.37 in political donations. No wonder the ALP are so vigorously sticking up for their union mates.

Senator George Campbell—Can you repeat that?

Senator NASH—I think you already know. As the former Queensland Premier and Nationals great, the late Sir Joh Bjelke-Petersen, said to the ABC's *Four Corners* program on 26 March 1985 when he was taking on the unions in Queensland, and I quote: 'We want to get democracy in the whole system and that's exactly what we're doing.' Well, it might be 20 years on, but the sentiment is the same. The Howard-Vaile government want to get democracy into the workplace relations system, and that is exactly what we are doing.

Sir Joh was also spot-on when he gave the opening address to the HR Nicholls Society conference in June 1987 where the theme was 'The light on the hill: industrial relations reform in Australia'. He said:

> In industrial relations issues, as in economic ones, the problems we see in Queensland cannot be solved by State action alone. It is critical for Queensland that the next Federal government creates an environment in which real industrial relations reform can occur.

The Howard-Vaile government are working in the best interests of all Australians to get that real industrial relations reform that Sir Joh talked about, to get a fairer system for all—particularly for small business: those 1.2 million small businesses who currently employ 3.3 million Australians, the small businesses that make up about 95 per cent of all Australian businesses, the small businesses that dearly want to employ more people almost every day but will not because of the existing unfair dismissal laws.

Can I just take a moment to talk about the extraordinary range of awards that exist and the disparity within those—one of the reasons why we need a fairer system. For example, awards applicable to the care of horses supplied by employees is $4 in some states, $3.50 in others and $5.50 in some others. The same distorted hotchpotch of a system also exists in providing allowances for bicycles. There is a higher allowance for bicycles than for horses. Under the national fast food retail award, a bicycle allowance is $9 per week, twice the cost of the allowance provided for a horse across the country. With a horse, an essential aid for many in country areas, there are grooming, feed and watering costs; why give an amount for maintaining a bicycle that is twice the amount per week for

maintaining a horse? We need to make the system simpler. We need to make it fairer.

We on this side are not beholden to the unions like Labor on the other side. We never have been; we never will be. In contrast, we are beholden to the Australian people—those who make jobs and those who take up jobs. This government will make the Australian workplace relations system fairer and provide a better balance in the workplace for employees and employers than currently exists—

Senator George Campbell interjecting—

Senator NASH—And the difference is we actually listen to the people, to what they want and what they tell us is going to make the system better. So perhaps a little listening from the other side might go towards making a better system—and perhaps coming up with a plan. Unlike Labor, we do have a plan to reform the workplace, to stop the confusion that exists with the myriad pieces of legislation, some of which I referred to earlier, and awards that exist right across the country. The Howard-Vaile government have Work Choices. Labor have nothing, rien, not a thing. This workplace relations reform, Work Choices, being put forward by the government is sensible, it is practical, it will allow greater flexibility in the workplace and it will ensure that Australia's productivity will grow into the future.

Mr Patrick Kavanagh

Senator STEPHENS (New South Wales) (10.00 pm)—I was recently privileged to participate in a parliamentary delegation, led by Senator Ferguson and including Senators Bartlett and Marshall, and members of parliament Mr Kerry Bartlett and Mr Phil Barresi. The delegation visited Turkey and Ireland. While I had many personal experiences in Ireland, one which had a great impact was the visit to the poorhouse at Carrickmacross in County Monaghan. Carickmacross will be forever connected to its workhouse, but there are those who would prefer to build an international focus on its local characters. Ireland is a nation that, like Australia, loves its characters and rewards them with hero-like status—none more so in Carrickmacross, as I discovered, than the Irish poet Patrick Kavanagh.

I was acquainted with Patrick Kavanagh's popularity at the civic reception for our delegation hosted by the Carrickmacross County Council. The Mayor of Carrickmacross, Councillor Vincent P. Martin, himself quite a character, urged me to 'extend the warmest greetings from the people of Kavanagh country to the feted movie star Russell Crowe'. I was asked to 'earnestly impress upon Mr Crowe how anxious they all were, and how delighted they would be, to welcome the actor to the region for what would be a unique movie portrayal of the famous poet's illustrious life among the people of Inniskeen and in the contrasted setting of a literary world which extends far from the oft-mentioned "stony grey soil" of the Kavanagh hills.'

Russell Crowe is, in fact, an avid Kavanagh fan, and, as you will recall, quoted his poetry at the BAFTA awards last year, and was quite irate when his speech was edited and the poem was left on the cutting room floor. He quoted from Kavanagh's poem *Sanctity*, and I will too:

> To be a poet and not know the trade;
>
> To be a lover and repel all women;
>
> Twin ironies by which great saints are made;
>
> The agonizing pincer-jaws of Heaven

Crowe was actually reiterating Kavanagh's argument that being a poet—or an actor—is not enough: that you have to work at the craft. Mayor Martin, on behalf of his community, reported this as a terrible slight to Carrickmacross and to Patrick Kavanagh. Given his conviction of the travesty, I wanted to know more about this man so

loved by the councillor and his country—after all, it would be wise to have this information, given that I had been charged with approaching Mr Crowe on their behalf.

Patrick Kavanagh was born in October 1904, in Mucker town, Inniskeen parish, County Monaghan. He was the son of James Kavanagh, a small farmer with 16 acres who was also a cobbler, and Bridget Quinn. He attended Kednaminsha National School from 1909 to 1916 and worked on the family farm after leaving school. It was his teacher who encouraged him to read widely and pursue his interest in poetry. At 13, Kavanagh became an apprentice shoemaker to his father. He gave it up 15 months later, admitting that he did not make one wearable pair of boots, and for the next 20 years he worked the family farm, crafting his poetry at night.

His earliest poems were printed by the *Dundalk Democrat* and *Weekly Independent* in 1928; three more were printed by George Russell in the *Irish Statesman* during 1929 and 1930. In 1931, he walked to Dublin to meet Russell, who introduced him to Frank O'Connor. *Ploughman and Other Poems* was published by Macmillan in 1936, and soon he moved to London in search of literary work but returned to Ireland when this failed to offer a living. His autobiography, *The Green Fool*, appeared in 1938 but was withdrawn after a libel threat from Oliver Gogarty. I am still working my way through it—it is a delightful book that demonstrates his gift as a writer and his fondness for melancholy that reflects his life in Mucker. But the Dublin Literary Society saw Kavanagh as a country farmer and often referred to him as 'that Monaghan boy'.

A long and beautiful poem, perhaps his best, *The Great Hunger*, appeared in the London-based *Horizon* in 1942. Its tragic statement of the mental and sexual frustrations of rural life was recognised as masterly by Frank O'Connor and George Yeats, who issued it in Dublin as a Cuala Press pamphlet. *The Great Hunger* also seems to have attracted the attention of police and censors. Another fine long poem, *Lough Derg*, was written the same year, although Kavanagh convinced his brother not to publish it during his lifetime, and it was eventually published in 1971. *A Soul for Sale* was followed by *Tarry Flynn* in 1948—more realistic than the former autobiography, and called by the author 'not only the best but the only authentic account of life as it was lived in Ireland this century'. It was briefly banned, something which gained it greater notoriety. With his brother Peter, Patrick edited a paper, *Kavanagh's Weekly*, subtitled 'a journal of literature and politics'. It lasted some 13 issues, from 12 April to 5 July 1952, and was funded by Peter Kavanagh. Patrick contributed most of the articles and poems, usually under pseudonyms.

In 1952, a Dublin paper, the *Leader*, published a profile which depicted Kavanagh as an alcoholic sponger, an accusation that led him to become embroiled in an infamous court case. Kavanagh accused the *Leader* of slander. The newspaper decided to contest the case and hired John Costello as their defence counsel. Unfortunately, Kavanagh decided to prosecute the case himself—an unwise decision—and Costello destroyed him. The court case dragged on for over a year, and Kavanagh's health began to fail.

In 1955 he was diagnosed with lung cancer and had a lung removed, but he survived and the event was a major turning point in his life and career. At this low point he experienced a sort of personal and poetic renewal. *Recent Poems* in 1958 was followed by *Come Dance with Kitty Stobling*. These contain some of his best-known shorter poems. His *Collected Poems* were published in 1964 by MacGibbon and Kee, who also brought out *Collected Pruse* in 1967. *Tarry*

Flynn was dramatised by PJ O'Connor and produced by the Abbey Theatre in Dublin and in Dundalk in 1967.

Patrick Kavanagh married Katherine Barry Moloney in April 1967 and died on 30 November of the same year in Dublin. In 2000, the *Irish Times* surveyed the nation's favourite poems, and 10 of Kavanagh's poems were in the first 50. His poem *Raglan Road*, written to be sung, was performed by the Dubliners and is hugely popular around the world as a hauntingly beautiful ballad. *The Great Hunger* was adapted for the theatre by Tom Maclntyre and produced in Dublin.

Our delegation met several people who knew Patrick Kavanagh. They generally described him as 'other worldly', a mystic and a little strange, but clever. Kavanagh is considered the second of Ireland's three great 20th century poets, between Yeats, towards whom he directed much scepticism, and Nobel laureate Seamus Heaney, who attributes his love of poetry and his success to Kavanagh and who is considered to have inherited Kavanagh's sensibility as a man of the land.

We visited the church where Kavanagh went to mass, which is now a literary centre staffed by volunteers dedicated to promoting his work. Kavanagh's works are presented and illustrated, providing snippets of Irish country life in tough times, and his observations made of the ordinariness of every day are brought to life through his beautiful words. In *Wet Evening in April* he wrote:

The birds sang in the wet trees

And I listened to them it was a hundred years from now

And I was dead and someone else was listening to them.

But I was glad I had recorded for him

The melancholy.

Kavanagh also wrote that, in the days before popular newspapers, the task of reporting games, such as football, often fell to poets. They wrote ballads about the most memorable encounters, which were then retold in pubs. We were also privileged to hear his poetry performed and brought to life by our host.

A scrap of his journalism on a wall revealed the sort of footballer he was, or perhaps wished to be—that is, the sort known around the parish as one who never took a backward step out of fear. He was a highly intelligent, socially awkward man seeking to appear harder than the hardest. Yet, of course, he was not hard; he was a sensitive soul, close to his mother and bound up in his Catholic faith who found love late in life and wrote about how it transformed his life. Kavanagh's reputation as a poet is based on the lyrical quality of his work, his mastery of language and form and his ability to transform the ordinary into something of significance. His story does indeed lend itself to film, and I sincerely hope that Russell Crowe will accept Mayor Vincent Martin's invitation to Monaghan county very soon.

National Security

Senator MURRAY (Western Australia) (10.09 pm)—The Western Australian Terrorism (Extraordinary Powers) Bill 2005 was introduced into state parliament in September, several weeks prior to the federal government's antiterrorism legislation. This legislation will work concurrently with the federal government's antiterrorism legislation amendments and provides the state police with powers of search and seizure.

Conservatives are in both major parties. Those who support a liberal democracy are opposed to a conservative authoritarian anti-civil-rights agenda. Conservatives in both major political parties have to be watched, as they will take the opportunity of national

crises to advance their broader anti-libertarian views. That is why Labor leaders like Mr Stanhope are valuable for their vigilance and resistance. That is why real liberals in government parties are so valuable in their vigilance and resistance. Without opposition, there will be a persistent and progressive conservative dismantling of civil rights and a stripping away, little by little, of the rights of Australian citizens. Taken in their entirety, these pieces of legislation remove some of the building blocks upon which our liberal democracy is founded. If you remove even one of these pillars, the whole structure can become unstable. This has happened in other countries in the past. I have seen its effects first hand in Smith's Rhodesia, Mugabe's Zimbabwe and in Verwoerd Vorster and Botha's South Africa.

If the laws in Australia allow for banning, house arrest, deportation and detention without trial on the same basis as tyrannies and police states, injustice will follow. Too many of the present amendments to state and federal legislation have the same building blocks on which tyranny has been built. In a democracy, we have the rule of law and the separation of powers, with the executive, the legislature and the judiciary with their own important roles to play. They work as a check on each other. Police are there to enforce the laws passed by the legislature that are reviewed and overseen by the judiciary in full public light. WA's bill attempts to enmesh the police powers with those of the legislature and remove any judicial oversight from the decision making.

People will believe these powers will not be abused because the great majority of policemen and women and intelligence personnel are likely to be good people, but how can anyone guarantee that there are only good people in the police force or in the intelligence services? It is not just the idiot factor; no-one can stop mistakes being made by overzealous, incompetent or just plain human beings. All police forces have been subject to royal commissions because of corruption and the abuse of power. The whole of Australia knows our history—that is, how the innocent were fitted up and verballed, how those under suspicion were assaulted and sometimes killed and how corruption was rife. That is why interviews are now videoed and recorded, why evidence has to be sworn under supervision and why police integrity commissions exist. It is why warrants are issued by the judiciary, the courts are open, habeas corpus is enforced and the press report misdeeds. Are Australians so naive to think that there are no bad apples in the police barrel? Any large organisation has bad apples. Take away oversight, checks and balances from these characters and abuse and injustice will mushroom.

The Islamic community of Australia have expressed concern that this legislation is targeted at them. Both state and federal governments are adamant this is not the case. It is obvious that antiterror agencies have to address the common threads of current terrorism. Like members of all religions, Muslims can be of any race, but the major ethnic groups that are Muslim will inevitably feel singled out by the intelligence services and the police. Terrorism is a nasty human habit that has been around for centuries. All races and religions have contained terrorist movements. There have been many terror groups in the last 100 years with a common political and religious basis, such as the Catholic and Irish IRA. Yet that dreadful organisation that planted bombs in London, killed people on the underground and nearly blew up 10 Downing Street never saw an English or Australian reaction such as that enshrined in these current proposals, which leads moderate Muslims to believe these are racially targeted pieces of legislation and leads liberals to smell a conservative rat.

The majority of Australians are not Muslim and are Anglo-Celtic in origin. The conservatives believe most Australians will think these antiterror laws will not affect them because they are Anglo-Celtic and they are not Muslim. The conservatives expect to get these laws enacted without much trouble because Australians see the laws directed at a specific racial and religious minority. Minorities are the very citizens a liberal democracy protects so that everyone gets a fair go and everyone gets a fair trial under due process—everyone, not just the majority.

Australians have not made enough of an outcry, because they do not think that the police will stop and search them. They do not think that police will covertly enter their houses and go through their things and plant bugging devices in their homes. They do not expect that their emails, their internet access or their telephones will be tapped. But all of those things are possible under the terror laws.

Apart from the recent royal commission into the WA police, we have had a number of recent distasteful reprimands, resignations and convictions of members of the WA police. They are not angels, although the majority are honest, hardworking and professional people. Given a highly visible minority of police miscreants, do we really want to vest excessive powers in the WA police? Those miscreants will also be able to exercise the extensive powers conferred on them by the Western Australian Terrorism (Extraordinary Powers) Bill. WA's bill proposes that the police commissioner—or, if the police commissioner is unavailable, anyone down to the position of superintendent—can issue search warrants if a person in any jurisdiction has grounds for suspecting that a terrorist act is going to be committed. This means the police commissioner can issue a warrant without an objective assessment of evidence, simply on someone's personal suspicions—suspicion, not evidence. Suspicion is what saw hundreds of thousands of women burned at the stake.

This proposal offends the fundamental protection afforded us by the separation of powers and an independent judiciary. Only judges or magistrates should issue warrants. There is no provision for review of this decision, even if it is later shown that this personal suspicion was false or nonexistent. Clause 20 of the WA bill unambiguously says that the decision to issue such a warrant cannot 'be appealed against, reviewed, quashed, challenged, or called in question before any person acting judicially or a court or tribunal on any account or by any means.' No evidence is required to support the suspicion. No objective assessment of the evidence by a judge in court is required to support the request. If that personal suspicion is shown to be wrong at a later date, there is no redress for the person who has been subjected to search and seizure.

The issuing of a warrant to stop and search someone in the WA legislation is not open to judicial review, nor is it open to quasi-judicial or administrative review of any kind. The WA legislation specifically excludes that type of review in relation to police warrants. The only avenue open to the people of WA for a review of the decision regarding the issuing of a police search warrant is the Crime and Corruption Commission. The presumption then is that the only cause for review is if there has been some kind of corrupt or improper behaviour by the police in issuing the warrant, not for any other reason. It means that if there is a case of mistaken identity or misinterpretation of events, if the idiot factor is in play, an innocent person can be subject to search and seizure with no legal recourse.

It is important to remember that under the ASIO legislation the person detained bears

the evidential burden to show that they do not have possession or control of the record or thing that they are being questioned about and which is identified in the warrant. Proving a negative is a difficult thing. That is why the burden of proof generally lies with the prosecution. They must come up with the evidence to show that someone was involved in something. In ordinary circumstances, the person does not have to provide evidence that they were not involved in something.

The WA legislation, working in concert with the federal legislation, assaults our civil liberties in important respects. This legislation as it is strikes at the very heart of what makes WA a great place. Such powers are typical of a police state and they should be resisted.

Senate adjourned at 10.19 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*]

Acts Interpretation Act—Statement pursuant to subsection 34C(6) relating to the extension of specified period for presentation of a report—Office of the Renewable Energy Regulator—Report for 2004-05.

Australian Bureau of Statistics Act—Proposal No. 10 of 2005—Survey of Water Supply and Use.

Australian Prudential Regulation Authority Act—Non-Confidentiality Determination No. 10 of 2005—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 (2005) [F2005L03214]*.

Class Rulings CR 2005/91-CR 2005/93.

Corporations Act—ASIC Class Order [CO 05/1070] [F2005L03335]*.

Customs Act—Tariff Concession Orders—

0505651 [F2005L03329]*.

0505969 [F2005L03330]*..

0506111 [F2005L03331]*.

0506115 [F2005L03332]*.

0506118 [F2005L03333]*.

0506577 [F2005L03334]*.

0506578 [F2005L03336]*.

0506581 [F2005L03337]*.

0506584 [F2005L03338]*.

0506585 [F2005L03339]*.

0506770 [F2005L03381]*.

0506789 [F2005L03380]*.

0506866 [F2005L03382]*.

0506931 [F2005L03383]*.

0506933 [F2005L03384]*.

0507032 [F2005L03385]*.

0507058 [F2005L03386]*.

0507062 [F2005L03387]*.

0507310 [F2005L03391]*.

0507316 [F2005L03371]*.

0507359 [F2005L03372]*.

0509831 [F2005L03313]*.

0509996 [F2005L03347]*.

0509999 [F2005L03314]*.

0510003 [F2005L03315]*.

0510004 [F2005L03316]*.

0510010 [F2005L03348]*.

0510203 [F2005L03317]*.

0510205 [F2005L03349]*.

0510271 [F2005L03318]*.

0510289 [F2005L03350]*.

0510306 [F2005L03319]*.

0510430 [F2005L03351]*.

0510436 [F2005L03352]*.

0510514 [F2005L03353]*.

0510516 [F2005L03354]*.

0510517 [F2005L03320]*.

0510521 [F2005L03321]*.

0510609 [F2005L03355]*.

0510610 [F2005L03322]*.

Defence Act—Determinations under section 58B—Defence Determinations—

2005/42—Overseas conditions of service—post indexes.

2005/43—Completion bonus—Electronics Technical (junior sailor) employment category.

2005/44—Navy retention bonus—Marine and Electronics Technical (sailors) employment categories.

Health Insurance Act—

Common Form of Undertaking for Participating Optometrists [F2005L03325]*.

Health Insurance (Allied Health and Dental Services) Amendment Determination 2005 (No. 1) [F2005L03310]*.

Select Legislative Instrument 2005 No. 239—Health Insurance (Pathology Services Table) Regulations 2005 [F2005L03098]*.

Higher Education Support Act—Higher Education Provider Approval (No. 12 of 2005)—Box Hill Institute of Technical and Further Education (trading as Box Hill Institute of TAFE and Box Hill Institute) [F2005L03356]*.

Migration Act—Migration Regulations—

Addresses for Trade Skills Training Sponsor and Visa Applications (Regulation 1.20UK(4) and 1220B(3)(e)), dated 25 October 2005 [F2005L03311]*.

Classes of Persons Applying for a Student Visa from Outside Australia (Regulation 1222(1)(a)(ii)), dated 25 October 2005 [F2005L03301]*.

Classes of Persons Applying for a Student Visa from Within Australia (Regulation 1222(1)(aa)(i)), dated 25 October 2005 [F2005L03303]*.

Educational Institutions in Regional and Low Population Growth Metropolitan Areas (Regulations 6A1001 and 6A1002), dated 21 October 2005 [F2005L03327]*.

Migration Occupations in Demand (Regulation 1.03), dated 21 October 2005 [F2005L03326]*.

Persons Who May Apply for a Working Holiday Maker Visa (Regulation 1225(3)(b)(i) and (ii)), dated 25 October 2005 [F2005L03295]*.

Postal and Courier Delivery Addresses for Distinguished Talent Visas and Special Eligibility Visas (Regulations 1112(3)(a), 1113(3)(aa) and 1118A(3)(a), dated 26 October 2005 [F2005L03345]*.

Skilled Australian Sponsored (Migrant) Visa: Residential Postcodes, "Skilled Occupations" and Points (Regulations 1.03 and 2.26B), dated 26 October 2005 [F2005L03346]*.

Working Holiday Maker Visa—Definitions of 'Seasonal Work' and 'Regional Australia' (Regulation 1225(5)), dated 25 October 2005 [F2005L03299]*.

Working Holiday Maker Visa—Post Office Box Address (Regulation 1225(3)(a)), dated 25 October 2005 [F2005L03297]*.

Motor Vehicle Standards Act—

Vehicle Standard (Australian Design Rule 80/00—Emission Control for Heavy Vehicles) 2005 [F2005L03375]*.

Vehicle Standard (Australian Design Rule 80/01—Emission Control for Heavy Vehicles) 2005 [F2005L03392]*.

National Health Act—Determinations—

HIB 19/2005 [F2005L03323]*.

HIB 20/2005 [F2005L03290]*.

HIB 21/2005 [F2005L03289]*.

Product Rulings—

Addenda—

PR 2003/12.

PR 2004/26.

PR 2005/13 and PR 2005/14.

Sydney Airport Curfew Act—Dispensation Report 9/05 [7 dispensations].

Taxation Rulings—

Notice of Withdrawal—TR 94/31.

TR 2005/18 and TR 2005/19.

* Explanatory statement tabled with legislative instrument.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Minister for Defence: Official Engagements
(Question No. 167)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 8 December 2004:

With reference to the Minister's official engagements on 15 November 2004:

(1) Where did each engagement occur.

(2) What was the nature of each engagement.

(3) What was the start and finish time of each engagement.

(4) (a) When was the Minister invited to, or when did the Minister first become aware of, each engagement; and (b) on what date did the Minister commit to attending each engagement.

(5) (a) Who attended each engagement; and (b) in what capacity did they attend.

(6) What was the cost incurred by the Commonwealth in arranging or ensuring the Minister's attendance at each engagement.

(7) Will the Minister provide details of invitations or approaches to attend other official engagements on 15 November 2004 which the Minister either declined or delegated.

Senator Hill—The answer to the honourable senator's question is as follows:

I was in Canberra in preparation for the opening of the 41st Parliament. Details of my diary arrangements will not be provided.

Departmental and Ministerial Web Sites
(Question No. 254)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 December 2004:

(1) Did the Minister authorise the publication of media statements carrying The Nationals' party logo on the publicly-funded Sustainable Regions website, www.sustainableregions.gov.au; if so, when; if not, who authorised the publication of these party-political media statements.

(2) (a) What guidelines apply to the publication of party-political material by the department; and (b) is the publication of party-political media statements on the Sustainable Regions website consistent with these guidelines.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(1) No. Previous Departmental practice was to source media releases relating to project announcements for inclusion on the Sustainable Regions program website. Current Departmental practice is not to include project announcement media releases on the Sustainable Regions program website.

(2) (a) The Australian Government Information Management Office "Guidelines on Departmental and Ministerial Websites" apply to the publication of information on departmental websites. (b) The publication of project announcement media releases is consistent with these guidelines in that the content of the announcements related to the official business of the portfolio.

Communications, Information Technology and the Arts: Staff

(Question Nos 662 and 666)

Senator Chris Evans asked the Minister for Communications, Information Technology and the Arts and the Minister for the Arts and Sport, upon notice, on 4 May.2005:

For each of the financial years 2000-01 to 2004-05 to date, can the following information be provided for the department and/or its agencies:

(1) What were the base and top level salaries of Australian Public Service (APS) level 1 to 6 officers and equivalent staff employed.

(2) What were the base and top level salaries of APS Executive level and Senior Executive Service officers and equivalent staff employed.

(3) Are APS officers eligible for performance or other bonuses; if so: (a) to what levels are these bonuses applied; (b) are these applied on an annual basis; (c) what conditions are placed on the qualification for these bonuses; and (d) how many bonuses were paid at each level, and what was their dollar value for the periods specified above.

(4) (a) How many senior officers have been supplied with motor vehicles; and (b) what has been the cost to date.

(5) (a) How many senior officers have been supplied with mobile phones; and (b) what has been the cost to date.

(6) How many management retreats or training programs have staff attended.

(7) How many management retreats or training programs have been held off-site.

(8) In the case of each off-site management retreat or training program: (a) where was the event held; and (b) what was the cost of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(9) How many official domestic trips have been undertaken by staff and what was the cost of this domestic travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(10) How many official overseas trips have been undertaken by staff and what was the cost of this travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(11) (a) What was the total cost of air charters used; and (b) on how many occasions was aircraft chartered, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Coonan—The answer to the honourable senator's question is as follows:

Senator Abetz, as the Minister representing the Minister Assisting the Prime Minister for the Public Service in the Senate, will respond on behalf of all Ministers to parts (1), (2), (3), (6), (7), (8), (9) and (10).

Parts (4), (5) and (11) are being answered in relation to the core Department in its current structure. The former Departmental agency, Screensound Australia was integrated with the Australian Film Commission on 1 July 2003 and the former Departmental agency, the National Science and Technology Centre (NSTC) became part of the Education, Science and Training portfolio on 1 July 2003. Figures are based on electronic central records held by the Department of Communications, Information Technology and the Arts.

(4) (a) and (b)

Financial Year	No of Senior Executive Service Officers Supplied with Motor Vehicles (as provided by Fleet Monitoring Body). Note: Figures are as at 30 June (note that number of vehicles may vary during the year)	Total Annual Cost
2000/01	26	$350,346.87
2001/02	26	$284,173.49
2002/03	26	$278,675.45
2003/04	32	$301,562.33
2004/05	30	$341,582.45

(5) (a) The Department's financial system holds records on mobile phone data as follows

Financial Year	Mobile Phones on Hand as at 30 June each year
2000/01	19
2001/02	24
2002/03	65
2003/04	102
2004/05	150

(b) The Department's financial system does not have a separate code for mobile phone costs. The following costs represent the total telecommunications expenses (including mobile phone carrier services, voice carrier services and data carrier services)

Financial Year	Total Telecommunications Expenses (mobile phone costs not separately captured)
2000/01	$872,547
2001/02	$1,212,894
2002/03	$1,067,411
2003/04	$1,050,893.03
2004/05	$1,015,047.54

(11) (a) and (b)

Departmental records indicate the following in relation to air charters for domestic air travel during the period 2000-01 to 2004-05:

(a) Travel taken in 2001-02 at a total cost of $600.

(b) Alpine Airlines was the name of the charter company and was used once.

Treasury: Customer Service

(Question No. 835)

Senator Chris Evans asked the Minister representing the Treasurer, upon notice, on 4 May 2005:

With reference to the department and/or its agencies:

(1) For each of the financial years 2000-01 to 2004-05 to date, can a list be provided of customer service telephone lines, including: (a) the telephone number of each customer service line; (b) whether the number is toll free and open 24 hours; (c) which output area is responsible for the customer service line; and (d) where this call centre is located.

(2) For each of the financial years 2000-01 to 2004-05 to date, what was the cost of maintaining the customer service lines.

(3) For each of the financial years 2000-01 to 2004-05 to date, can a breakdown be provided of all direct and indirect costs, including: (a) staff costs; (b) infrastructure costs (including maintenance); (c) telephone costs; (d) departmental costs; and (e) any other costs.

(4) How many calls have been received, by year, in each year of the customer service line's operation.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

Australian Bureau of Statistics

(1) (a), (c) (d) See attached spreadsheet. Information within financial years is not available.

(b) All telephone lines are open 24 hours. However, after hours calls will go to either an answering machine or recorded message in the majority of cases.

(2) See attached spreadsheet.

(3) (b), (c), (e) See attached spreadsheet.

(a), (d) Not available.

(4) See attached spreadsheet.

Australian Competition & Consumer Commission

(1) (a) Customer Service Telephone lines are as follows:

Service	Number
ACCC Infocentre	1300 302 502
TTY	1300 303 609
Indigenous line	1300 303 143

(b) Calls to these numbers are charged at the rate of the cost of a local call. The call centre is open Monday to Friday from 8:30am to 6:00pm.

(c) Compliance Strategies Branch

(d) 470 Northbourne Avenue, Dickson, ACT

(2) The total cost of the lines are as follows: (Optus Accounts)

Year	Cost $
2000-01	236,574
2001-02	96,067
2002-03	71,948
2003-04	52,069
2004-05	59,924

(3) The cost breakdown for the information centre is as follows:

Cost	2000-01 $	2001-02 $	2002-03 $	2003-04 $	2004-05 $
Salaries	N/A	1,133,192	1,133,308	1,187,091	1,281,314
Travel		7,876	5,226	4,378	3,992
Fixed		135,807	186,229	94,632	75,538
Other		8,783	8,538	39,78	1,323
Total		1,285,658	1,333,301	1,290,079	1,362,168

Costing details for 2000-01 are not available to due changes in organisational structure and changes in financial reporting systems.

(4) The number of calls received for each year is as follows:

Year	Number of calls received
2000-01	123,812
2001-02	87,078
2002-03	65,349
2003-04	54,773
2004-05	57,308

Australian Prudential Regulation Authority

(1) (a) The customer service telephone line used until 14 October 2001 (which continued to be in use for 3 months to provide callers with the new number) was 131060. The current number is 1300 131060.

(b) Both numbers are toll free numbers. Operating hours are 8am – 6pm Monday to Friday.

(c) Secretary Group

(d) Canberra

(2) 2000-01: $126,000; 2001-02: $185,000; 2002-03: $120,000; 2003-04: $106,000; 2004-05 (year to date April): $53,000

(3) The very detailed information sought in the honourable senator's question is not readily available in consolidated form and it would be a major task for APRA to assemble it on a general basis.

(4) 2000-01:169,025; 2001-2002: 136,418; 2003-2004: 119,668;

2004-May 2005: 106,838.

Australian Office of Financial Management

The AOFM does not have a customer service line.

Australian Securities and Investments Commission

	Financial year				
	2000-01	2001-02	2002-03	2003-04	YTD 2004-05
ASIC Enquiry Line					
Phone number	03 5177 3988	03 5177 3988	03 5177 3988	03 5177 3988	03 5177 3988
Toll free?	No	No	No	No	No
Calls received	#see below	#see below	529,000	719,000	560,000
Hours of operation	Business hrs	Business hrs	Business hrs	Business hrs	Business hrs
Output area	ASIC, PIP *	ASIC, PIP *	ASIC, PIP *	ASIC, PIP *	ASIC, PIP *
Location	Traralgon, Vic	Traralgon, Vic	Traralgon, Vic	Traralgon, Vic	Traralgon, Vic
Staff costs	1,030,988	1,341,816	1,569,563	2,322,740	2,075,922
Infoline					
Phone number	1300 300 630	1300 300 630	1300 300 630	1300 300 630	1300 300 630
Toll free?	Yes	Yes	Yes	Yes	Yes
Calls received	#see below	#see below	143,000	144,000	140,000
Hours of operation	Business hrs	Business hrs	Business hrs	Business hrs	Business hrs
Output area	PIP	PIP	PIP	PIP	PIP
Location	Traralgon, Vic	Traralgon, Vic	Traralgon, Vic	Traralgon, Vic	Traralgon, Vic
Staff costs	549,552	581,577	705,736	615,375	541,915
#total calls Enquiry & Infolines	765,000	710,000	672,000	863,000	700,000

	Financial year				
	2000-01	2001-02	2002-03	2003-04	YTD 2004-05
Enquiry and Infoline - Non Salary Costs					
Infrastructure costs	Do not collect costs at this level				
Telephone costs - Inbound & Outbound and line costs	425,358	373,202	459,517	444,883	277,231
Departmental costs	Do not collect costs at this level				
Any other costs	27,012	10,441	23,404	59,606	13,198
PABX Maintence Contracts	27,405	25,313	13,563	61,871	38,865
* PIP = Public Information Program					

Australian Taxation Office

The data in this report comprehensively covers the ATO's publicly listed customer service lines**. The organisational structure of the ATO means that the information requested cannot be cut by each phone number. The closest to that which can be provided is to cut the information by Business Line. Within each Business Line we have listed the major customer service line numbers handled by that business line.

In this report Infrastructure Cost shows the cost of providing telephony infrastructure (ie all equipment and services provided through the NEC managed service). Telephone Costs shows inbound and outbound call costs incurred with the carrier (ie Optus and Telstra). Staff Costs represents all labour costs including salary and add-on costs (such as leave, super etc). Other Costs includes all remaining costs (such as supplier costs, contractors, travel, stationery etc).

All phone lines operate nationally from 8am to 6pm Monday to Friday except for 132865 and 137226 which operate 24 hours per day, 7 days per week providing access to self-help phone services. These lines are indicated by (*)

Australian Taxation Office

Service Data	2000-01	2001-02	2002-03	2003-04	2004-05 (YTD - Apr 05)
Small Business Telephony					
Local call to client (13, 1300 numbers)	132866, 132478, 132870, 137226*, 131142, 137286, 1300-130248	132866, 132478, 132870, 137226*, 131142, 137286, 1300-130248	132866, 132478, 132870, 137226*, 137286, 1300-130248	132866, 132478, 132870,137226*, 137286, 1300-130248	132866, 132478, 132870, 137226*, 137286, 1300-130248, 1300 139 051
Free call to client (1800 numbers)	1800-199010, 1800-060063	1800-199010, 1800-060063	1800-199010, 1800-060063	1800-199010, 1800-060063	1800-199010, 1800-060063
24 Hrs	No	No	No	No	No
Output Area	SB	SB	SB	SB	SB
Location(s)	BCC, MCC, Mel, Pen, Nor, Chm, Par, Chm, Hur, Cnn, Liv	BCC, MCC, Mel, Pen, Nor, Chm, Par, Chm, Hur, Cnn, Liv	BCC, MCC, Mel, Pen, Nor, UMG	BCC, MCC, Mel, Par, Pen, Nor, UMG	BCC, MCC, Mel, Par, Pen, Nor
Staff Cost	na	$46,480,121	$55,349,256	$31,993,493	$33,883,446
Infrastructure Cost	$4,432,054	$5,521,319	$6,230,684	$4,857,220	$2,715,579
Telephone Cost	$10,054,945	$4,944,554	$2,904,883	$3,402,214	$2,081,040
Other Cost(s)	na	$11,925,954	$15,066,068	$5,562,136	$563,258
Total Costs	$14,486,998	$68,871,947	$79,550,891	$45,815,062	$39,243,324
Calls Received ('000)	7,273	6,615	4,909	4,100	2,834

Service Data	2000-01	2001-02	2002-03	2003-04	2004-05 (YTD - Apr 05)
Personal Tax Telephony					
Local call to client (13, 1300 numbers)	132861, 132862, 132865*	132861, 132862, 132865*, 1300-362829, 1300-650286, 1300-720093	132861, 132862, 132863, 132865*, 137286, 1300-362829, 1300-650286, 1300-720094	132861, 132862, 132865*, 137286, 1300-362829, 1300-650286, 1300-720095	132861, 132862, 132865*, 137286, 1300-362829, 1300-650286, 1300-720096
Free call to client (1800 numbers)					
24 Hrs	No	No	No	No	No
Output Area	Ptax	Ptax	Ptax	Ptax	Ptax
Location(s)	BXH, MPO, Can, Par, UMG, Way, Nor	BXH, MPO, Can, Par, UMG, Way, Nor	BXH, MPO, Can, Par, UMG, Way, Nor	BXH, MPO, Can, Par, UMG, Way, Nor	BXH, MPO, Par, UMG, Way, Nor
Staff Cost	$13,267,000	$21,589,000	$25,444,000	$25,040,000	$17,914,000
Infrastructure Cost	$3,443,023	$3,799,402	$5,037,601	$4,815,755	$3,992,650
Telephone Cost	$7,811,142	$3,402,511	$2,348,642	$3,373,170	$3,059,703
Other Cost(s)	$644,835	$7,287,088	$6,680,757	$5,587,074	$4,069,647
Total Costs	$25,166,000	$36,078,000	$39,511,000	$38,816,000	$29,036,000
Calls Received (‘000)	5,650	5,025	3,969	4,065	3,577
Operations Telephony					
Local call to client (13, 1300 numbers)		131142, 132550, 132865*, 137226*	131142, 132550, 132865*, 137226*, 137286	131142, 132550, 132865*, 137226*, 137286	131142,132550, 132865*, 137226*, 137286, 1300-130025, 1300-130901, 130-130926, 1300-137286, 1300-360221, 1300-139028
Free call to client (1800 numbers)					
24 Hrs		No	No	No	No
Output Area		Ops	Ops	Ops	Ops
Location(s)		Hur, Syd, New, Wol, Tow, Ch, Hob, BXH, Dan, MPO, Alb, Par, Pen, Chm, UMG, Way, Nor	Hur, Syd, New, Wol, Tow, Ch, Hob, BXH, Dan, MPO, Alb, Par, Pen, Chm, UMG, Way, Nor	Hur, Syd, New, Wol, Tow, Ch, Hob, BXH, Dan, MPO, Alb, Par, Pen, Chm, UMG, Way, Nor	Hob, BXH, Dan, MPO, Alb, Par, Pen, Chm, UMG, Way, Nor
Staff Cost		$26,789,723	$35,501,398	$36,716,278	$31,855,000
Infrastructure Cost		$2,003,200	$3,689,672	$2,754,399	$2,481,953
Telephone Cost		$1,793,942	$1,720,207	$1,929,304	$1,902,004
Other Cost(s)		$8,753,934	$11,222,647	$10,601,937	$11,667,277
Total Costs		$39,340,799	$52,133,924	$52,001,918	$47,906,234
Calls Received (‘000)		2,400	2,908	2,326	2,148
Superannuation Telephony					
Local call to client (13, 1300 numbers)		131020	131020	131020	131020, 132864, 132865*, 1300-651221, 1300-139027
Free call to client (1800 numbers)					
24 Hrs		No	No	No	No
Output Area		Super	Super	Super	Super

Service Data	2000-01	2001-02	2002-03	2003-04	2004-05 (YTD - Apr 05)
Location(s)		UMG, Hob	UMG, Hob	UMG, Hob	UMG, Hob, MPO, MCC, Par
Staff Cost		$3,930,900	$5,056,800	$5,880,400	$7,555,214
Infrastructure Cost		$580,928	$896,081	$937,088	$689,067
Telephone Cost		$520,243	$417,773	$656,378	$528,055
Other Cost(s)		$654,145	$209,583	$217,720	$13,810
Total Costs		$5,686,216	$6,580,237	$7,691,586	$8,786,146
Calls Received ('000)		696	707	791	624
Excise Telephony					
Local call to client (13, 1300 numbers)	1300-657162	1300-657162	1300-657162	1300-657162	1300-657162, 137226*
Free call to client (1800 numbers)					
24 Hrs	No	No	No	No	No
Output Area	Ex	Ex	Ex	Ex	Ex/SB
Location(s)	Hob, Wol	Hob, Wol	Hob, Wol	Hob, Wol	Hob, Mel
Staff Cost	$1,317,663	$1,482,017	$1,495,210	$1,677,709	$706,408
Infrastructure Cost	$124,924	$95,152	$145,962	$158,748	$120,751
Telephone Cost	$283,413	$85,212	$68,051	$111,194	$92,535
Other Cost(s)	$345,027	$525,303	$530,499	$486,778	$110,598
Total Costs	$2,071,027	$2,187,684	$2,239,722	$2,434,429	$1,030,292
Calls Received ('000)	205	114	116	135	92

** The data covers all years and all business lines except SB for 2000/01.

Dan	Dandenong	Nor	Northbridge
Hob	Hobart	Par	Parramatta
Hur	Hurstville	Pen	Penrith
Liv	Liverpool	Syd	Sydney (Centrepoint
MCC	Melbourne (Queen St)	Tow	Townsville
Mel	Melbourne (Casselden Pl)	UMG	Upper Mount Gravatt
MPO	Moonee Ponds	Way	Waymouth
New	Newcastle	Wol	Wollongong

Corporations and Markets Advisory Committee

(1) Nil

(2) NA

(3) NA

(4) NA

Inspector-General of Taxation

(1) Nil

(2) NA

(3) NA

(4) NA

National Competition Council

(1) Nil

(2) NA

(3) NA

(4) NA

Productivity Commission

(1) Nil

(2) N/A

(3) N/A

(4) N/A

Treasury

The very detailed information sought in the honourable senator's question is not readily available in consolidated form and it would be a major task to collect and assemble it. The practice of successive governments has been not to authorise the expenditure of time and money involved in assembling such information on a general basis.

Service Lists

Telephone Number	Toll Free	Output Area	Call Centre Location
137201	Local Toll	Census Field Organisation and Coordination	ABS House, 45 Benjamin Way, Belconnen ACT 2617
137206	Local Toll	Census Field Organisation and Coordination	ABS House, 45 Benjamin Way, Belconnen ACT 2618
137219	Local Toll	Census Field Organisation and Coordination	ABS House, 45 Benjamin Way, Belconnen ACT 2619
1300135070	Local Toll	National Information and Referral Service	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1300135211	Local Toll	National Information and Referral Service	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1300136865	Local Toll	Statistical Publishing Support	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1300137804	Local Toll	Census Field Organisation and Coordination	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1300303813	Local Toll	Despatch and Collection	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1300363132	Local Toll	Dissemination Support	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1300366323	Local Toll	Dissemination Support	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1300369880	Local Toll	Financial Management	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800007448	Yes	Provider Contact Unit	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800010223	Yes	Economic Activity Survey	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800010558	Yes	Producer Price Indexes	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800010570	Yes	Producer Price Indexes	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800018101	Yes	South Australian Population Survey Officers	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800020513	Yes	Client Surveys Statistical Support	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800020536	Yes	Business Surveys	ABS House, 45 Benjamin Way, Belconnen ACT 2618

Telephone Number	Toll Free	Output Area	Call Centre Location
1800020580	Yes	Economy Wide Statistics	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800020635	Yes	Retail Surveys	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800030084	Yes	Tasmania Agriculture	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800032156	Yes	Dissemination Support	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800032432	Yes	Census Field Organisation and Coordination	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800059223	Yes	Provider Contact Unit	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800059480	Yes	Census Development and Evaluation	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800060050	Yes	Health	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800060439	Yes	Producer Price Indexes	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800060440	Yes	Producer Price Indexes	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800060911	Yes	Victorian Population Survey Officers	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800060912	Yes	Victorian Population Survey Officers	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800061579	Yes	Tasmania Population Survey Officers	200 Collins St, Hobart TAS 7000
1800063065	Yes	Victorian Service Idustries Survey	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800063204	Yes	Victorian Business Register Fax	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800064680	Yes	Population Survey Officers	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800065267	Yes	Research and Development Statistics	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800066744	Yes	IT Producers	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800069383	Yes	National Accounts Research	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800077274	Yes	Queensland Transport and Tourism	313 Adelaide St, Brisbane QLD 4000
1800077285	Yes	Queensland Transport and Tourism	313 Adelaide St, Brisbane QLD 4000
1800077327	Yes	Queensland Transport and Tourism	313 Adelaide St, Brisbane QLD 4000
1800089494	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800090353	Yes	Census Development and Evaluation	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800093310	Yes	Western Australian Employer Surveys	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800093322	Yes	Western Australian Population Survey Officers	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800093327	Yes	Western Australian Price Index Surveys	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800100557	Yes	Census Field Organisation and Coordination	ABS House, 45 Benjamin Way, Belconnen ACT 2618

Telephone Number	Toll Free	Output Area	Call Centre Location
1800101570	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800110791	Yes	Provider Contact Unit	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800111096	Yes	Fuel and Energy Survey	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800111994	Yes	Information Inquiries	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800112011	Yes	Pay and Entitlements	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800118119	Yes	Provider Contact Unit	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800136081	Yes	Victorian Client Management	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800136387	Yes	Technology Statistics	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800138756	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800151069	Yes	Public Sector Accounts	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800151196	Yes	Balance of Payments	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800151913	Yes	Test Line Communications Fax	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800155106	Yes	Producer Price Indexes	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800159357	Yes	IT Security	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800174830	Yes	Household Surveys Project	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800180780	Yes	Crime and Safety Survey	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800195122	Yes	Environment	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800199253	Yes	Corporate Services Unit	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800214391	Yes	Agricultural Survey	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800214751	Yes	Agricultural Survey Fax	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800220822	Yes	Investments and Profit Survey	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800221077	Yes	Manufacturing Operations Survey	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800222553	Yes	Census Processing Evaluation & Administration	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800226545	Yes	Population Survey Officers	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800227522	Yes	Census Field Organisation and Coordination	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800246112	Yes	Population Survey Officers	ABS House, 45 Benjamin Way, Belconnen ACT 2618

Telephone Number	Toll Free	Output Area	Call Centre Location
1800246303	Yes	Economy Wide Statistics Fax	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800246878	Yes	Economy Wide Statistics	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800249272	Yes	Tasmanian Statistical Services	200 Collins St, Hobart TAS 7000
1800300164	Yes	Annual Manufacturing Statistics	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800304488	Yes	Providers Contact Unit	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800335688	Yes	Statistical Services	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800336033	Yes	Census Field Organisation and Coordination	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800351156	Yes	Producer Price Indexes	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800351657	Yes	Household Income Fax	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800463377	Yes	Agricultural Census Tasmania	200 Collins St, Hobart TAS 7000
1800555572	Yes	Census Field Organisation and Coordination	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800557555	Yes	Census Field Organisation and Coordination	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800617509	Yes	Population Survey Processing	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800620963	Yes	Corporate	313 Adelaide St, Brisbane QLD 4000
1800621976	Yes	Darwin Population Survey Officers	7th Floor AANT House, 81 Smith St, Darwin NT 0800
1800622235	Yes	Provider Contact Unit	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800623273	Yes	Victorian Education Services	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800624225	Yes	Tasmania Population Survey Officers	200 Collins St, Hobart TAS 7000
1800624324	Yes	Queensland Population Survey Officers	313 Adelaide St, Brisbane QLD 4000
1800624562	Yes	Victorian Business Register	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800626262	Yes	Household Surveys Project	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800626469	Yes	Victorian Business Register	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800629625	Yes	New South Wales Business Surveys	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800631150	Yes	ACT Classification and Geological Survey	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800631681	Yes	Census Field Organisation and Coordination	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800633216	Yes	Aboriginal and Torres Strait Islander Statistics	7th Floor AANT House, 81 Smith St, Darwin NT 0800
1800633667	Yes	Business Demography Statistics	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800635561	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618

Telephone Number	Toll Free	Output Area	Call Centre Location
1800636780	Yes	Population Survey Officers	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800636809	Yes	Queensland Population Survey Officers	313 Adelaide St, Brisbane QLD 4000
1800637767	Yes	Investments and Profit Survey	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800638948	Yes	Victorian Business Register	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800640830	Yes	Victorian Business Register Fax	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800641189	Yes	Census Field Organisation and Coordination	313 Adelaide St, Brisbane QLD 4000
1800642149	Yes	Investments and Profit Survey	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800642324	Yes	Victorian Business Register	5th Floor Commercial Union Tower, 485 La-Trobe St, Melbourne VIC 3000
1800643777	Yes	Western Australian Population Survey Officers	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800647011	Yes	Tasmania Agriculture	200 Collins St, Hobart TAS 7000
1800650316	Yes	Building and Construction	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800650829	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800651552	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800654421	Yes	Environment Management	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800654467	Yes	Victorian Education Services	313 Adelaide St, Brisbane QLD 4000
1800654937	Yes	Agricultural Census Tasmania	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800655436	Yes	Marketing	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800658033	Yes	Survey of Motor Vehicle Use	313 Adelaide St, Brisbane QLD 4000
1800661366	Yes	Population Survey Officers Help Line	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800673050	Yes	Queensland Information Inquiries	313 Adelaide St, Brisbane QLD 4000
1800675125	Yes	Graduate Recruitment	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800675754	Yes	Annual Manufacturing Statistics	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800676613	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800676646	Yes	Population Census Product Development	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800677903	Yes	Environment	200 Collins St, Hobart TAS 7000
1800678770	Yes	Victorian Business Services	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800679731	Yes	Investments and Profit Survey	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800686243	Yes	Agricultural Census Tasmania	200 Collins St, Hobart TAS 7000
1800686331	Yes	IT Information Centre	ABS House, 45 Benjamin Way, Belconnen ACT 2618

Telephone Number	Toll Free	Output Area	Call Centre Location
1800687057	Yes	Retail Survey	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800735060	Yes	Provider Contact Unit	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800756030	Yes	Building and Construction	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800801520	Yes	Agricultural Census	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800801524	Yes	Industrial Disputes	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800802297	Yes	South Australian Population Survey Officers	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800802732	Yes	Queensland Population Survey Officers	313 Adelaide St, Brisbane QLD 4000
1800802910	Yes	Construction Industry Service	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800802928	Yes	Corporate	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800805017	Yes	Building and Construction	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800805210	Yes	Statistical Consultancy	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800805797	Yes	Western Australian Employer Surveys	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800805914	Yes	Population Survey Officers	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800806019	Yes	Longitudinal Survey of Australian Children	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800806256	Yes	Investments and Profit Survey	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800806415	Yes	Queensland Health	313 Adelaide St, Brisbane QLD 4000
1800806825	Yes	National Centre for Culture and Recreation Statistics	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800807282	Yes	Population Survey Officers	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800809168	Yes	Annual Manufacturing Statistics	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800809504	Yes	Corporate	313 Adelaide St, Brisbane QLD 4000
1800809767	Yes	Technology Statistics	Level 15 Exchange Plaza, Sherwood Court, Perth WA 6001
1800811017	Yes	Building and Construction	7th Floor East Commonwealth Centre, 55 Currie St, Adelaide SA 5000
1800812925	Yes	Business Register	200 Collins St, Hobart TAS 7000
1800813025	Yes	Population Survey Officers	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800813939	Yes	Census Marketing	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800815397	Yes	Marketing	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800815744	Yes	Queensland Labour Force Survey	313 Adelaide St, Brisbane QLD 4000
1800816851	Yes	Mining Surveys	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000

Telephone Number	Toll Free	Output Area	Call Centre Location
1800818909	Yes	Sport, Recreation and Gambling	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800819172	Yes	Retail Surveys	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800882015	Yes	Census Processing Evaluation & Administration	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800882362	Yes	Mining Provider Contact Unit	ABS House, 45 Benjamin Way, Belconnen ACT 2618
1800882430	Yes	Manufacturing Statistics Develop-ment	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800882547	Yes	Retail Survey	5th Floor St Andrews House, Sydney Square, Syndey NSW 2000
1800999310	Yes	Agricultural Census	ABS House, 45 Benjamin Way, Belconnen ACT 2618

Cost of Maintaining the Customer Service Lines

Sum of Charge	Financial Year					
Charge Name Level 1	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
SERVICE AND EQUIPMENT	$44,395.47	$36,305.62	$36,990.89	$38,165.15	$32,745.00	$188,602.13
Grand Total	$44,395.47	$36,305.62	$36,990.89	$38,165.15	$32,745.00	$188,602.13

Call Usage for Customer Service Lines

Sum of Charge		Financial Year					
Charge Name Level 2	Charge Name Level 3	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
FREECALL 1800/ONE8	FREECALL 1800/ONE8	$162,089.68	$212,573.90	$152,864.67	$163,093.31	$1,197.20	$691,818.76
	LOCCL					$3,454.56	$3,454.56
	MOBCL					$1,410.92	$1,410.92
	NATNL					$38,904.51	$38,904.51
FREECALL 1800/ONE8 Total		$162,089.68	$212,573.90	$152,864.67	$163,093.31	$44,967.19	$735,588.75
PRIORITY 1300	CALLS FROM MOBILES	$1,149.87	$1,403.77	$1,221.15	$1,239.15	$524.13	$5,538.07
	LOCAL (CHARGED)	$117.52	$140.43	$212.10	$379.98	$113.49	$963.52
	NATIONAL				$0.50	$23,597.57	$23,598.07
	NON-LOCAL	$109,205.45	$136,604.01	$100,329.18	$91,874.18	$7,698.00	$445,710.82
PRIORITY 1300 Total		$110,472.84	$138,148.21	$101,762.43	$93,493.81	$31,933.19	$475,810.48
Grand Total		$272,562.52	$350,722.11	$254,627.10	$256,587.12	$76,900.38	$1,211,399.23

Other Charges & Credits for Customer Service Lines

Sum of Charge	Financial Year					
Charge Name Level 1	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
DIRECTORY CHARGES	$1,414.24	$3.17				$1,417.41
DISCOUNT	-$38,617.37	-$54,070.33	-$34,454.89	-$37,567.39	-$1,998.01	-$166,707.99
OTHER CHARGES AND CREDITS	-$1,737.01	$620.00	$1,400.00	$4,545.00	-$1,684.63	$3,143.36
Grand Total	-$38,940.14	-$53,447.16	-$33,054.89	-$33,022.39	-$3,682.64	-$162,147.22

Number of Calls Made to Customer Service Lines

Sum of Quantity	Financial Year					
Service Number	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
137219	257					257
1300135070	92011	83595	70447	59854	56610	362517
1300135211	1335	1899	2237	1908	1235	8614
1300136865	765	996	2224	1666	638	6289
1300137804	2282	29185	2134	568	83	34252
1300303813			986	13213	20953	35152
1300363132	30					30
1300366323	8344	5400	4117	3220	3002	24083
1300369880	129					129
1800007448				1312	16	1328
1800010223				8588	9510	18098
1800010558			4	913	545	1462
1800010570				3145	2226	5371
1800018101	732	834	948	1054	835	4403
1800020513	20	11				31
1800020536	3643	4215	2948	5913	2883	19602
1800020580	4820	5971	7971	449	55	19266
1800020635	9628	9370	12042	16395	8006	55441
1800030084	416	490	380	287	194	1767
1800032156	31	1				32
1800032432	546	1489				2035
1800059223				229	2147	2376
1800059480					51	51
1800060050	244	187	226	174	113	944
1800060439	1676	1791	1580	236	148	5431
1800060440	563	578	422	20		1583
1800060911	986	1069	1735	1178	1061	6029
1800060912	664	926	327	1123	613	3653
1800061579	295	516	253	645	94	1803
1800063065	16					16
1800063204	385	143	208	143	42	921
1800064680	1943	1277	443	1667	782	6112
1800065267	851	916	800	1182	10	3759
1800066744	3269	3387	767	652	440	8515
1800069383	12	14	7	2		35
1800077274	5005	2201	3951	6131	777	18065
1800089494					8	8
1800090353					1760	1760
1800093310	20235	17605	10588	9615	3423	61466
1800093322	216	456	381	378	127	1558

Sum of Quantity	Financial Year					
Service Number	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
1800093327	8230	7370	7163	8643	5136	36542
1800100557		3		3	3	9
1800110791				4457	3710	8167
1800111096			2139	3938		6077
1800111994				34	15	49
1800112011		1372	2975	1086	81	5514
1800118119				3490	912	4402
1800136081	229	168	64	84	51	596
1800136387	1124	507	220	118	1049	3018
1800138756					6	6
1800151069	7					7
1800151196	794	505	512	760	661	3232
1800151913	970	1257	584	665	5	3481
1800155106	44	198	7			249
1800159357			270	361	291	922
1800174830					1	1
1800180780			145	52		197
1800195122					176	176
1800199253	299	415	201	52	29	996
1800214391					21	21
1800214751					97	97
1800220822	159	355	373	615	361	1863
1800221077	3377	3721	5027	5389	6353	23867
1800222553			1	402	8	411
1800226545	80	120	7	5	3	215
1800227522	11	121930				121941
1800246112	7	1	3	4	2	17
1800246303	1334	1551	1446	203	17	4551
1800249272	1					1
1800300164			899	544	450	1893
1800304488					1535	1535
1800335688	48					48
1800336033	348	924				1272
1800351156	32	28	17	11	3	91
1800351657	41	37	22	4		104
1800463377				77	27	104
1800555572	28	207				235
1800557555	3379	11464				14843
1800617509			17	615	1	633
1800620963	450	464	389	428	313	2044
1800621976	1071	748	980	741	66	3606
1800622235	85	17	63	21	3936	4122
1800623273	397	715	469	419	246	2246
1800624225	1878	1586	1521	883	531	6399
1800624324	83	42	24	34		183
1800624562	1480	575	58	43	728	2884
1800626262		901	293			1194
1800626469	727	79		5		811
1800629625	5660	280	80			6020
1800631150	313	220	233	203	71	1040
1800631681	864					864
1800633216	381	326	413	424	179	1723

Sum of Quantity	Financial Year					
Service Number	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
1800636780	25	16	27	9	14	91
1800636809	1280	1291	6962	9251	7571	26355
1800637767	8					8
1800638948	116	12	83	101	45	357
1800640830	317	130	2	4	7	460
1800641189	2025	1479				3504
1800642149	5158	14040	18161	15789	13184	66332
1800642324	506	734	282	1125	331	2978
1800643777	414	467	532	554	1916	3883
1800647011	6399	22386	9280	5852	5096	49013
1800650316	16484	13375	11562	13397	11134	65952
1800651552	315	238	55	394	542	1544
1800654421	1765	1878	972	677	1255	6547
1800654467	1486	1405	1015	357	166	4429
1800654937	1536	1455	1541	749	78	5359
1800655436	983	434	1545	666	133	3761
1800658033	10802	10347	7326			28475
1800661366	62	975	1372	1123	650	4182
1800673050	550	136				686
1800675125	4233	4277	2704	1889	735	13838
1800675754	767	567	173	1		1508
1800676646	3601	2661	7336	5951	2443	21992
1800677903	7	157	4195	4217	55	8631
1800678770	5196	4083	3521	1054	510	14364
1800679731	2483	158	10	6	3	2660
1800686243	71	2822	864	79	462	4298
1800686331	25639	20798	21279	23812	5072	96600
1800687057	3					3
1800735060				1930	5299	7229
1800756030				65	99	164
1800801520	49	30	25	190	10	304
1800801524	88	1080	1113	545	210	3036
1800802297	438	748	242	767	437	2632
1800802732	399	173	248	1216	662	2698
1800802910	167	7				174
1800802928	62	21		181	4	268
1800805017	1500	1494	2086	2199	1248	8527
1800805210	142	56				198
1800805797	3878	3577	2679	9576	2378	22088
1800805914	1	280	575	9	2	867
1800806019	148	7				155
1800806256	3287	4788	5654	8513	5260	27502
1800806415	757	574	509	640	438	2918
1800806825	16	12	2	5	106	141
1800809168	255	325	661	840	802	2883
1800809504	3667	39	25	184	38	3953
1800809767	4	57	7601	5341	1062	14065
1800811017	2424	1837	1883	1941	1747	9832
1800812925	403	1809	882	10	17	3121
1800813025	1901	2192	2196	2525	3022	11836
1800813939	422	551	1197	302	91	2563

Sum of Quantity	Financial Year					
Service Number	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	Grand Total
1800815397	108	22				130
1800816851	668	416	492	556	384	2516
1800818909	3841	3709	486	2414	5272	15722
1800819172	6545	5747	3897	289	52	16530
1800882015	2	2	5			9
1800882362	1054	826	587	1013	968	4448
1800882430					5	5
1800999310	1563	1250	854	16	93	3776
Grand Total	321300	470558	289439	304997	226569	1612863

Attorney-General's: Grants

(Question No. 989)

Senator O'Brien asked the Minister representing the Attorney-General, upon notice, on 24 June 2005:

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including: (a) the name and address of the recipient organisation; (b) the quantum and purpose of the payment; (c) the name of the program under which the grant or other payment was funded; (d) who approved the grant or other payment; and (e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

Attorney-General's Department

Given the broad nature of the question, it is not possible to obtain the information sought from the Department's central financial system without a significant diversion of resources to the task. The following information has been collated from relevant records of individual divisions and represents the best information that is readily available.

2001-2002

(a) Law Council of Australia, GPO Box 1989, Canberra, Australian Capital Territory 2601.

(b) $5,000 to assist with the costs of the 10th National Family Law Conference.

(c) Grants to Australian Organisations Program.

(d) The Attorney-General.

(e) Yes. The conference was held 16-20 March 2002.

2002-2003

(a) Law Council of Australia, GPO Box 1989, Canberra, Australian Capital Territory 2601.

(b) $25,000 to assist with the costs of the 13th Commonwealth Law Conference.

(c) Grants to Australian Organisations Program.

(d) The Attorney-General.

(e) Yes. The conference was held 13-17 April 2003.

2003-2004

Nil.

2004-2005

(a) Australian Association of Women Judges, GPO Box 3, Sydney NSW 2001.

(b) $25,000 to assist with the cost of the upcoming International Association of Women Judges' Biennial Conference to be held in Sydney in May 2006.

(c) Grants to Australian Organisations Program.

(d) The Attorney-General.

(e) No. Approximately $8,950 of the grant has been spent to cover the costs of graphic design for the conference logo, letterhead and postcard, printing, website development, and management fees. Preparatory work for the conference is continuing.

(a) Law Council of Australia, GPO Box 1989, Canberra, Australian Capital Territory 2601.

(b) $4,000 to support a survey under the auspices of the International Legal Services Advisory Council, to quantify the size of the export and import market of legal services in Australia.

(c) Grants to Australian Organisations Program.

(d) The Attorney-General.

(e) No. Work to gather the relevant data from participating legal firms is continuing. This project is being jointly funded by the Attorney-General's Department, the Law Council of Australia, Austrade and a number of major Australian law firms. Approximately 30% of funds have been expended on consultancy fees. The Attorney-General's Department, through the International Legal Services Advisory Council Secretariat, is carefully monitoring expenditure of the funds.

(a) Law Council of Australia, GPO Box 1989, Canberra, Australian Capital Territory 2601.

(b) $25,000 to assist the organising Committee of LAWASIAdownunder2005, a series of conferences held at the Gold Coast, including the XIX Biennial LAWASIA Conference, 34th Australian Legal Convention, 44th Queensland Law Society Symposium and 11th Conference of the Chief Justices of Asia Pacific.

(c) Grants to Australian Organisations Program.

(d) The Attorney-General.

(e) Yes. The conferences were held 21-24 March 2005.

It should be noted that this answer does not cover any payments that may have been made in respect of applications for legal assistance. There is a long-standing practice by successive Attorneys-General to treat in-confidence applications for financial assistance for legal and related costs.

Office of Film and Literature Classification (OFLC)

2003-04

(a) Scribal Holdings Pty Ltd, 3 Jessie Street, Richmond, Victoria, 3121.

(b) $3,300 for sponsorship of the Australian Visual Software Distributors' Association (AVSDA) Awards.

(c) The sponsorship was a "one off" payment that was not made under any discrete funding program.

(d) The payment was approved by John Robinson, Business Manager, OFLC.

(e) Yes. The payment was acquitted on 10 July 2003.

CrimTrac

2003-04

(a) ANZ Forensic Science Society, PO Box 41 016, Wellington, New Zealand.

(b) $3,495.88 for sponsorship.

(c) N/A

(d) The payment was approved by John Mobbs, CEO, CrimTrac.

(e) Yes. The payment was acquitted on 23 March 2004.

No other portfolio agency has made grants or other payments relevant to the question.

Notes:

"Business organisation and/or associations" has been interpreted as State or national professional and industry associations.

This answer excludes minor payments for membership and registration fees, subscriptions, publications, consultancies and for staff attending courses or conferences.

Employment and Workplace Relations: Grants

(Question No. 996)

Senator O'Brien asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on: 24 June 2005:

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including: (a) the name and address of the recipient organisation; (b) the quantum and purpose of the payment; (c) the name of the program under which the grant or other payment was funded; (d) who approved the grant or other payment; and (e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The requested information is not readily ascertainable and it would involve an unreasonable diversion of the Department's resources to provide such information.

Attorney-General's: Grants

(Question No. 999)

Senator O'Brien asked the Minister for Justice and Customs, upon notice, on 24 June 2005

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including: (a) the name and address of the recipient organisation; (b) the quantum and purpose of the payment; (c) the name of the program under which the grant or other payment was funded; (d) who approved the grant or other payment; and (e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Ellison—The answer to the honourable senator's question is as follows:

The Attorney-General has provided a response on behalf of the portfolio in his reply to Question on Notice No 989.

Employment and Workplace Relations

(Question No. 1011)

Senator O'Brien asked the Minister representing the Minister for Workforce Participation, upon notice, on Monday, 27 June 2005:

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including: (a) the name and address of the recipient organisation; (b) the quantum and purpose of the payment; (c) the name of the program under which the grant or other payment was funded; (d) who approved the grant or other payment; and (e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Abetz—The Minister for Workforce Participation has provided the following answer to the honourable senator's question:

Please refer to the answer provided in Parliamentary Question on Notice No. 996.

Horn Island Airport

(Question No. 1076)

Senator McLucas asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 August 2005:

(1) Is the department investigating whether there was an incident at Horn Island Airport in early April 2002 in which a Piper Navajo aircraft experienced a landing gear problem.

(2) Is it the case that: (a) the aircraft circled the airport for approximately one hour, escorted by another aircraft from the same company; (b) no emergency was declared; and (c) the staff of the airline in question used their own vehicles and fire extinguishers from the airport terminal to provide a de-facto fire-fighting service.

(3) Were there any breaches of aviation regulations in this instance.

(4) (a) Was this incident reported to the Civil Aviation Safety Authority, the Australian Transport Safety Bureau or any other authority; and (b) was it required to be reported.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(1) Both the Australian Transport Safety Bureau (ATSB) and the Civil Aviation Safety Authority (CASA) have reviewed the details contained in the Senator's question and on the basis of this information, were unable to locate records of an incident at Horn Island Airport in April 2002.

CASA has advised that in order to investigate this matter further they require additional information including the registration mark of the aircraft and name of the operator involved in the incident.

(2) See response to (1)

(3) See response to (1)

(4) (a) This incident was not reported to the ATSB or CASA.

(b) If an incident of this nature did occur, it would be required to be reported to the ATSB.

Australian Defence Force: Medical Discharges

(Question No. 1095)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 18 August 2005:

(1) For each of the past 3 years and for 2005-06 to date: (a) how many Australian Defence Force personnel were discharged medically unfit from each of the services; (b) what was the medical condition of these discharges grouped by general type including mental health disorders; and (c) how many were classified A, B and C for the purposes of incapacity pay and other benefits.

(2) In 2004, what was the average time taken for discharge once the initial decision was made.

(3) With reference to Table 5.6 on page 264 of the department's annual report 2003-04, what part of the $451 million shown for compensation was for: (a) disability lump sum payments; (b) incapacity payments; (c) medical costs; (d) other; and (e) what increase was made in each category as recommended by the actuary.

Senator Hill—The answer to the honourable senator's question is as follows:

(1) (a)

Year	Navy	Army	Air Force
2002-03	60	557	56
2003-04	90	531	67
2004-05	188	477	83
2005-06 (to date)	40	130	9

(b) The information sought in relation to the Army is not readily available, and Defence is not able to devote the considerable time and resources required to provide a response. Data for the Navy and the Air Force are:

Medical condition	Navy	Air Force
Cancer	4	2
Diseases of the circulatory system	12	10
Diseases of the respiratory system	7	2
Epilepsy	8	2
Hearing loss	6	0
Injury or disease of the lower limb(s)	45	45
Injury or disease of the upper limb(s)	13	4
Injury or disease of the skin	10	0
Injury or disease of the spine	66	45
Mental disorders	135	32
Multiple injuries	3	12
Other injury or disease	69	35
Medical condition not available	0	26

(c) The classifications of those discharged personnel for the purposes of the military superannuation schemes are:

Class	2002-03			2003-04		
	Navy	Army	Air Force	Navy	Army	Air Force
A	16	40	17	18	53	7
B	50	172	30	36	231	21
C	47	238	15	42	220	27

Class	2004-05			2005-06 (year to date)		
	Navy	Army	Air Force	Navy	Army	Air Force
A	13	51	11	2	9	4
B	53	225	29	11	37	6
C	89	228	24	1	27	6

The difference between the numbers of personnel medically discharged and the numbers of personnel classified for invalidity benefits under the military superannuation schemes is due to the time lag between the date of discharge and the date of assessment for a military superannuation invalidity benefit, and the fact that not all members medically discharged are entitled to an invalidity benefit. These include personnel who were discharged within two years of joining the Australian Defence Force and whose injury was pre-existing and not aggravated by their service, personnel who were absent without leave when injured and those who deliberately brought about their injury.

(2) Navy - 30 days;

Army -120 days; and

Air Force - 208 days.

(3) (a) $45.622 million;

(b) $58.481 million;

(c) $19.282 million;

(d) $14.727 million; and

(e) The following increases were made in each category having regard to actuarial assessment: (a) $20.3 million; (b) $61.8 million; (c) $74.5 million; and (d) $157.2 million, including $87.9 million interest on the military compensation liability estimate, and $25.2 million administration costs.

Skilling Australia's Workforce Legislation

(Question No. 1108)

Senator Murray asked the Minister representing the Minister for Education, Science and Training, upon notice, on 29 August 2005:

With reference to the committee of the whole debate in the Senate on 17 August 2005 in relation to the Skilling Australia's Workforce Bill 2005 and, in particular, the advice provided by the Minister for the Arts and Sport (Senator Kemp) (Senate *Hansard*, 17 August 2005, pp 17 18):

(1) With reference to Minister Kemp's statement that 'all money appropriated under the Skilling Australia's Workforce Bill 2005 goes to the states and territories': What audit mechanism does the Government have in place to supervise this process.

(2) By what mechanism does the 'ministerial council reallocate some of the money back to the Australian government'.

(3) By what statutory authority does the Ministerial Council 'reallocate some of the money'.

(4) Of the money which is reallocated 'back to the Australian Government': (a) on what basis does the Government receive this money; (b) by what authority does the Government then expend this money; and (c) how and where is that receipt and expenditure reported and audited.

(5) (a) What is the statutory authority for the subsequent disbursement of funds for 'projects under strategic national initiatives'; (b) what are strategic national initiatives; and (c) where are they defined, listed and reported on.

(6) With reference to the statement 'any advertising campaign would need to be endorsed by the state and territory governments': (a) where are those 'endorsements' notified; and (b) by what means are these 'endorsements' reported to Parliament.

(7) (a) Who will audit the kind of expenditure foreshadowed by Minister Kemp ('may decide to reallocate' and 'any advertising campaign would need to be endorsed'); and (b) where will those audit reports be published.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

(1) Under subsection 5 (1) of the Skilling Australia's Workforce Act 2005 (the Act) the Minister can only make a determination authorising payment to a State or Territory for the purposes of either capital or recurrent expenditure for vocational education and training. The Minister's determination must be consistent with the allocations made by the Ministerial Council under section 6.

Under subsection 22 (1) of the Act, each jurisdiction is required to provide to the Secretary of the Department a certificate made by a qualified accountant specifying whether the payments to the State have been spent (or committed to be spent) for the purposes specified in the agreement or the Skilling Australia's Workforce Agreement.

(2) Section 28 of the Act enables the Ministerial Council to reallocate money to a State and to other persons for specified strategic national initiatives. This includes the power to reallocate money to the Department of Education, Science and Training for specified strategic national initiatives agreed by the Ministerial Council.

(3) The power is derived from section 28 as specified above.

(4) (a) The Australian Government receives this money for specific strategic national initiatives following a competitive submission process managed by a sub-committee of the National Senior Officials Committee where all jurisdictions are represented. Previous successful Australian Government proposals include the Adult Learners Week (managed by DEST) and the National Education and Training Statistics Unit (managed by the Australian Bureau of Statistics).

(b) Section 27 enables the Minister to make a determination authorising payment for the purposes of a strategic national initiative. This determination must be consistent with the allocations made by the Ministerial Council under section 28.

(c) Expenditure of this money would be reported in the Annual National Report according to the requirements set out in section 44 of the Act.

(5) (a) See part 4(b).

(b) "Strategic national initiatives" is defined in section 3 of the Act as "a project, program or other initiative relating to vocational education and training that is declared by the Ministerial Council, by instrument in writing, to be a strategic national initiative".

(c) Strategic national initiatives are required to be reported in the Annual National Report according to the requirements set out in section 44 of the Act.

(6) (a) The Minister is only able to make determinations authorising payments under this Act that are consistent with allocations made by the Ministerial Council (subsection 5(2), subsection 27(2)). Advertising could be allocated as a strategic national initiative which would require approval of the Ministerial Council before the minister could make a determination. These endorsements would be recorded in the Ministerial Council minutes.

(b) These endorsements would be reported to Parliament through the Annual National Report (Section 44 of the Act).

(7) (a) Under section 44, the Ministerial Council approves the final version of the Annual National Report before it is tabled in each House of the Parliament. The funds for each strategic na-

tional initiative must be spent in accordance with the guidelines determined by the Ministerial Council (paragraph 30(1)(a) of the Act). These guidelines are currently in draft form but require that a financial statement detailing receipts and expenditure against the project Work and Finance Plans is to be provided as part of the Post Initiative Evaluation report to the national senior officials committee within 60 days of completion of the project. This statement must be signed by a registered auditor, senior finance officer or CEO independent of the project.

(b) Reports are made available to the Ministerial Council and circulated to State, Territory and Australian Governments.

Housing Affordability

(Question No. 1111)

Senator Allison asked the Minister representing the Treasurer, upon notice, on 29 August 2005:

With reference to the Productivity Commission's inquiry into the affordability and availability of housing for families and individuals wishing to purchase their first home for which the terms of reference noted that 'the Government appreciates that home ownership is highly valued by Australian families and individuals' and that 'the ability to achieve home ownership continues to be of vital importance in maintaining family and social stability'.

(1) Did the Government, in referring the matter to the Productivity Commission, consider that housing affordability was a matter of national importance to the Government; if so, why did the Government then conclude in its response in June 2004 that, 'the majority of the Commission's recommendations relate to the supply side of the housing market and are therefore directed at State and local governments'.

(2) What was the cost of the Productivity Commission inquiry.

(3) Does the Government intend to proceed with any further action on the problem of housing affordability; if so, what action.

(4) Does the Government agree with the recent suggestion made by the Governor of the Reserve Bank of Australia to the effect that young people should leave Sydney because housing affordability is so bad.

(5) (a) What was the result of the recent meeting of Housing Ministers in Adelaide; and (b) can details be provided of the framework agreed to at that meeting.

(6) What does the framework commit the Government to in regard to public housing.

(7) What does the framework commit the Government to do about housing affordability in the private rental and home ownership markets.

(8) Has the Government considered: (a) indexing the First Home Owners Grant to rising house prices; (b) abolishing the practice of tax on tax (stamp duty on the Goods and Services Tax); (c) adjusting stamp duty scales for property to account for rising house prices; and (d) establishing a task force of federal and state governments, community and industry, to review the report of the Productivity Commission and make specific recommendations to governments to be applied consistently across Australia.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

(1) The Productivity Commission inquiry was established in recognition of the value that Australian families place on home ownership. The Government's response to the inquiry's recommendations is outlined in my Press Release of 26 June 2004. Many of the recommendations related to areas of

State and local government policy responsibility, and they are best addressed by that level of government.

(2) The cost of the inquiry is reported on page 105 of the Productivity Commission's 2003-04 Annual Report.

(3) The Government's response was outlined in my Press Release of 26 June 2004.

(4) The Government believes that individuals should be free, as far as possible, to take into account all relevant factors in deciding where to purchase a home, including affordability.

(5) A joint meeting of State, Territory and Australian Government Ministers for Housing, Local Government and Planning was held in Melbourne on 4 August 2005. Ministers, acknowledging the significant issues facing all governments in the provision of affordable housing, including market forces of supply and delivery, agreed to support a Framework for National Action on Affordable Housing.

In supporting this framework Ministers agreed to develop initiatives and to implement a range of actions over the next three years aimed at addressing a predicted shortfall of affordable housing. These include:

- creation of a national sector development plan for not-for-profit housing providers to enable them to participate in large scale affordable housing initiatives;
- adoption of a national approach to defining and analysing affordable housing need at geographic levels that can be reflected in planning policy and regulations;
- review of current subsidy streams and investigate the potential to strengthen certainty in light of the commitment to increase the role of the private sector and the development of the not-for-profit sector; and
- establishment of financing vehicles that adequately manage risks and attract new investment by the private and not-for-profit sectors in affordable housing.

(6) There are no specific commitments in the framework in regard to public housing.

(7) Under the framework jurisdictions will seek to identify mechanisms and policy initiatives that will deliver increased affordable home ownership and rental opportunities for low to moderate income households for consideration by Ministers.

(8) (a) The First Home Owners Scheme was introduced on 1 July 2000 to compensate for the impact of the GST and tax reform on the price of houses. The Australian Government has no plans to change current arrangements for the scheme.

(b) The Australian Government introduced the GST because of the need for a broad based indirect tax to enable State and Territory governments to provide essential community services. In 1999, Australian Government, State and Territory leaders signed an Intergovernmental Agreement on the Reform of Commonwealth State Financial Relations (the IGA) which provides that all GST revenue is paid to the States and Territories (the States). Subject to the terms of the IGA, the GST provides the States with access to a secure source of revenue and the capacity in the medium to long term to allocate additional funding to areas such as health and education.

Stamp duties are levied by State governments. The calculation of such duties is determined by the States, and it is individual States that decide whether their stamp duties are levied on a GST inclusive or exclusive price.

The GST, however, was intended to replace a range of inefficient, indirect taxes, including a number of State stamp duties, which were listed in the IGA. Some of these taxes have been already abolished; however there are a number of stamp duties listed in the IGA which are still levied by the States.

In light of the growing GST windfalls being received by all States, at the 23 March 2005 meeting of the Ministerial Council for Commonwealth State Financial Relations, the Australian Government proposed a timetable for the elimination of the majority of stamp duties listed under the IGA for the benefit of Australian businesses and families.

On 20 April 2005, six States and Territories responded to the Australian Government with an alternative proposal on the timing and sequencing of the elimination of these stamp duties. The Australian Government is considering its response to the States' proposal and encourages NSW and Western Australia to reconsider their positions and commit to further abolishing stamp duties.

(c) Rates of stamp duty are not determined by the Australian Government.

(d) No.

Nuclear Powered Vessels

(Question No. 1117)

Senator Nettle asked the Minister representing the Minister for Health and Ageing, upon notice, on 29 August 2005:

With reference to the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) monitoring of nuclear-powered submarines and warships to Australia: can the department provide details of all radiation monitoring data collected since 1996 by ARPANSA in relation to the monitoring of nuclear-powered submarines and warships to Australia.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

The Government requires that radiation monitoring be carried out in association with each visit of a nuclear powered warship to detect any release of radioactivity to the port or the environs. The requirements for the monitoring program are laid down in "Environmental Radiation Monitoring During Visits of Nuclear Powered Warships to Australian Ports – Requirements, Arrangements and Procedures, Department of Defence, May 1988."

The monitoring has three components; environmental monitoring and thermoluminescent radiation dosemeter (TLD) gamma monitoring carried out by ARPANSA, and direct radiation monitoring carried out by state radiation experts in conjunction with experts from the Australian Nuclear Science and Technology Organisation (ANSTO).

The environmental radiation monitoring is intended to provide assurance that there has been no infringement of health standards because of a release of radioactive material from the waste control and retention systems of a visiting nuclear powered warship (NPW). Samples are taken of the surface layer of the bottom sediment and selected seafood, where available, in the vicinity of approved berths and anchorages before and after each NPW visit.

The tables summarise the monitoring data for sediment and shellfish samples at each port from 1999 to 2005. The tables list the artificial gamma-ray emitting radionuclides that the samples are examined for. In all cases, none of the recorded radionuclides were detected and the tables list the minimum detectable activities (MDA) of the measurements. The MDA provides an upper limit for the presence of the investigated radionuclides. The results of the environmental monitoring for NPW visits to date show that there have been no radionuclides detected that would be characteristic of the radioactive waste associated with NPW operations.

MDA in Sediment Samples (Bq/ kg)

	Hobart	Brisbane	Stirling	Gage Roads
Mn-54	<7	<10	<5	<5
Co-57	<3	<5	<2	<2
Co-58	<6	<5	<5	<5
Co-60	<7	<5	<5	<5
Zn-65	<15	<15	<10	<10
Ru-103	<8	<5	<5	<5
I-131	<100	<100	<200	<20
Ba-133	<6	<5	<5	<5
Cs-134	<6	<5	<5	<5
Cs-137	<5	<5	<5	<5
Ba-140	<110	<120	<200	<50
Eu-152	<35	<5	< 6	<5

MDA in ShellfishSamples (Bq/ kg)

	Brisbane	Stirling
Mn-54	<2	<2
Co-57	<1	<1
Co-58	<3	<2
Co-60	<2	<5
Zn-65	<4	<10
Ru-103	<3	<5
I-131	<100	<10
Ba-133	<2	<2
Cs-134	<2	<3
Cs-137	<5	<5
Ba-140	<200	<250
Eu-152	<7	<10

Note that data for the period 1996-98 are only accessible in printed form from individual reports. Collection, collation and formatting of such data would be resource intensive and is, therefore, not provided.

ARPANSA also provides TLD monitors to the relevant state radiation health department to record the accumulated ionizing radiation doses in the port environs. Such monitoring would detect if there had been any accidental release of airborne radioactivity. The TLD monitors remain in position during the period that a NPW is in port and are returned to ARPANSA for analysis.

The following table summarises data from TLD monitors for each port from 1997 to 2005.

Summary TLD Results in μSv/day

Year	Hobart	Brisbane	Stirling
1997		0 - 1.25	3.53 - 5.29
1998	0.8 - 3.3	0.71 - 18.46	1.0 - 8.0
1999	0.95 - 2.86	1.06 - 8.00	2.5 - 7.14
2000	0.48 - 3.33	1.11 - 9.0	3.81 - 7.14
2001	1.33 - 2.44	0 - 3.61	1.78 - 18.75
2002	0.83 - 1.67	1.1 - 2.78	2.28 - 8.24
2003		0 - 2.76	1.0 - 5.71
2004			1.82 - 10.53
2005		1.67 - 4.09	

Tasmanian Federal Road Black Spot Consultative Panel

(Question No. 1121)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 30 August 2005:

(1) Who are the members of the Tasmanian Federal Road Black Spot Consultative Panel.

(2) (a) When did the panel last meet; and (b) when will the panel next meet.

(3) Can a schedule of meetings be provided for the 2005-06 financial year; if not, why not.

(4) Can the minutes of the past 3 meetings be provided; if not, why not.

(5) What, if any, remuneration, travel reimbursement, sitting fees or other entitlements are available to members of the panel as a result of their activities on that panel.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) The Tasmanian Black Spot Consultative Panel is chaired by Senator Guy Barnett and comprises representatives of the following organisations:

Royal Automobile Club of Tasmania

Local Government Association of Tasmania

Four Representatives from Local Government Authorities

'Two Representatives from Tasmanian Department of Infrastructure, Energy and Resources

The Tasmanian Council of School Parents and Friends Association, Bicycle Tasmania and the Motorcycle Riders Association of Tasmania had previously been invited to attend. However, representatives of these organisations have not attended recent meetings and the Panel decided not to continue to invite their participation.

(2) (a) 23 March 2005, (b) and (3) The date of the next Tasmanian Panel meeting is yet to be fixed but it is expected to be held in February 2006. Black Spot Panels generally meet once per year.

(4) Copies of the minutes from the past three Tasmanian Panel meetings have been provided to the Senator's office.

(5) Nil.

Tasmanian Federal Road Black Spot Consultative Panel

(Question No. 1122)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 30 August 2005:

(1) (a) On what date was Mr Stephen Salter appointed to the Tasmanian Federal Road Black Spot Consultative Panel; (b) how was Mr Salter selected; (c) how many candidates for the position were: (i) identified, (ii) interviewed either formally or informally by the Minister, and (iii) interviewed either formally or informally by the Chair of the Consultative Panel; (d) who made the final decision; (e) on what date was the announcement made; and (f) can a copy be provided of the media statement announcing the appointment; if not, why not.

(2) When did the vacancy, filled by Mr Salter, arise and which former member of the panel created the vacancy.

(3) Can the Minister provide a copy of the advertisement for the position.

(4) Can the Minister advise: (a) in which media outlets was the advertisement placed; and (b) the date of each placement.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) (a) The Tasmanian Black Spot Consultative Panel is chaired by Senator Guy Barnett and comprises representatives of the following organisations:

Royal Automobile Club of Tasmania

Local Government Association of Tasmania

Four Representatives from Local Government Authorities

Two Representatives from Tasmanian Department of Infrastructure, Energy and Resources

The Tasmanian Council of School Parents and Friends Association, Bicycle Tasmania and the Motorcycle Riders Association of Tasmania had previously been invited to attend. However, representatives of these organisations have not attended recent meetings and the Panel decided not to continue to invite their participation.

Mr Stephen Salter was appointed to represent local government on the Tasmanian Black Spot Consultative Panel on 20 July 2005.

(b) The Tasmanian Black Spot Consultative Panel includes three representatives from Local Government Authorities around Tasmania. The Chair of the Consultative Panel appointed Mr Salter as one of the members of the Panel from local government and to provide rural and regional representation from outlying areas.

(c) (i) Mr Salter was the first person approached by the Chair of the Consultative Panel to fulfil this role. As Mr Salter indicated his willingness to participate on the Panel, no further candidates were identified.

(ii) Nil.

(iii) One.

(d) The Chair of the Consultative Panel held informal discussions with Mr Salter to invite him to participate on the Panel and subsequently wrote to him to formalise his participation.

(e) 16 August 2005.

(f) A copy of the media statement issued by the Chair of the Consultative Panel has been provided to the Senator's office.

(2) Mr Salter, in his capacity as Mayor of Break O'Day Council, will be the local government representative from the east coast of Tasmania previously provided by Launceston City Council.

(3) and (4) Participation on the Black Spot Consultative Panel is voluntary and no media advertisements were made.

Tasmanian Federal Road Black Spot Consultative Panel

(Question No. 1123)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 30 August 2005:

(1) (a) On what date was Mr Brendan Blomeley appointed to the Tasmanian Federal Road Black Spot Consultative Panel; (b) how was Mr Blomeley selected; (c) how many candidates for the position were: (i) identified, (ii) interviewed either formally or informally by the Minister, and (iii) interviewed either formally or informally by the Chair of the Consultative Panel; (d) who made the final decision; (e) on what date was the announcement made; and (f) can a copy of the media statement announcing the appointment be provided; if not, why not.

(2) When did the vacancy, filled by Mr Blomeley, arise and which former member of the panel created the vacancy.

(3) Can the Minister provide a copy of the advertisement for the position.

(4) Can the Minister advise: (a) in which media outlets the advertisement was placed; and (b) the date of each placement.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) (a) The Tasmanian Black Spot Consultative Panel is chaired by Senator Guy Barnett and comprises representatives of the following organisations:

Royal Automobile Club of Tasmania

Local Government Association of Tasmania

Four Representatives from Local Government Authorities

Two Representatives from Tasmanian Department of Infrastructure, Energy and Resources

The Tasmanian Council of School Parents and Friends Association, Bicycle Tasmania and the Motorcycle Riders Association of Tasmania had previously been invited to attend. However, representatives of these organisations have not attended recent meetings and the Panel decided not to continue to invite their participation.

Mr Brendan Blomeley was appointed to represent local government on the Tasmanian Black Spot Consultative Panel on 20 July 2005.

(b) The Tasmanian Black Spot Consultative Panel includes three representatives from Local Government Authorities around Tasmania. The Chair of the Consultative Panel appointed Mr Blomeley as one of the members of the Panel from local government.

(c) (i) Mr Blomeley was the first person approached by the Chair of the Consultative Panel to fulfil this role. As Mr Blomeley indicated his willingness to participate on the Panel, no further candidates were identified.

(ii) Nil.

(iii) One.

(d) The Chair of the Consultative Panel held informal discussions with Mr Blomeley to invite him to participate on the Panel and subsequently wrote to him to formalise his participation.

(e) 16 August 2005

(f) A copy of the media statement issued by the Chair of the Consultative Panel has been provided to the Senator's office.

(2) Mr Blomeley, in his capacity as Clarence City Council Alderman, will be the local government representative from the south of Tasmania previously provided by Southern Midlands Council.

(3) and (4) Participation on the Black Spot Consultative Panel is voluntary and no media advertisements were made.

Minister for Small Business and Tourism: Visit to Tasmania

(Question No. 1126)

Senator O'Brien ask the Minister representing the Minister for Small Business and Tourism, upon notice, on 30 August 2005:

With reference to the answer to question on notice no. 964 (Senate *Hansard*, 9 August 2005, p. 171):

(1) (a) When did planning for the visit commence and when it was finalised; (b) what was the total quantum of cost (including travel) of the visit to the Commonwealth; (c) which federal members of

Parliament were advised the visit was to occur; (d) when and in what manner were they made aware; and (e) who attended the visit with the Minister and in what capacity did they attend.

(2) (a) Which federal members of Parliament were invited to each tourism roundtable event with the Minister; and (b) when and in what manner were they invited.

Senator Abetz—The Minister for Small Business and Tourism has provided the following answer to the honourable senator's question:

An answer to these questions was provided on 9 August 2005 with the response to Question No.964.

Bridport Bowls Club

(Question No. 1132)

Senator O'Brien asked the Minister for the Arts and Sport, upon notice, on 5 September 2005:

With reference to the Federal Coalition's 2004 election promise to contribute up to $70 000 to assist the Bridport Bowls Club install a synthetic all weather bowling green:

(1) (a) On what date was the decision taken to make the grant; and (b) by whom was the decision taken.

(2) On what date was the announcement made and by whom.

(3) (a) On what date was the Tasmanian Government made aware that matching funding would be required; (b) who within the Tasmanian Government was advised; and (c) in what manner were they advised.

Senator Kemp—The answer to the honourable senator's question is as follows:

(1) (a) and (b) The commitment to providing funding to assist the Bridport Bowls Club install a synthetic all weather bowling green was announced by the Coalition on 6 October 2004 as part of the 2004 election policy document, Strengthening Tasmania's Economy and Building a Better Community. The policy document indicated that a re-elected Coalition Government would contribute $70,000, to be matched by the State Government and the Community.

The Department of Communications, Information Technology and the Arts (DCITA) was asked on 20 December 2004 to commence implementing this commitment.

(2) DCITA met with representatives of the Bridport Bowls Club on 31 March 2005. At that meeting, the Club representatives indicated the Club was in the process of obtaining funding from the Tasmanian Government.

(3) (a) – (c) DCITA has had no contact with any Tasmanian Government authority on funding for the Bridport Bowls Club.

Burrup Peninsula

(Question No. 1141)

Senator Bartlett asked the Minister for the Environment and Heritage, upon notice, on 7 September 2005:

With reference to Burrup Peninsula:

(1) Can the Minister confirm that on 10 March 2005, the Australian Heritage Council (AHC) was given an extension of time for it to complete its assessment of the national heritage values of the Dampier Archipelago Rock Art Site and Burrup Peninsula, Islands of the Dampier Archipelago and Dampier Coast until 4 September 2005.

(2) Can the Minister confirm that the reasons for the extension included 'delays in submission of reports by consultants and the need to respect customary law time for male traditional owners'.

(3) Have the consultants, referred to in the Minister's reasons for the extension, submitted their reports; if so, when were they submitted; if not, when is it expected that the reports will be submitted.

(4) Which consultants were commissioned to prepare the reports referred to in the Minister's reasons for the extension.

(5) Were the consultants referred to in the Minister's reasons for the extension directed only to evaluate whether the places have national heritage values; if not, what other issues were the consultants asked to address.

(6) Have any other consultants been commissioned to undertake work for either the department or the AHC in relation to these places in the past 3 years; if so, can details be provided of the names of the consultants and the nature of the work commissioned.

(7) Has the customary law time for male traditional owners referred to in the Minister's reasons for the extension ended; if so, when.

(8) What is the status of the consultations with the traditional owners.

(9) Can the Minister confirm that on 25 August 2005, the AHC was given a further extension of time to complete its assessment of the national heritage values of the Dampier Archipelago Rock Art Site and Burrup Peninsula, Islands of the Dampier Archipelago and Dampier Coast until 4 September 2006.

(10) Can the Minister confirm that the reasons for the extension included a need for further consultation processes and evaluation of the case for national heritage listing.

(11) Can details be provided of the consultations that the AHC and the department have carried out in relation to the assessment of the national heritage values of these places, including consultations carried out on behalf of the AHC or the department.

(12) Can details be provided of the consultations that the AHC and the department intend to undertake or commission for the purpose of the assessment of the national heritage values of these places, including the names of the people and organisations that will be consulted and what they will be consulted about.

(13) Can details be provided of all outstanding work that needs to be completed in order for the AHC to finalise and submit its assessment of the national heritage values of these places.

(14) Has the AHC, the department or anybody acting on behalf of the AHC or the department, carried out any consultations or discussions, including meetings and telephone conversations, for the purpose of the assessment about any issues that do not relate to the question of whether the places have national heritage values; if so, can details be provided of the consultations or discussions including: (a) the names of the people and organisations involved; (b) when the consultations or discussions occurred; (c) what was discussed on each occasion; and (d) where appropriate, details of the people who carried out the consultations or discussions on behalf of the AHC or the department.

(15) Has anybody acting on behalf of, or under the directions of, the AHC, the department or the Government, other than the consultants referred to in (1) above, carried out any consultations or discussions, including meetings and telephone conversations, with companies who have interests in the Burrup Peninsula region, people acting on behalf of companies with interests in the Burrup Peninsula region, the Government of Western Australia or other federal government agencies concerning the proposed or possible inclusion of these places on the National Heritage List in the past 3 years; if so, can details be provided of these consultations or discussions including: (a) the names of the people and organisations involved; (b) when the consultations or discussions occurred; (c) what was discussed on each occasion; and (d) details of the people who carried out the consultations or discussions on behalf of the AHC, the department or the Government.

(16) Will the Minister take the heritage values of Burrup Peninsula into account when making his decision about the Woodside Energy Ltd Pluto Gas Project.

(17) Has the Government of Western Australia, Woodside Energy Ltd, or any other company with interests in the Burrup Peninsula region, been given any assurances by the Minister, the AHC, the department, or anybody acting on behalf of the Minister, the AHC or the department that the places will not be included on the National Heritage List until controlled action decisions or approval decisions have been made under the Environment Protection and Biodiversity Conservation Act 1999 in relation to projects concerning the Burrup Peninsula.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) Yes.

(2) Yes.

(3) The consultant's report was received in May 2005.

(4) Jo McDonald Cultural Heritage Management Pty Ltd.

(5) The consultants were asked to identify from existing information the range and density of Aboriginal cultural sites, specific rare Aboriginal cultural features contributing to significance, special sites and the reasons for their protection, and compare the proportion of different types of rock art images in the Dampier Archipelago with other regions.

(6) In March 2003, a workshop of rock art experts was convened by the Department to consider places across Australia that might be suitable for a serial World Heritage nomination. The Dampier Archipelago was one of the places considered. The experts were Dr Mike Morwood, Dr Paul Tacon, Mr John Clegg, Mr Ben Gunn, and Dr Jo McDonald. No other consultants have been engaged in relation to the nominated places.

(7) Yes. The period finished in March 2005.

(8) Further consultation is proposed (see Question 12).

(9) Yes.

(10) Yes.

(11) Yes, see answers to Questions 14 and 15.

(12) In accordance with subsection 324G(4), written consultation will be undertaken by the Australian Heritage Council (AHC) with owners, occupiers and each Indigenous person who has rights or interests in the place or part of the place that the AHC considers might have national heritage values. This may be supplemented by face to face consultations with the owners, occupiers and relevant Indigenous people by the Department to elicit comment on whether the nominated place meets any of the national heritage criteria or whether it should be included in the National Heritage List.

(13) The AHC must consider the comments arising from subsection 324G(4) where they relate to national heritage values. It must then decide whether it has sufficient information on the nature and distribution of possible national heritage values for it to provide its advice to the Minister. If it does not consider it has sufficient information, it must determine what additional work is required. This could include the commissioning of field surveys or other research.

(14) To-date, discussions that the Department has held with stakeholders in relation to possible heritage listing have been primarily to do with explaining the operation of the Environment Protection and Biodiversity Conservation Act 1999 relating to World Heritage and National Heritage listing, rather than whether the place has national heritage values. Information on values has been sought primarily through published sources, the consultancy mentioned in Question (4) and through the statutory consultation process required under subsection 324G(3A). No discussions have been held with stakeholders on possible boundaries for World or National Heritage listing. In parallel with the

AHC assessment of heritage values, the Department will need to identify social, economic and other issues that may be associated with possible listing in order to ensure I am fully informed on relevant matters when making my decision on listing.

Since 2003, meetings have been held to help stakeholders understand the process of nomination, assessment and implications of listing. Meetings were held in May and June 2003 with State Government agencies and with native title claimants on a possible World Heritage List nomination. In March 2004, meetings on the new national heritage legislation, as well as world heritage processes, were held with State Government agencies, the Burrup Peninsula Forum, Yamatji Land and Sea Council, Department of Indigenous Affairs (WA), Yaburrara Mardudhunera, Native Title groups Wong-Goo-Tt-Oo and Ngarluma Yimdjibandi, Burrup Fertilisers Pty Ltd, Roebourne Shire Council, Pilbara Development Commission, Conservation and Land Management, Dampier Salt Ltd and Woodside Energy Ltd. In April 2004, discussions were held with some native title claimant groups on how to prepare a National Heritage List nomination. In May 2004, the Department consulted stakeholders during the application for emergency listing on the National Heritage List that was later withdrawn. This included discussion of the claimed threat to potential national heritage values. In June 2004, an officer attended an open day in Roebourne and explained the National Heritage listing process to Traditional Owners. In July 2004, the Department met with the Burrup Peninsula Forum, Woodside Energy Ltd, Department of Conservation and Land Management (WA), Department of Indigenous Affairs, Department of Industry and Resources (WA), the Burrup Rock Art Monitoring Management Committee, and the National Trust of Australia (WA) to inform them of the receipt of the national heritage nominations and the statutory processes for assessment and consultation. In August 2004, the Department met with the Department of Industry and Resources for an update on progress. The Department met with the Australian Government Department of Industry, Tourism and Resources in August 2004 to explain the nomination and assessment process. In October 2004, the Department met with the National Trust of Australia (WA), Woodside Energy Ltd, Burrup Peninsula Forum, Native Title Claimant Groups and the Dampier Port Authority to update them on the general progress of the national heritage nominations. State Government agencies visited the Department in March 2005 to discuss the operation of the national heritage legislation in Western Australia including the process for the Dampier Archipelago. In August 2005, brief ad hoc discussions were held with the WA Chamber of Commerce, Department of Conservation and Land Management and the Department of Premier and Cabinet while officers were in Perth on other business. The Department has also sought information from the Burrup Rock Art Monitoring Management Committee on the progress of the monitoring programme being undertaken regarding industrial emissions and their possible effect on the rock art. There have been telephone calls associated with the nominations over the past two years to organize meetings and seek updates on progress. Departmental officers involved have been from the Heritage Division, principally from the Indigenous Heritage Assessment Section.

(15) The Department has not yet had discussions with industry, the Western Australian Government or federal government agencies on the possible inclusion of the nominated places on the National Heritage List except in the manner explained above. Further consultation with various parties may be required to fulfil statutory requirements.

(16) Under the Environment Protection and Biodiversity Conservation Act 1999, the controlling provisions for the Pluto Gas Project on which I will base my decision are listed threatened species and communities, listed migratory species and the marine environment. A formal environmental impact process will also be conducted by the Western Australian Government and will include an analysis of the possible impact on cultural heritage issues. Should I form the belief that national heritage values exist and any of those values is under threat, I can use the section 324F emergency listing provisions to protect those values at any point up to my approval.

(17) No.

Biofuels

(Question No. 1143)

Senator Allison asked the Special Minister of State, upon notice, on 6 September 2005:

With reference to biofuels:

(1) Will the Government set a target for Commonwealth fleet vehicles to use ethanol-blended petrol and biodiesel, as the Queensland Government has done; if not, why not; if so, when.

(2) Why has the Government not made available to members and senators, fuel cards for independent petrol retailers who sell ethanol-blended petrol, despite requests to do so.

Senator Abetz—The answer to the honourable senator's question is as follows:

(1) On 22 September 2005, the Prime Minister, in response to the report of the Biofuels Taskforce, announced that the Government will demonstrate its confidence in ethanol blended fuel by encouraging users of Commonwealth vehicles to purchase E10 where possible.

(2) Members and Senators do have access to fuel cards that provide access to ethanol-blended fuel. Requests for access to these cards are made through the Ministerial and Parliamentary Services Group of the Department of Finance and Administration.

Taxation

(Question No. 1145)

Senator Webber asked the Minister for Revenue and Assistant Treasurer, upon notice, on 7 September 2005:

(1) Has the Australian Taxation Office (ATO) referred difficult tax avoidance cases against legal professionals to the Law Council of Australia.

(2) Is it true that approximately 90 per cent of tax debt in the legal profession is attributed to tax avoidance schemes.

(3) What has the ATO done to address the prevalence of these schemes.

(4) Why has the ATO allowed late tax returns to slide, given the obvious connection to tax avoidance schemes.

(5) Has the ATO investigated tax avoidance in Australia's judiciary; if so, what were the results.

(6) When will the ATO recover the taxpayer's money from recalcitrant legal professionals.

Senator Coonan—The Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator's question:

As the questions deal with matters administered by the Australian Taxation Office, I have asked the Commissioner of Taxation for advice.

The ATO's response is based on an assumption that the 'tax avoidance schemes' referred to by Senator Webber are those concerning transfers of assets to defeat creditors in bankruptcy. On this basis the answers to the Senator's questions are:

(1) Under section 16 of the Income Tax Assessment Act 1936 the ATO is unable to pass information concerning individual legal professionals to the Law Council of Australia.

(2) No. The use of asset transfers by legal professionals to avoid payment of debts has occurred frequently, however the majority of the debts attributable to the profession have arisen from involvement in mass-marketed schemes and poor business management.

(3) The ATO has provided submissions to reviews of Bankruptcy Law established by the Federal Attorney-General through the Insolvency & Trustee Service of Australia to reduce opportunities for

tax debtors to move assets from the reach of creditors. The ATO has also indemnified trustees in bankruptcy to litigate on behalf of creditors to claw back assets.

(4) The ATO has articulated its lodgment enforcement program in the Compliance Program 2005-06. Legal professionals remain a group of taxpayers that the ATO will monitor closely with the aim that all members of the judiciary and all barristers, with overdue income tax returns, will be required to lodge or face prosecution. Solicitors will be pursued on the basis of the risk to revenue they present: the ATO will target those in business and those with high incomes first. Over the last year the lodgment performance of legal professionals has improved considerably.

(5) Identified members of the judiciary currently have all returns up to date and none have been identified with the practice of transferring assets to defeat creditors.

(6) The ATO will continue to pursue debts incurred by legal professionals and will use the full range of its powers to do so. The ATO will also continue to litigate where necessary to pursue debts and will fund trustees in bankruptcy when evidence suggests that assets may have been transferred to defeat creditors.

Job Network

(Question No. 1149)

Senator Siewert asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 7 September 2005:

(1) For each of the financial years 2006-07, 2007-08 and 2008-09, what is the estimated number of income support recipients who will complete their second round of Job Network Intensive Support customised assistance and undertake the proposed 'test of genuineness' for very long-term unemployed people in the welfare to work measures announced in the 2005-06 Budget.

(2) What criteria will be used by Job Network agencies to assess whether very long-term unemployed people pass the 'genuineness test'.

(3) (a) What weighting will be given to the criteria described in (2) above; and (b) what monitoring, review and appeal processes will apply to these decisions.

(4) Is there a time limit on the maximum period of 'full time Work for the Dole' people can be required to undertake.

(5) Under what circumstances could the standard 10 month period of 'full time Work for the Dole' be extended further.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) Job Network is a demand driven programme. The future number and timing of job seekers' completion of a second period of Intensive Support customised assistance is subject to a range of factors including job seeker flows, exits into employment and other variables in the intervening period.

(2) Job Network members will take into account the job seeker's history of meeting participation requirements and all other relevant information This will include taking into account the individual's job search history and whether the job seeker has an ongoing history of poor attendance or income support payment penalties.

(3) (a) It is not expected that the Department will require Job Network members to apply set weights to the above factors. (b) The Department will monitor Job Network members' compliance with the terms and conditions of the contract. Job seekers will have access to the applicable review and appeal provisions of the Social Security (Administration) Act 1999.

(4) No.

(5) After 10 months of full time Work for the Dole, Job Network members will review job seekers to determine if full time Work for the Dole remains appropriate. Job seekers will participate in full time Work for the Dole until they obtain employment or another acceptable exit or, if aged 55 years or over, participate in approved voluntary work, or their participation requirements change, for example, as a result of a Comprehensive Work Capacity Assessment.

Tobacco Products

(Question No. 1150)

Senator Allison asked the Minister representing the Treasurer, upon notice, on 7 September 2005:

(1) Has the Australian Competition and Consumer Commission (ACCC) finalised its negotiations with Imperial Tobacco in relation to the use of the descriptors 'light' and 'mild'; if not, when is it expected that these negotiations will be finalised; if so, what was the outcome.

(2) When will Imperial Tobacco stop using the descriptors 'light' and 'mild' on their tobacco products.

(3) What contribution will Imperial Tobacco make to fund anti-smoking information campaigns and programs concerning low-yield cigarettes.

(4) If no progress has been made with Imperial Tobacco over misleading descriptors, will legal action be mounted by the ACCC against Imperial Tobacco; if not, why not.

(5) What actions will the ACCC take to investigate reports that British America Tobacco cigarettes with the descriptors 'light' on their packaging were still available for sale in Australia in August 2005, despite the company agreeing to remove the descriptors from 31 May 2005.

(6) What is the status of the anti-smoking information campaign funded by British Tobacco and Phillip Morris.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

(1) The ACCC has not finalised its discussions with Imperial Tobacco. The ACCC is not able to provide any further information about these discussions at this stage.

(2) Imperial Tobacco has advised the ACCC that the company is no longer producing cigarette packaging with the descriptors 'light' and 'mild' on its HORIZON brand, will no longer be producing packaging with these descriptors for its other brands from 30 September 2005 and will shortly be no longer importing tobacco products with these descriptors.

(3) The ACCC refers to its answer to Q1.

(4) The ACCC refers to its answer to Q1.

(5) In its court enforceable undertaking to the ACCC dated 11 May 2005, British American Tobacco agreed to cease producing cigarette packaging bearing the descriptors 'light' by 31 May 2005. Stock of cigarettes produced prior to 31 May 2005 will be in the market and may take some time to be consumed.

(6) The ACCC is proceeding with the necessary procurement processes to undertake the information campaign.

Learning Assistance Technology

(Question No. 1156)

Senator Allison asked the Minister representing the Minister for Education, Science and Training, upon notice, on 7 September 2005:

(1) Is the Minister aware of the technologies, such as speech synthesis, organisational software and voice recognition programs, that are now available and successfully assist students with learning disabilities.

(2) Is the Minister aware that in 1988, the United States Congress passed the Technology Related Assistance for Individuals Act, the main aim of which was to provide financial assistance to the states to develop programs for people with disabilities.

(3) Will the Minister consider taking similar action in Australia, given the Government's interest in improving literacy in Australian schools.

(4) Would the Minister consider funding for systematic screening of students to identify those who benefit from assistive technology in the classroom environment.

(5) Does the Minister consider that students with disabilities, who would benefit from learning assistive technology, would be entitled to it under the recently gazetted educational standards regulations; if not, why not.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

(1) Yes.

(2) Yes.

(3) While access to assistive technology is an important factor towards achieving successful outcomes for students with disabilities, the Australian Government considers that current programmes and arrangements in the schools sector provide adequate scope for schools and education authorities to provide access to these kinds of technologies.

At the national level, the Australian Government provides significant assistance to students with learning difficulties and disabilities through the Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004 to improve their educational outcomes. Targeted assistance to support educationally disadvantaged students, including students with disabilities and learning difficulties, is provided through the Literacy, Numeracy and Special Learning Needs (LNSLN) Programme. This programme helps both government and non-government education authorities and schools improve the learning outcomes of educationally disadvantaged students, particularly in the areas of literacy and numeracy and for supporting students with disabilities. Under the LNSLN programme, the Australian Government will make a substantial contribution of over $2.1 billion over the 2005-2008 quadrennium.

(4) There is currently considerable flexibility under the targeted programme arrangements for these kinds of technologies to be made available to those students who would benefit within the classroom environment. State and Territory government and non-government education authorities, manage the day-to-day operation of their schools and the related student support services. Education providers have the flexibility they need to allocate funds from a range of sources, including funding provided by the Australian Government to where it is most needed, including for the purchase of AT devices for students with disabilities.

(5) Access to assistive technology is an important factor towards achieving successful outcomes for students with disabilities and that the decision to make these kinds of technologies available will be made in the interests of all parties affected, being the student with the disability, the education provider, staff and other students.

The new Disability Standards for Education make explicit the obligations of education and training service providers under the Disability Discrimination Act 1992. The Standards clarify and make more explicit the obligations of education and training service providers under this legislation, and

the rights of people with disabilities in relation to education, while at the same time, balancing the needs of students with the interests of all parties affected, including providers.

The Standards require education providers to take reasonable steps to ensure that students with disabilities are able to use the student support services provided by educational authorities and institutions, such as libraries and information technology facilities, on the same basis as other students, without experiencing discrimination. Student support services may also include assistive computer technology and support staff such as specialist teachers, note takers and teachers aides.

Maralinga

(Question No. 1157)

Senator Carr asked the Minister representing the Minister for Education, Science and Training, upon notice, on 7 September 2005:

(1) Are officials from the department currently negotiating with the Maralinga Tjarutja to pay them for taking back the Maralinga site.

(2) (a) Is it correct that officials offered $4.4 million; and (b) has the final amount been settled; if so, what is the agreed amount.

(3) Has money been budgeted for this payment; if so, where is it recorded in the 2005-06 Budget.

(4) Has any of this money been committed to a resource centre; if so, how much.

(5) (a) What feasibility studies have been undertaken to maximise the chances of success for such a centre; and (b) can copies of these studies be provided.

(6) What measures have been taken to ensure that necessary training and management skills are available to the community.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

(1) Future arrangements for Maralinga are currently the subject of negotiations. Publication of the Australian Government's negotiating position at this stage may undermine the Government's position. Details, including any financial implications, will be released if negotiations conclude.

(2) See response to (1) above.

(3) See response to (1) above.

(4) See response to (1) above.

(5) See response to (1) above.

(6) See response to (1) above.

Investing in Our Schools Program

(Question No. 1160)

Senator Siewert asked the Minister representing the Minister for Education, Science and Training, upon notice, on 7 September 2005:

(1) How many applications were made in round 1 in May 2005 and round 2 in August 2005 for funding for the installation of air conditioning under the Investing in Our Schools Program: (a) in Western Australia; and (b) nationally.

(2) Will these applications be assessed, individually and cumulatively, against their impact on climate change from increasing greenhouse gas emissions; if not, why not.

(3) Will the Government, where appropriate, review the guidelines for the assessment of the funding applications to make express reference to evaluation against environmental impact.

(4) Will the Government introduce energy audits as part of this process to provide information on energy efficiency or other measures which could be introduced to complement or replace air conditioning systems.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

Investing in Our Schools Programme state school applicants were asked to indicate the type of project they were applying for by using 'Project Descriptors' on the application form. The information provided in the table below is reliant on the accuracy of the applicants so it should be taken as an indication only. The descriptors used in the Investing in Our Schools Programme database combine air-conditioning and heating which the table below reflects. We are unable to separate the two categories.

(1) (a) In Western Australia, there were 43 air-conditioning and heating projects in Round 1 and 68 in Round 2.

(b) The following table shows the number of air-conditioning and heating projects applied for by state schools in Australia by state:

STATE	ROUND 1	ROUND 2
ACT	11	10
NSW	196	144
NT	1	6
QLD	97	96
SA	36	46
TAS	40	20
VIC	151	95
WA	43	68
NATIONAL	575	485

For the non-government school sector the following applications have been received so far:

STATE	INDEPENDENT	JOINT
SA	3	
WA	1	
ACT		1
NSW	3	
QLD	1	
TAS	2	

(2) Independent State Assessment Advisory Panels have been established in each State and Territory to assess the state school community applications. The panels comprise a combination of parent and/or principal representatives who receive technical advice from a State Government Advisor and are chaired by a representative of the Department of Education, Science and Training (DEST). Only the parent and principal representatives of the panels have the right to vote in the assessment process.

In undertaking their assessments, panel representatives take into account the selection criteria, the Programme Guidelines and information provided in the application, or other expert information available to the panel.

The assessment criteria are:

1. The condition of school facilities for the conduct of school activities;

2. Needs related to the wellbeing of students;

3. The educational needs of students; and

4. The overall needs of the school.

Panel representatives can also take account of any urgent or pressing needs related to the safety, health or well-being of students but primarily focus on the assessment criteria.

The panel does not, and could not, be expected to estimate on a rigorous empirical basis the impact of individual additional air conditioners on greenhouse gas emissions.

(3) The Government has no plans to review the guidelines to take account of these considerations.

(4) The Government has no plans for the introduction of energy audits or other measures as part of the assessment process.

Mr David Hicks

(Question No. 1163)

Senator Allison asked the Minister representing the Attorney-General, upon notice, on 8 September 2005:

(1) Does the Government consider that it has a duty to ensure that Mr David Hicks receives a fair trial in accordance with internationally-accepted standards of legal process and justice; if not, why not.

(2) Does the Government agree with the Law Institute of Victoria's assertion that Mr Hicks will not receive a fair and just trial by the proposed United States of America (US) military commission; if not, why not; if so, what steps have been taken to have Mr Hicks returned to Australia to face charges laid, or to guarantee a fair trial in the US.

(3) What was the Government's response to criticisms of the military commission by former US military prosecutors Captain John Carr, Major Robert Preston and Australian Defence Force lawyer Captain Paul Willee QC.

(4) What is the Government's response to the specific criticisms that in the military commission:

(a) the rules of evidence will not apply in hearings;

(b) any evidence can be heard that would have probative value to a reasonable person including statements obtained from detainees under alleged torture;

(c) evidence from former Guantanamo Bay detainees may still be admitted to proceedings in written statements despite being fundamentally compromised and unreliable;

(d) former detainee witnesses are unlikely to be willing to return to Guantanamo Bay to be cross-examined or questioned by Mr Hicks' defence team.

(e) such cross-examination will be necessary to establish the probative value of the statements provided, interrogation techniques used, and whether or not statements were made voluntarily and without duress.

(f) there is a lack of legal qualifications of commission members;

(g) the two-thirds majority required to determine Mr Hicks' verdict, given that only three commission members remain following the US Government's decision not to replace the three successfully challenged on the grounds of lack of independence;

(h) there is a lack of a reliable, independent inquiry into allegations by Mr Hicks of torture;

(i) there is a lack of an independent review of the US Government's procedures and operations at Guantanamo Bay;

(j) the US denies requests to visit detainees in Iraq, Afghanistan and Guantanamo Bay; and

(k) there are accusations of torture, cruel, inhuman and degrading treatment of detainees at Guantanamo Bay, arbitrary detention, violation of their rights to health and due process rights, many of which have come to light in declassified US documents.

(5) Does the Government accept the US classification of Mr Hicks as an 'enemy combatant'; if so, why; if not, what representation has been made to the US Government on the matter.

(6) Why does the Geneva Convention not apply to Mr Hicks.

(7) (a) What is the Government's definition of 'harsh interrogation techniques'; and (b) how does this differ from torture under Australian law.

(8) Has the Government sanctioned the use of the harsh interrogation techniques used on Mr Hicks.

(9) What advice, if any, did the Government seek or receive on the acceptability of harsh interrogation techniques under the Geneva Convention.

(10) What are the implications for basic civil rights in Australia from the lack of fairness being afforded to Mr Hicks.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

(1) The Government has taken a number of steps to ensure Mr Hicks receives a fair trial (see below).

(2) No.

The Government is satisfied that Mr Hicks will receive a full and fair trial. Military Commission trials possess fundamental procedural guarantees including the following:

- Each accused is presumed innocent.
- Evidence must have probative value to the reasonable person and meet full and fair trial standards.
- Evidence rules apply to both the prosecution and defence.
- Evidence is heard and decided upon by a panel of impartial, independent military officers, presided over by an experienced military jurist.
- Each accused is provided an opportunity to challenge members for cause.
- The defence may call witnesses and present evidence.
- Defence counsel may cross-examine witnesses.
- There is no adverse inference drawn against an accused who chooses to remain silent.
- Attorney/client communications are privileged.
- Accused are afforded representation by a military defence counsel free of charge.
- Accused may employ additional civilian defence counsel.
- Guilt must be proven beyond a reasonable doubt to sustain a conviction.
- The accused may be present at every stage of the trial, unless the accused engages in disruptive conduct which justifies exclusion.
- Detailed Defense Counsel may not be excluded from any trial proceeding or portion thereof.
- Each Military Commission record will be subject to review by a three-member Panel.

Military Commission proceedings are open to the public. Each accused is assigned a military attorney possessing sufficient security clearances to have access to classified material. No evidence may be introduced that has not been made available to the Detailed Defense Counsel.

The Australian Government has discussed the Military Commission procedures with the United States. As a result of those discussions, the Government secured several additional commitments relating to Australian detainees, which include the following:

- Based upon the specific facts of his case, the United States has assured Australia that it will not seek the death penalty in Mr Hicks' case.

- Australia and the United States agreed to work towards putting arrangements in place to transfer Mr Hicks to Australia, if convicted, to serve any penal sentence in Australia in accordance with Australian and United States laws.
- Conversations between Mr Hicks and his lawyers will not be monitored by the United States.
- Subject to any necessary security restrictions, Mr Hicks' trial will be open, the media will be present and Australian officials may observe the proceedings.
- The Australian Government may make submissions to the Review Panel which would review Mr Hicks' Military Commission trial.
- Should Mr Hicks choose to retain an Australian lawyer with appropriate security clearances as a consultant to his legal team, that person may have direct face-to-face communications with their client.
- Mr Hicks may talk to his family via telephone and two family members are permitted to attend his trial.
- An independent legal expert sanctioned by the Australian Government may observe the trial of Mr Hicks.

Subsequent to discussions with the United States Attorney General and a number of other senior executives in the United States Administration, a number of changes to the Military Commission system have recently been announced. Military Commission trials will move towards a judge and jury system. Changes include:

- Only the legally qualified and experienced Presiding Officer can make rulings on matters of law, as is the case with a judge.
- Only the panel members can make rulings on matters of fact, as is the case with juries.
- The amount of time allowed to the legally qualified Review Panel to review Commission decisions has doubled from 35 to 70 days. The Review Panel provides an independent assessment of the issues considered by the Military Commission.
- The number of members to sit on the panel has increased. In the case of Mr Hicks, the panel will be expanded from 3 to 4 members.

The steps taken by the United States Government address the Australian Government's representations that the system should as far as possible reflect the general system of military justice. They also address concerns raised by Mr Hicks' defence counsel about the size and roles of members of the Military Commission.

(3) The Government is aware of various criticisms of the Military Commission process, including a number of arguments questioning the legality of the Military Commission process under international law and the validity of the charges against Mr Hicks. While the e-mails written by Captain Carr and Major Preston criticising the Military Commission refer to other detainees, they do not mention David Hicks. Since the e-mails were written (18 months ago), improvements have been made to the Military Commission processes and the Military Commission panel. The United States conducted a detailed investigation once the e-mails were brought to the attention of relevant authorities. The investigation concluded that the matter was an internal personnel issue. The investigation found no criminal conduct or ethical violations.

Issues surrounding the jurisdiction of the Military Commission and the charges against Mr Hicks will be aired before the Military Commission when it resumes on 18 November 2005. At the November 2004 motions hearing, the Commission received written expert opinions and indicated that it will hear arguments about international law aspects of the case.

(4) (a) A United States Military Commission trial is governed by rules of procedure and evidence for that Commission. Evidence is admissible if it would have probative value to a reasonable person.

(b) The Military Commission is required to consider the weight of any evidence before it. Any evidence obtained under duress would have minimal probative value. We would expect that any allegations of mistreatment which may be raised by Mr Hicks in his defence will be properly analysed and determined in accordance with accepted principles and Military Commission procedures. United States authorities have previously advised that the manner in which evidence was obtained will be relevant to determining whether it is admissible. In accordance with the Military Commission rules regarding the review of trials, there is also scope for a case to be dismissed on the grounds that a conviction based on evidence obtained as a result of torture is unfair or insufficiently based on reliable evidence.

(c) In assessing the probative value of evidence before it, the Military Commission must address issues surrounding the reliability of evidence. This includes the manner in which evidence was obtained. Evidence given only by written statement will have reduced probative value when compared with evidence given in open court and subjected to cross examination.

(d) The Government is not aware of whether former detainees are willing to return to Guantanamo Bay to be cross examined by Mr Hicks' defence team.

(e) See (c) above.

(f) In accordance with changes to the Military Commission system announced on 31 August 2005, only the legally qualified and experienced Presiding Officer can make rulings on matters of law (with the exception of questions regarding the admissibility of evidence, where the Presiding Officer's ruling may be challenged by another member of the panel). The panel members can only make rulings on matters of fact.

(g) The recent changes to the Military Commission mean the number of members to sit on the panel has increased. Having previously participated in proceedings concerning the determination of legal questions, all members of the original panel appointed to hear Mr Hicks' case, except the Presiding Officer, have been excused, to preclude any possibility that those discussions would inappropriately affect deliberations on issues. The expanded panel now consists of six members, two alternative members and the Presiding Officer.

(h) and (i) At the Government's request, United States authorities agreed to conduct two investigations into allegations of abuse. Neither investigation uncovered any evidence to substantiate allegations made by Mr Hicks that he was abused while in United States custody. Mr Hicks did not allege that he suffered any abuse while in detention at Guantanamo Bay and has never complained to Australian officials about any physical mistreatment at Guantanamo Bay.

The first investigation which was concluded in August 2004, was ordered by former United States Deputy Secretary of Defense Wolfowitz, and included an examination of medical records and other documents concerning the detention of Mr Hicks. The second investigation was conducted independently by the United States Naval Criminal Investigative Service (NCIS). The NCIS investigation was independent and exhaustive. All allegations of physical abuse raised by Mr Hicks were addressed. All records pertaining to the detention of Mr Hicks were reviewed.

Navy investigators interviewed Department of Defense, military and medical personnel, other US Government personnel, federal law enforcement personnel and other detainees and concluded there is no evidence to substantiate abuse allegations.

Australian officials regularly visit Mr Hicks in Guantanamo Bay and have found no evidence of abuse or mistreatment. The most recent visit was on 15 September 2005. Mr Hicks raised

several welfare-related concerns, which the consular officer immediately raised with US authorities. The authorities agreed to address Mr Hicks' concerns immediately.

It would be extremely difficult for the Government to mount its own investigation into the abuse allegations. The Government does not have unfettered access to Guantanamo Bay, United States military personnel, or the detainees. The Government is satisfied that the investigations conducted by United States authorities were extensive and thorough.

(j) and (k) Australian officials visit Guantanamo Bay regularly to ensure Mr Hicks is being treated humanely, and have found no evidence of abuse or mistreatment.

United States authorities advise that all Guantanamo Bay detainees are treated in accordance with international obligations and the principles of the Geneva Conventions, and are provided with proper shelter, clothing, mail facilities, reading materials, three culturally suitable meals per day and medical care. Each detainee is allowed to exercise his religious beliefs, including issuance of prayer beads, rugs, and copies of the Koran. The International Committee of the Red Cross is permitted access to the facility and has been allowed to meet privately with detainees.

(5) Guantanamo Bay detainees are in United States custody and it is United States law and United States obligations under international law that are relevant to their detention. Mr Hicks has been determined by the Combatant Status Review Tribunal to be an enemy combatant.

(6) As noted above, Mr Hicks is in United States' custody. The United States Court of Appeals has recently addressed the issues of the jurisdiction of the Military Commission and the applicability of the Geneva Convention to Guantanamo Bay detainees, in its decision in Hamdan v Rumsfeld. The Court of Appeals held unanimously that the Military Commission is authorised by Congress; the Geneva Convention does not confer individual rights upon detainees to enforce its provisions in federal courts and that the District Court erred in finding that Military Commissions must comply in all respects with the requirements of the United States Uniform Code of Military Justice (in other words, that it must adopt all of the procedures applicable to courts-martial).

The Court stated that even if the 1949 Geneva Convention could be enforced in court, this would not assist Hamdan, because he does not fit the Article 4 definition of a "prisoner of war". He does not purport to be a member of a group who displayed a "fixed and distinctive sign recognizable at a distance" and who conducted "their operations in accordance with the laws and customs of war". The Court also noted that another problem for Hamdan is that the 1949 Geneva Convention does not apply to al-Qa'ida and its members, because al-Qa'ida is not a "High Contracting Party" to the Convention.

(7) (a) The Government does not have a definition of 'harsh interrogation techniques'.

(b) The Australian Government does not condone the use of torture. It supports international action against torture and deplores such behaviour wherever and whenever it can. Australia has ratified the International Covenant on Civil and Political Rights, which proscribes torture and other cruel, inhuman or degrading treatment or punishment. Australia has also ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

(8) The premise of the question is incorrect. The Government has no evidence that Mr Hicks was subjected to any 'harsh interrogation techniques'. Additionally, United States authorities have previously provided an assurance that Mr Hicks was not subject to the additional interrogation techniques authorised by Secretary of Defense Rumsfeld.

(9) See answer to question 8. Also, the consistent practice of successive governments is not to disclose whether legal advice has been sought or given on a particular issue.

(10) The premise of the question is incorrect and there are no implications.

Foreign Ships

(Question No. 1166)

Senator O'Brien asked the Minister for Immigration Multicultural and Indigenous Affairs, upon notice, on 9 September 2005:

With reference to the need for foreign ships to notify Australian authorities of crew identities before arrival:

(1) (a) How many foreign ships have arrived in Australia per year since 2000; and

(b) how many of these ships, for each year since 2000, have traded on the Australian coast under a single or continuing voyage permit after they have completed the international leg of their voyage.

(2) (a) Which Government agencies must be notified of crew lists for foreign ships before these ships arrive in Australia; (b) what level of information must be provided (e.g. name only, passport details, information that would constitute 100 points of identification); (c) does the Government have any ability to check that the names and documentation provided in relation to crew member identities is legitimate; (d) what other information must be provided at the same time (e.g. cargo manifests); and (e) how far in advance of arrival must this information be provided.

(3) (a) Can a breakdown be provided, for each year since 2000, of the number of foreign ships that have met the pre-reporting requirements for foreign crews; and

(b) what sanctions apply if a foreign ship does not meet the pre-reporting requirements for its crew.

Senator Vanstone—The answer to the honourable senator's question is as follows:

(1) (a) I refer the Senator to the response by the Minister for Justice and Customs to Senate Parliamentary Question on Notice 1167.

(b) I refer the Senator to the response by the Minister for Transport and Regional Services to Senate Parliamentary Question on Notice 1165.

(2) (a) Ships' masters or agents must report details of all crew and passengers on board to either Customs, or in the case of international passenger cruise ships, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Both the Customs Act 1901 and the Migration Act 1958 contain provisions that require the receiving agency to provide the information to the other agency as soon as practicable after information is reported.

(b) For international passenger cruise ships, DIMIA requires the following crew details to be provided prior to the vessel's arrival in Australia: family name, given name(s), date of birth, country of birth, sex, travel document type and number, travel document ICAO country code, seafarer's identity document number and crew rank.

(c) International passenger cruise ships report crew details into the Advance Passenger Processing system (APP) prior to arrival in Australia and details are checked against government alert lists of known persons of concern. On arrival Customs conducts primary immigration clearance of ships' crew at the first port of arrival in Australia and this involves face to passport identity checks and verification against ship's pre-arrival crew reports.

(d) International passenger cruise ships are also required to report their IMO vessel number, arrival port in Australia and arrival date and time.

(e) Currently, international passenger cruise ships intending to arrive in an Australian port must report no later than 48 hours in advance of arrival. With effect from 12 October 2005, vessels will be required under Customs legislation to report their impending arrival no later than 96 hours in advance of arrival. There will be cascading provisions to account for voyages that

may be shorter than the prescribed 96 hours. Similar provisions will soon apply to international passenger cruise ships under proposed amendments to migration legislation.

(3) (a) In 2003-04 financial year 19 cruise ships met reporting requirements for foreign crew. In 2004-05, 29 cruise ships met reporting requirements for foreign crew. Reporting requirements for APP have been in place since January 2004.

(b) Penalties for failure to comply with mandatory reporting requirements are set out under Section 245N of the Migration Act 1958 as follows:

(1) An operator of an aircraft or ship who intentionally contravenes subsection 245L(2) commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(2) An operator of an aircraft or ship who contravenes subsection 245L(2) commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

Foreign Ships

(Question No. 1168)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 September 2005:

With reference to the issuing of continuing voyage permits under the Navigation Act: (a) how many foreign ships have arrived in Australia per year since 2000; (b) how many of these ships, for each year since 2000, have: (i) traded on the Australian coast under a continuing voyage permit after they have completed the international leg of their voyage, (ii) had full port-state control inspections by the Australian Maritime Safety Authority (AMSA), and (iii) been detained or fined by AMSA or had other sanctions applied; and (c) what are the names of these ships and the nature of the breaches for which they received sanction.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(a) The Australian Customs Service advised that the numbers of foreign ships that have arrived in Australia per year since 2000 is:

Year	Numbers of foreign ships
2000	10,251
2001	9,959
2002	10,209
2003	10,442
2004	10,992
2005	7,911 to 9 September 2005

(b) The Department's databases do not indicate whether a vessel operating under a permit has completed an international leg of a voyage or not. However, it should be noted that the great majority of continuing permits are issued to international liner cargo ships which may carry coastal cargo under permit while they are engaged in their international voyages. However, without a commitment of resources which I am not prepared to make, it is not possible to separate these permits from those issued to vessels that have completed an international voyage.

(i) The Department's databases indicate that the numbers of ships which have been granted continuing permits per year since 2000 are as shown below.

Calendar Year	Numbers of ships
2000	56
2001	81

Calendar Year	Numbers of ships
2002	68
2003	52
2004	43
2005	54 to 9 September 2005

(ii) In financial year 2004-2005, the Department issued continuing permits to 61 vessels, 28 of which underwent a port-state control inspection. I have been informed by AMSA that this number is fairly representative of the other years. The matching of data needed to answer this question for each year would require a commitment of resources which I am not prepared to make.

(iii) AMSA only has the power to detain foreign flag ships under international maritime conventions. In 2004-2005, of the 28 vessels with continuing permits which underwent a port-state control inspection, 2 were detained by AMSA. I have been informed by AMSA that this is fairly representative of the other years. The matching of data needed to answer this question for each year would require a commitment of resources which I am not prepared to make.

(c)

Vessel detained	Nature of deficiencies
Kota Pahlawan	15 Parts per million oily water separator alarm arrangements
MH Thamrin	Communication

Shipping: Single Voyage Permits

(Question No. 1169)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 September 2005:

With reference to the issuing of single voyage permits under the Navigation Act: (a) how many ships, for each year since 2000, have traded on the Australian coast under a single voyage permit after they have completed the international leg of their voyage; (b) how many of these ships, for each year since 2000, have: (i) had full port-state control inspections by the Australian Maritime Safety Authority (AMSA), and (ii) been detained or fined by AMSA or had other sanctions applied; and (c) what are the names of these ships and the nature of the breaches for which they received sanction.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(a) The Department's databases do not indicate whether a vessel has completed an international voyage or not. However, it should be noted that a considerable number of single voyage permits has been issued to international liner cargo ships that then may carry coastal cargo while in the course of their international voyages. It is not possible to separate these permits from those issued to vessels that have completed an international voyage without a significant commitment of resources which I am not prepared to authorise. The Department's databases indicate that the numbers of ships which have been granted single voyage permits per year since 2000 are as shown below.

Year	Numbers of foreign ships
2000	269
2001	283
2002	325
2003	381

Year	Numbers of foreign ships
2004	346
2005	257 to 9 September 2005

(b) (i) In the year 2004-2005 the Department issued single voyage permits to 341 vessels, out of which 137 underwent a port-state control inspection. I have been informed by AMSA that this number is broadly representative of the other years. The matching of data needed to answer this question for each year would require a commitment of resources which I am not prepared to make.

(ii) AMSA only has the power to detain foreign flag ships under international maritime conventions. In 2003-2004, of the 137 vessels with single voyage permits which underwent a port-state control inspection, 11 were detained by AMSA. I have been informed by AMSA that this is broadly representative of the other years. The matching of data needed to answer this question for each year would require a commitment of resources which I am not prepared to make.

(c) The names of these ships and the nature of the deficiencies are shown below:

Vessel detained	Nature of deficiencies
Artemis	Emergency fire pump
Figaro	Unable to start free fall lifeboat engine
Golden Craig	Launching arrangements for rescue boats
Hawk	Development of plans for shipboard operations
	Stowage of lifeboats
Kapitan Serykh	Stowage/packaging of dangerous goods
	Dangerous goods or harmful substances in packaged form
	Development of plans for shipboard operations
Khudozhnik Ioganson	Beams, frames, floors - corrosion
	Lifeboats
	Other (load lines)
	Beams, frames, floors - corrosion
Khudozhnik Zhukov	Cargo and other hatchways
	Ventilators, air pipes, casings
	Fixed fire extinguishing installation
	Lifeboats
	Ventilators, air pipes, casings
	Oil discharge monitoring and control system
	Maintenance of the ship and equipment
MSC Alice	Bridge operation
	Oil filtering equipment
PONL Hunter Valley	Ventilation (fire safety measures)
PONL Palliser	MF/HF radio installation
Terrier	Oil filtering equipment

Defence: Departmental Files

(Question No. 1179)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 13 September 2005:

(1) Has the Minister's attention been drawn to an article in the *Adelaide Advertiser*, dated 29 August 2005, which reported on departmental files found in a public bin in Brompton, South Australia; if so, when were the files found and by whom.

(2) (a) When did the department become aware that the files had been found in a public bin; (b) when did the department commence an investigation into the matter; (c) who was charged with leading the investigation; (d) what resources were allocated to the investigation; and (e) what were the findings of the investigation.

(3) What types of information were in the files and what was the level of sensitivity of the information contained in the files.

(4) What procedures are in place for the disposal of departmental files.

Senator Hill—The answer to the honourable senator's question is as follows:

(1) Yes, on 28 August 2005, a journalist from a local television station contacted the Defence Public Affairs organisation in South Australia regarding material that had been handed to it by a member of the public. Defence was informed that the material had been found in a dumpster in Brompton, an inner suburb of Adelaide (the location was actually Hindmarsh).

(2) (a) and (b) 28 August 2005. (c) The Defence Security Authority, South Australia. (d) One member of the Defence Security Authority. (e) It was determined that an employee of a defence contractor had, around midday on 27 August 2005, inappropriately disposed of several manila folders containing defence and other information, which included various papers, receipts, site plans, documents and aerial photos. There were no Defence files and none of the material was classified. Most of the material was at least five years old and less than half of it related to Defence.

The investigation concluded that this was an isolated incident and that the individual failed to follow the company's procedures. The company initiated its own investigation aimed at ensuring there was no recurrence of the incident.

(3) Refer to answer 2 (e). As the defence material was unclassified and relatively old, the sensitivity was considered low. The remaining material was owned by the company.

(4) Official records, such as departmental files, are disposed of under authorities issued by the National Archives in compliance with the Archives Act 1983. In relation to this incident, Defence has procedures for the disposal of classified and official waste material. Defence contractors are required to adhere to departmental requirements for the disposal of this material.

Mr Scott Parkin

(Question No. 1180)

Senator Stott Despoja asked the Minister representing the Attorney-General, upon notice, on 13 September 2005:

(1) With reference to statements made by the Attorney-General that the Australian Security Intelligence Organisation made a security assessment of American peace activist, Mr Scott Parkin, based on matters relating to 'politically motivated violence, including violent protest activity;' are there specific guidelines as to what exactly constitutes 'politically motivated violence' or 'violent protest activity;' if so, what are the guidelines and who makes the final judgement.

(2) When did the Attorney-General first become aware that Mr Parkin represented a 'serious threat to Australian national security.'

(3) Has Mr Parkin acted in any way contrary to Australian laws while he has been in Australia.

(4) If Mr Parkin posed a serious threat to national security why was he granted a visa.

(5) What, or who, prompted initial concerns that Mr Parkin may pose a serious threat to Australian national security' and when did this occur.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

(1) Politically motivated violence (PMV) is defined in the Australian Security Intelligence Organisation Act 1979 (the ASIO Act) as including acts or threats of violence or unlawful harm that are intended or likely to achieve a political objective, including acts or threats carried on for the purpose of influencing the policy or acts of government.

The ASIO Act requires ASIO to investigate acts or threats of PMV in Australia, and ASIO is the competent authority for providing advice to government on such matters. In providing this advice in relation to politically motivated violence, ASIO observes the guidelines issued by the Attorney-General under section 8A (2) of the ASIO Act.

(2) ASIO advised the Attorney-General's office of its decision in respect of Mr Parkin shortly before Mr Parkin himself was to be advised.

(3) I am unaware of any criminal or other charges being brought against Mr Parkin by Commonwealth authorities while he was in Australia. Questions regarding charges or offences in state jurisdictions would be a matter for relevant policing agencies.

(4) Mr Parkin satisfied the requirement for a visa at the time of application. However, ASIO's understanding of Mr Parkin's intentions changed while he was in Australia.

(5) ASIO acquired credible information relating to Mr Parkin subsequent to his arrival in Australia. I am unable to comment further.

Fisheries: Bottom Trawling

(Question No. 1184)

Senator Siewert asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 13 September 2005:

With reference to the practice of bottom trawling within Australia's Exclusive Economic Zone (EEZ):

(1) Can the Minister outline the extent to which the practice of bottom trawling is allowed within the Australian EEZ, specifically: (a) the number of vessels licensed to use this method of fishing; (b) the approximate tonnage of catch reported for the financial years 2003-04 and 2004-05, using this method of fishing; (c) the principal targeted species; (d) the location of fisheries where this practice is carried out; and (e) the proportion of Australian-flagged vessels as opposed to vessels from other countries.

(2) Can the Minister outline the regulatory framework under which this practice is carried out in Australia, including key legislation and/or regulations and which agencies are primarily responsible for regulation of this practice.

Senator Ian Macdonald—The answer to the honourable senator's question is as follows:

(1) (a) There are 368 licences to trawl within the Australian EEZ, noting that not all of these licences are active and that a number of fishing vessels operate in more than one fishery and would hold more than one permit.

(b) Catch is recorded according to fishing year which varies between fisheries. Additionally in some fisheries consent of operators is required to disclose commercially sensitive information such as catch data. Approximate tonnage of catch, based on the information available to the Australian Fisheries Management Authority (AFMA), for 2003-04 was 44,577 tonnes and in 2004-05 was 35,550 tonnes.

(c) A range of species are targeted, from endeavour prawns to john dory, which varies from fishery to fishery. No one species is principally targeted across all fisheries.

(d) Trawling within Commonwealth-managed fisheries is permitted within: the Southern and Eastern Scalefish and Shark fishery; the Western Deepwater Trawl fishery; the North West Slope fishery; the Northern Prawn fishery; the Heard and MacDonald Island fisheries; Mac-

quarie Island fishery; Coral Sea fishery and the Torres Strait Trawl fishery. Maps outlining the locations of these fisheries are available on the AFMA website.

(e) There are no foreign flagged vessels licensed to fish within the Australian EEZ.

(2) AFMA is the agency responsible for the regulation of all fishing activities within Commonwealth waters. All Commonwealth fisheries are regulated by their individual management plans and arrangements. The Australian Government Department of the Environment and Heritage has accredited all but two of the plans/arrangements in place for the fisheries outlined in 1(d) above. Other than the Torres Strait Fishery which operates under the Torres Strait Fisheries Act 1984 and is managed by the Torres Strait Joint Authority, all Commonwealth fisheries operate under the Fisheries Management Act 1991 and are managed by AFMA.

Roads to Recovery Program

(Question No. 1185)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 14 September 2005:

(1) How many Federal Government Roads to Recovery signs are currently in each electorate.

(2) For each of the past 3 financial years, how much has the Commonwealth spent on erecting Roads to Recovery signs in each electorate.

(3) How many Federal Government Black Spot signs are currently in each electorate.

(4) For each of the past 3 financial years, how much has the Commonwealth spent on erecting Black Spot signs in each electorate.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) and (2) Councils in receipt of funding under the Roads to Recovery Act 2000 were required to erect and maintain signs on both ends of each project. The AusLink Act and the Roads to Recovery funding conditions require signs to be displayed on all Roads to Recovery projects other than maintenance projects and projects under $10,000.

Information on the number of signs in each electorate, or any other geographical area, is not collected. Councils are responsible for the purchase and erection of the signs.

(3) and (4) Information on the number of Black Spot programme signs in each electorate, or any other geographical area, is not collected and the amount spent on signs has not been separately reported.

Where the project costs less than $100,000, the programme Notes on Administration require a temporary sign to be erected while construction is in progress. Where the project costs more than $100,000, the sign is to remain in place for at least two years.

Roads to Recovery Program

(Question No. 1186)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 14 September 2005:

For each of the past 3 financial years, in the electorate of Curtin, how much has the Commonwealth spent on: (a) Roads to Recovery; and (b) the Federal Black Spot program.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

Roads to Recovery allocations are based on the recommendations of the State and NT Local Government Grants Commissions for the roads component of Financial Assistance Grants. The amounts have been gazetted. All Roads to Recovery payments are made to Local Government Authorities.

Consistent with this, the Department holds Roads to Recovery data by LGA and not by electorate. The electorate of Curtin contains ten Local Government Authorities. The total funding provided to these councils for the last three financial years is $4,557,713.

(a) Roads to Recovery

2002-03	2003-04	2004-05
$1,516,744	$1,971,523	$1,069,446

(b) Federal Black Spot program

The totals funding approved for AusLink Black Spot Projects located in the electorate of Curtin for the last three financial years is $472,109

2002-03	2003-04	2004-05
$205,000	$230,109	$37,000

Energy Grants (Credits) Scheme

(Question No. 1187)

Senator O'Brien asked the Minister representing the Treasurer, upon notice, on 13 September 2005:

(1) For each financial year since its inception, what has been the total cost to the Commonwealth of the Energy Grants (Credits) Scheme for each of the following activities: (a) road transport; (b) agriculture; (c) fishing; (d) forestry; (e) mining; (f) marine transport; (g) rail transport; (h) nursing and medical; and (i) generating electricity.

(2) For each of the next 5 financial years and for each activity listed in (1) above, what is the projected cost to the Commonwealth of the Energy Grants (Credits) Scheme.

(3) What is the current rate of rebate available under the Energy Grants (Credits) Scheme.

(4) For each of the next 5 financial years, what is the projected rate of rebate available under the Energy Grants (Credits) Scheme.

Senator Coonan—The Treasurer has provided the following answer to the honourable senator's question:

As the questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice.

(1) From 1 July 2003 the Energy Grants (Credits) Scheme replaced both the diesel fuel rebate scheme and the diesel and alternative fuels grants scheme. Statistics for the value of claims paid under the Energy Grants (Credits) Scheme to the Commonwealth since its inception are available in Chapter 14 of the publication Taxation Statistics 2002-03. The figures for 2004-05 are not yet available.

(2) The current system of fuel grants, rebates and remissions will be replaced from 1 July 2006 with a single fuel tax credit, claimable via the business activity statement. Most grants currently payable under the Energy Grants (Credits) Scheme will fall under the new scheme from that date. Separate forecasts of the cost of the Energy Grants (Credits) Scheme are not prepared for the activities requested and are not available.

(3) The current rate of rebate available under the Energy Grants (Credits) Scheme varies depending on the activity and fuel used in the activity. Information and the current rates are available in the pub-

lication, Energy Grants (Credits) Scheme Guide or on the Australian Taxation Office website at www.ato.gov.au.

(4) The grant rates currently payable under the Energy Grants (Credits) Scheme are contained in Schedule 7 of the Energy Grants (Credits) Scheme Regulations 2003.

From 1 July 2006 the rate for off-road use will be equal to the effective excise rate, currently 38.143 cents per litre. For on-road use the credit will be equal to the effective excise rate less a road user charge (the value of which is yet to be announced).

Grants for the use of alternative fuels on-road will continue to apply under the Energy Grants (Credits) Scheme Act 2003 until 1 July 2010. The grant rates payable will be progressively reduced to zero beginning on 1 July 2006 and ending on 1 July 2010.

Australian Maritime College

(Question No. 1188)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 September 2005:

With reference to training courses or workshops provided for each of the past 3 financial years to the department by the Australian Maritime College or AMC Search Limited:

(1) When and in what locations were training courses or workshops provided to departmental staff.

(2) Which entity provided the training course or workshop.

(3) What staff designations attended each training course or workshop.

(4) How much did each training course or workshop cost the department.

(5) What was the title of each training course or workshop and can the curriculum of each training course or workshop be provided; if not, why not.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(1) During the period in question AMC did not conduct any workshop or course for DOTARS. AMC Search conducted one workshop directly for DOTARS and indirectly two courses through its alliance partner Intelligent Outcomes Group (IOG). The details are:

	Date	Workshop/Course	Place
1.	3 September 2003	Workshop	Canberra
2	23- 25 Feb 2005	Course	Canberra
3	7-9 June 2005	Course	Devonport

(2) The courses/workshop were delivered by:

	Date	Place	Course/Workshop	Delivered by:
1	Sept 2003	Canberra	Workshop	AMC Search
2	Feb 2005	Canberra	Course	AMC Search through IOG
3	June 2005	Devonport	Course	AMC Search through IOG

(3) These workshop/courses were aimed at building maritime capability within the DOTARS maritime transport security area. Staff designations varied from Section Head (EL2) to Graduates.

	Date	Place	No. of staff	Staff designations
1	Sept 2003	Canberra	17	2 EL 2, 4 EL 1, 4 APS 6, 4 APS 5, 3 Graduates
2	Feb 2005	Canberra	13	1 EL 1, 6 APS 6,2 APS 5, 3 APS 4, 1 Graduate
3	June 2005	Devonport	13	3 EL 1, 6 APS 6, 4 APS 5

(4) The details of costs incurred by DOTARS for these workshop/courses are:

	Date	Place	Workshop/Course	Cost (including GST)
1	Sept 2003	Canberra	Workshop	$ 2,750.00
2	Feb 2005	Canberra	Course	$ 23, 523.00
3	June 2005	Devonport	Course	$ 25,934.31

(5) The Courses/Workshop were titled:

	Date	Place	Course/Workshop title
1	Sept 2003	Canberra	Overview of the Maritime Industry
2	February 2005	Canberra	Maritime Inspector ISPS Verification Course
3	June 2005	Devonport	Maritime Inspector ISPS Verification Course

The programs for the two courses are available in hard copy from the Senate Table Office.

Mr Dragan Vasiljkovic

(Question No. 1229)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 15 September 2005:

(1) With reference to the claim from Mr Dragan Vasiljkovic that he contacted the Australian Security Organisation (ASIO) when he became involved in the Balkans war, when he returned to Australia following the war and in between: is this claim true; if so: (a) what form of contact did ASIO have with Mr Vasiljkovic; (b) on what dates did ASIO have contact with Mr Vasiljkovic; (c) did ASIO forward any details of Mr Vasiljkovic to foreign agencies or governments; if so, which agencies or governments; and (d) has Mr Vasiljkovic contacted ASIO since his return to Australia.

(2) On what date was the Attorney-General's office notified of the allegations against Mr Vasiljkovic; and (b) what was the format of the notification (e.g. e-mail, mail etc).

(3) Did the Attorney-General's office receive formal and informal notification of these allegations; if so, can dates for both be provided.

Senator Ellison—The Attorney-General has provided the following answer to the honourable member's question:

(1) (a), (b) and (d) ASIO has no record of being contacted by, or having contact with, Mr Vasiljkovic. (c) We do not comment on the substance of intelligence matters and I will not comment on whether or not other services were contacted in this matter.

(2) The Attorney-General's Office became aware of the allegations through media reporting on 9 September 2005.

(3) Refer to the answer for question (2).

Shipping: Single-Hulled Tankers

(Question No. 1234)

Senator Milne asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 16 September 2005:

With reference to the statement by the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck) (Senate *Hansard*, 15 September 2005, p. 38), that the Government has considered bringing forward the current time frame of the International Maritime Organisation (IMO) to phase out single-hulled tankers but, given the threat to the availability of vessels to meet requirements,

the Australian Maritime Safety Authority has advised the IMO that it will be maintaining the internationally agreed time frames:

(1) Can the Minister provide the documents showing that the Government had, before 15 September 2005, given consideration to accelerating the phase out period of single-hulled tankers.

(2) What economic analysis has been undertaken on the impact of the phasing out of categories 2 and 3 single-hulled tankers in Australia before 2010.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(1) Australia's consideration of the timetable for the phasing-out of single-hulled tankers has been in the context of the examination of this issue by the International Maritime Organization (IMO). Australia supported measures in the IMO in April 2001 to introduce a global timetable for accelerating the phase-out of single-hulled tankers through amendments to the IMO's International Convention for the Prevention of Pollution from Ships (MARPOL). These amendments entered into force on 1 September 2002 and were aimed at eliminating single-hulled tankers by 2015 or earlier. These measures allowed flag State administrations to permit some newer single-hulled tankers to continue operation until 2017, but any port State could deny single-hulled tankers entry to its ports after 2015. Australia advised the IMO that it would deny entry into its ports and offshore terminals to all single-hulled tankers that had been permitted to operate beyond 2015. The Australian Maritime Safety Authority (AMSA) issued a Marine Notice in 2002 (24/2002 of 28 November 2002) alerting tanker owners, operators and charterers of the position, both internationally and in Australia, regarding the phasing-out of single-hulled tankers and Australia's decision to deny entry to all single-hulled tankers that were permitted by their flag State to operate beyond 2015.

In 2003, the IMO was asked to re-examine its single-hulled tanker phase-out timetable and it agreed in December 2003 to further amendments to MARPOL, which entered into force on 5 April 2005. These amendments advanced the final phase-out date for pre-MARPOL built tankers (ie category 1 tankers) from 2007 to 2005 and for MARPOL tankers (category 2 tankers) and smaller tankers (category 3 tankers) from 2015 to 2010. Australia participated actively in the discussion of these proposals, and the IMO's decision in December 2003 largely met Australia's main priority for international agreement to measures that improved environmental protection while avoiding a significant disruption of international trade and oil supplies. Australia again notified the IMO that most single-hulled tankers will be denied entry to Australian ports and offshore terminals from 2010, in accordance with the IMO timetable. AMSA issued another Marine Notice (13/2004 on 9 December 2004) to advise the industry of the accelerated phase out of single-hulled tankers and Australia's notification to the IMO about denial of entry to single- hulled tankers after 2010. Marine Notices are available on AMSA's Internet site at www.amsa.gov.au.

(2) In assessing the impact of the phasing out of single-hulled tankers, Australia has relied upon the IMO analysis of the relevant economic and practical factors, recognising that shipping is a global industry that is subject to an international regulatory framework based mainly on IMO maritime conventions to which Australia is a party and to which Australia is therefore bound to give effect in national law and practice. During the IMO's consideration in 2001 and 2003 of the timetable for phasing out of single-hulled tankers the IMO established an Expert Group comprising IMO Secretariat personnel, assisted by independent experts nominated by relevant industry organisations. The Report of the Expert Group on Impact Study of the Proposed Amendments to MARPOL Annex I in June 2003 comprehensively reviewed worldwide heavy oil trade flows and demand and supply statistics for heavy oil, world shipbuilding and ship recycling capacity and demand, and the potential impact of various phase-out proposals. The report and subsequent debate in the IMO indicated that the current phase-out timetable was a carefully balanced global decision, taking into account all these factors. If the current timetable was advanced, the report shows that tankers would be

phased-out more quickly than the tonnage could be replaced, with consequential impact on the global capacity to carry the world's oil demand. A copy of the IMO report is being made available to Senator Milne.

Tasman Highway

(Question Nos 1235 and 1236)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 19 September 2005:

With reference to the Coalition's 2004 Election commitment to contribute $1.5 million to improve the Tasman Highway between Nunamara and Targa:

(1) Who made the decision to make this commitment on behalf of Commonwealth and on what date.

(2) Who made the commitment public and on what date.

(3) Is the Commonwealth's funding commitment contingent upon the provision of funds from the Tasmanian State Government or other sources; if so: (a) what other sources must contribute funds to this project in order for the Commonwealth to meet its commitment; (b) who decided to make Commonwealth funding contingent upon the provision of funds from other sources and on what date; (c) on what date, in what manner and by whom was the Tasmanian State Government and/or other potential providers of funds made aware that the Coalition's funding commitment to this project was contingent upon the provision of funds from other non-Commonwealth sources; and (d) why is this condition of funding not specified in the Coalition's 2004 Election document entitled A stronger economy, a stronger Australia: The Howard Government Election 2004 policy: Strengthening Tasmania's economy and building a better community.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) The Government made the decision to commit $1.5 million towards the upgrade of the Tasman Highway, between Nunamara and Targa, during the 2004 election campaign.

(2) The Liberal Candidate for Bass, Michael Ferguson, issued a media release on 28 September 2004, announcing the Government's commitment to provide $1.5 million on condition that the Tasmanian Government must meet the remaining costs for the project. The Government's Tasmanian policy statement Strengthening Tasmania's Economy and Building a Better Community, released on 6 October 2004, reaffirmed the $1.5 million commitment.

(3) Yes – a matching state government contribution is a condition of funding under the AusLink Strategic Regional Programme.

(a) The project requires a matching contribution of $1.5 million from the Tasmanian Government.

(b) The decision to make funding contingent on the provision of funds from other sources was made by the Government during the 2004 election campaign.

(c) The Hon Jim Lloyd, Minister for Local Government, Territories and Roads, wrote to his state counterpart, the Hon Bryan Green, Tasmanian Minister for Infrastructure, Energy and Resources, on 17 November 2004 outlining the Government's election commitments. Minister Lloyd wrote again to Minister Green on 11 April 2005 providing formal confirmation of the Government's commitments to the four projects and seeking his confirmation that matching funding would be provided for all four projects, including the Tasman Highway project.

(d) It is a matter for the Government how it chooses to announce funding commitments.

Threatened Species

(Question No. 1238)

Senator Siewert asked the Minister for the Environment and Heritage, upon notice, on 22 September 2005:

With reference to the listing of rare and endangered species of flora and fauna, and threatened ecological communities (TECs) under the Environment Protection and Biodiversity Conservation Act 1999:

(1) Is the Minister aware that there are 24 TECs listed by the Western Australia Department of Conservation and Land Management (CALM) for the Swan Coastal Plain, and that only 10 of these are listed under the Act.

(2) Does the Minister consider that there is some deficiency with CALM's criteria for listing TECs.

(3) Why has the Commonwealth's criteria for listing TECs left 14 of these sites without protection under the Act.

(4) Is the Minister concerned that the Commonwealth's criteria for listing TECs has left 14 of these sites without protection under the Act.

(5) What action will be taken to ensure that these remaining 14 sites are protected under the Act.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) Yes.

(2) No deficiencies have been brought to my attention.

(3) The 14 ecological communities referred to have yet to be assessed against criteria for the listing of threatened ecological communities under the Environment Protection and Biodiversity Conservation Act 1999 (the Act).

(4) As these ecological communities have yet to be assessed against the Act's listing criteria, it is not possible to determine whether they would qualify for listing.

(5) All nominations to list species and ecological communities under the Act are assessed by the Threatened Species Scientific Committee, an independent scientific body appointed under the Act to advise the Government on the scientific matters relating to the listing and recovery of threatened species and ecological communities. The Committee is currently assessing a large number of ecological communities, including all public nominations for listing as well as over 640 threatened ecological communities that are currently listed by State and Territory Governments. These include the fourteen ecological communities in the Swan Coastal Plain listed by Western Australia but not currently listed under the Environment Protection and Biodiversity Conservation Act 1999.

Pre-Mixed Drinks

(Question No. 1239)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 22 September 2005:

With reference to the answer to question on notice no. 1041 (Senate *Hansard*, 5 September 2005, p. 187), in which the Minister refers to research evidence showing that risky and high risk drinking rates for young people under 18 years of age have not changed greatly over the past 5 years, despite the increasing popularity of ready to drink (RTD) products, that often displace the consumption of beer:

(1) Can a copy be provided of this research evidence; if not, why not.

(2) What is the research evidence relating to levels of risky and high risk drinking for young people aged 18 to 24 and 25 to 34.

(3) (a) What evidence is available regarding the increasing popularity of RTD products, in relation to other alcoholic beverages; and (b) can this evidence be categorised by age and gender.

(4) What research has the Government funded, if any, that specifically investigates: (a) who buys RTD products; (b) why RTD products are being purchased by people of different ages; (c) who drinks RTD products; (d) where RTD products are being purchased; and (e) the level of knowledge among young people of the alcoholic content of RTD beverages in comparison to other alcoholic beverages.

(5) Has the Government considered targeting parents and young people with a specific education and awareness campaign on RTD products, including their alcohol content.

(6) With reference to current work to achieve an industry-wide voluntary national approach to the labelling of alcoholic beverages with graphics that clearly depict the number of standard drinks in the beverage: (a) who is involved in this work; (b) what is the timeline for this work; and (c) how many meetings have been held on this issue and who attended.

(7) Are discussions on the potential labelling approach considering: (a) clear and prominent indication of the number of standard drinks per product; and (b) pre-vetting of packaging and labelling of alcoholic beverages by an independent watchdog.

(8) What penalties, if any, are under consideration for a breach of the potential labelling approach.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

(1) and (3) (a) The research reports, Alcohol consumption patterns among Australian 15-17 year olds from 2000 to 2004 and Australian Secondary School Students Use of Alcohol in 2002, show that risky and high risk drinking rates for young people under 18 years of age have not changed greatly over the past 5 years, despite the increasing popularity of ready to drink products, that often displace the consumption of beer. (3)(b) Both contain break downs by age and sex. Copies of the reports are available through www.alcohol.gov.au/resources.htm

(2) The most recent National Drug Strategy Household Survey shows that in 2004, 64% of 18-24 year olds and 52% of 25-34 year olds drank alcohol at risky and high risk levels for harm in the short term on at least one occasion in the 12 months before the survey.

(4) (a) to (e) The Australian Government is currently funding the National Drug and Alcohol Research Centre to conduct a research project that aims to determine:

- the palatability of a range of alcoholic and non-alcoholic beverages among teenagers aged (12–18 years) and young adults (19–30 years);

- whether this pattern changes with age; and

- the extent to which marketing affects palatability.

A preliminary report is due late in 2005.

The National Drug Strategy Household Survey is funded by the Australian Government. The most recent survey includes some basic demographic information, such as age and sex, surrounding ready to drink products that may partly answer parts (a) and (c) of the question. The data are still being analysed and should be available when the 2004 Detailed Findings report is released late in 2005.

Decisions on funding future research in this area will need to take into account the priorities to be identified in the new National Alcohol Strategy 2005–09, which is currently under development.

(5) No. Current activity is focused on the development of the new National Alcohol Strategy 2005–09, which will provide nationally agreed priorities for the next few years.

(6) With reference to the standard drink labelling initiative:

(a) Presently involved in the work are the Parliamentary Secretary to the Minister for Health and Ageing, the Hon Christopher Pyne MP, and the NSW Minister for Health, the Hon John Hatzistergos MLC representing the Ministerial Council on Drug Strategy (MCDS), and representatives from the National Alcohol Beverages Industries Council (NABIC).

(b) The NABIC representatives are due to report back to Mr Pyne and Minister Hatzistergos on 21 October 2005. It is thus expected that a report will be available for the MCDS meeting in November 2005.

(c) To date there has been one official meeting on 18 March 2005 attended by Mr Pyne, the NSW Special Minister of State, the Hon John Della Bosca MLC representing MCDS, and NABIC members representing the alcohol beverages industry.

(7) (a) The alcohol industry has voluntarily committed itself, without other regulation, to working collaboratively in the development of a nationally consistent, standard drink labelling approach. The aim is to develop a standardised graphic, which all products will carry, clearly depicting the number of standard drinks in the container.

(b) and (8) To date pre-vetting of packaging and penalties for breaches have not been considered.

Telstra

(Question No. 1240)

Senator Murray asked the Minister for Finance and Administration, upon notice, on 22 September 2005:

With reference to the sale or possible sale of Telstra:

(1) Has the Government opened the tender for the appointment of banks to act as joint global coordinators, to be on an institutional selling panel, or in other selling roles; if so, can an estimate be provided of the full fees and costs likely to be incurred, in aggregate and by bank.

(2) Has the department exercised its option to extend the scoping study advisers' services; if so: (a) to whom; and (b) can an estimate be provided of the full fees and costs likely to be incurred, in aggregate and by adviser.

(3) Excluding small or insignificant contracts, are there any other advisers, agents or entities that will receive fees from the sale of Telstra; if so, what are the full fees and costs likely to be incurred, in aggregate and by adviser, agent or entity.

Senator Minchin—The answer to the honourable senator's question is as follows:

(1) The tender for Project Management Joint Global Coordinators and an institutional selling panel was opened on 27 September 2005. To protect the Commonwealth's position in commercial negotiations with tenderers, no information on fees can be provided before the completion of the procurement process. In any event, fees for selling roles cannot be estimated accurately until the Government decides on whether to proceed with the sale and the sale structure (expected by early to mid 2006). Selling fees for individual banks would depend on their selling performance during the sale and will not be known until the conclusion of the sale process.

(2) The original contracts for the scoping study advisers included an option to extend the services in relation to a possible sale of shares in Telstra. The Government has exercised its option to extend a number of the scoping study adviser contracts. The gazetted contract values, including fees and costs, are:

Sparke Helmore	$634,040
Caliburn Partnership Pty Limited	$5,375,000
Freehills	$5,375,000
Gavin Anderson and Company	$3,322,073
DBM Consultants Pty Limited	$1,463,885

Although fees are accruing as services are provided during the sale preparation phase, the full gazetted fees for the advisers are only likely to be incurred if the Government decides in early 2006 to proceed with the proposed sale of Telstra.

(3) In the event that the Government decides in early 2006 to proceed with the proposed sale of Telstra, other advisers would need to be appointed, such as accountants, auditors and international legal advisers, and a range of firms providing marketing and logistics support (printers, share registry, banker, call centre, advertising agency, mail house and others).

It is not possible to accurately estimate these costs until the Government decides on whether to proceed and its preferred offer structure. It would be inappropriate to speculate on the fees that might be payable in advance of the requisite procurement action.

Western Australia: Family Tax Benefit

(Question No. 1246)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

(1) Can a list be provided, by postcode, of: (a) the number of recipients of Family Tax Benefit Part A in Western Australia; and (b) the number of sole parent recipients of Family Tax Benefit Part A in Western Australia.

(2) Can the department identify the number of sole parent recipients of Family Tax Benefit Part A who are carers of a child with a disability; if so, can a list be provided, by postcode, of the number of sole parents who have children with a disability and who are in receipt of Family Tax Benefit Part A in Western Australia.

(3) Can a list be provided, by postcode, of: (a) the number of recipients of Family Tax Benefit Part B in Western Australia; and (b) the number of sole parent recipients of Family Tax Benefit Part B in Western Australia.

(4) Can the department identify the number of sole parent recipients of Family Tax Benefit Part B who are carers of a child with a disability; if so, can a list be provided, by postcode, of the number of sole parents who have children with a disability and who are in receipt of Family Tax Benefit Part B in Western Australia.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) The attached table shows customers receiving Family Tax Benefit Part A and/or Part B in Western Australia by postcode: (a) the total number of recipients; and (b) the number of sole parent recipients.

(2) The number of sole parent FTB customers in WA who are also receiving Carer Payment is in the order of 300. However, not all would necessarily be caring for a child with a disability. Furthermore, some sole parents who are caring for a child with a disability may be receiving Parenting Payment Single rather than Carer Payment, and thus cannot be identified as carers.

The number cannot be provided disaggregated by postcode, as the Department does not identify customer numbers below 20 for privacy reasons.

(3) See answer to part (1).

(4) See answer to part (2).

Current fortnightly Family Tax Benefit customers in Western Australia as at 30-09-05

Note: Cells with less than 20 customers are displayed as "<20".

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6000	52	127	50	105
6001	<20	<20	<20	<20
6003	68	127	66	114
6004	34	87	32	73
6005	38	77	37	64
6006	94	365	89	293
6007	92	221	88	193
6008	201	434	191	376
6009	129	374	119	297
6010	230	554	223	475
6011	66	185	63	162
6012	139	335	137	284
6013	<20	<20	<20	<20
6014	268	777	254	638
6015	44	147	42	124
6016	181	559	180	457
6017	116	216	114	178
6018	707	2,032	694	1,632
6019	449	971	440	828
6020	324	1,167	315	859
6021	375	1,299	371	961
6022	148	449	146	327
6023	307	1,184	288	819
6024	375	1,264	365	918
6025	798	2,667	784	2,026
6026	498	2,126	481	1,434
6027	1,246	4,255	1,226	3,119
6028	430	2,066	419	1,449
6029	29	133	29	102
6030	1,105	3,507	1,097	2,846
6031	233	923	227	698
6032	<20	<20	<20	<20
6033	<20	41	<20	30
6034	<20	<20	<20	<20
6035	105	302	102	249
6036	109	507	108	412
6037	74	183	73	158
6041	25	100	25	87
6042	<20	<20	<20	<20
6043	<20	<20	<20	<20
6044	25	100	25	73
6050	190	551	186	449
6051	298	602	292	534
6052	284	787	277	590

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6053	402	1,055	391	828
6054	810	2,067	809	1,647
6055	320	1,159	317	861
6056	1,516	3,880	1,496	3,083
6057	489	1,649	477	1,244
6058	486	1,290	480	1,002
6059	484	1,655	472	1,256
6060	565	1,309	555	1,073
6061	1,597	3,613	1,581	3,133
6062	871	2,847	857	2,118
6063	521	1,793	512	1,350
6064	1,438	4,073	1,419	3,239
6065	736	3,390	722	2,439
6066	689	2,669	677	1,952
6067	<20	<20	<20	<20
6069	366	1,424	360	1,093
6070	63	271	62	201
6071	110	337	108	249
6072	21	74	21	51
6073	68	274	68	194
6074	22	87	22	73
6076	406	1,572	393	1,124
6081	98	427	97	327
6082	94	320	93	237
6083	46	281	46	189
6084	143	559	141	414
6090	<20	<20	<20	<20
6100	273	649	263	539
6101	418	945	408	791
6102	334	700	331	607
6103	295	614	293	522
6104	461	1,073	453	884
6105	502	1,185	498	959
6106	<20	<20	<20	<20
6107	1,096	3,019	1,082	2,477
6108	752	2,602	741	1,945
6109	471	1,132	466	944
6110	1,212	3,496	1,199	2,715
6111	783	2,261	774	1,769
6112	1,367	3,595	1,350	2,942
6118	<20	<20	<20	<20
6121	38	220	38	156
6122	110	498	109	348
6123	44	175	44	141
6124	26	103	26	80
6125	39	238	38	158
6126	<20	<20	<20	<20
6130	<20	<20	<20	<20

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6133	<20	<20	<20	<20
6147	594	1,573	583	1,252
6148	382	1,226	377	948
6149	306	1,374	298	1,003
6150	128	785	124	564
6151	251	623	240	540
6152	489	1,142	479	963
6153	318	845	304	696
6154	166	523	164	411
6155	706	3,718	687	2,639
6156	441	1,084	434	910
6157	348	842	340	663
6158	137	396	134	295
6159	59	118	57	105
6160	196	348	194	303
6161	<20	<20	<20	<20
6162	339	737	336	617
6163	1,686	4,382	1,660	3,445
6164	1,052	3,835	1,045	2,878
6165	<20	30	<20	23
6166	207	747	203	539
6167	832	2,175	827	1,829
6168	949	2,176	939	1,858
6169	1,314	3,616	1,300	3,023
6170	189	573	190	476
6171	81	482	78	348
6172	438	1,682	434	1,353
6173	64	511	63	396
6174	70	228	69	192
6175	67	269	66	217
6176	<20	55	<20	40
6201	<20	<20	<20	<20
6203	<20	<20	<20	<20
6207	<20	56	<20	44
6208	224	626	221	540
6210	2,078	5,263	2,069	4,405
6211	<20	<20	<20	<20
6213	22	80	22	62
6214	20	70	20	59
6215	103	327	103	270
6218	47	93	46	83
6220	118	393	117	319
6221	<20	25	<20	<20
6223	<20	22	<20	<20
6224	43	137	43	108
6225	333	901	332	817
6226	<20	37	<20	23
6227	<20	59	<20	48

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6228	<20	21	<20	<20
6229	<20	<20	<20	<20
6230	1,390	3,596	1,381	2,937
6231	<20	<20	<20	<20
6232	231	864	229	689
6233	337	1,251	335	970
6236	34	175	33	131
6237	47	199	46	147
6239	87	350	87	286
6240	<20	<20	<20	<20
6243	<20	<20	<20	<20
6244	35	132	35	102
6251	<20	36	<20	26
6252	<20	<20	<20	<20
6253	23	54	23	49
6254	22	64	22	59
6255	104	356	103	269
6256	<20	<20	<20	<20
6258	221	766	220	572
6260	32	157	32	120
6262	32	85	32	67
6271	83	270	82	216
6275	36	133	35	99
6280	658	2,097	651	1,536
6281	114	427	113	304
6282	<20	103	<20	65
6284	27	147	26	114
6285	278	813	279	628
6286	<20	55	<20	45
6288	<20	58	<20	42
6290	36	113	35	79
6302	86	280	86	208
6304	48	141	48	119
6306	34	118	34	90
6308	45	152	44	116
6309	<20	26	<20	<20
6311	<20	54	<20	40
6312	175	528	173	388
6313	<20	<20	<20	<20
6315	66	198	65	139
6316	<20	31	<20	23
6317	154	470	154	360
6318	<20	49	<20	40
6320	<20	73	<20	50
6321	<20	50	<20	36
6322	<20	<20	<20	<20
6323	<20	97	<20	75
6324	109	338	109	273

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6326	<20	41	<20	34
6327	<20	25	<20	21
6328	<20	53	<20	39
6330	1,049	3,267	1,037	2,457
6331	<20	<20	<20	<20
6332	<20	<20	<20	<20
6333	169	506	167	382
6335	27	108	26	72
6336	<20	46	<20	36
6337	<20	78	<20	45
6338	<20	56	<20	41
6341	<20	28	<20	<20
6343	<20	23	<20	<20
6346	<20	80	<20	63
6348	<20	43	<20	37
6350	<20	49	<20	32
6351	<20	<20	<20	<20
6352	<20	<20	<20	<20
6353	<20	76	<20	46
6355	<20	57	<20	40
6356	<20	<20	<20	<20
6357	<20	<20	<20	<20
6358	<20	<20	<20	<20
6359	<20	50	<20	31
6361	<20	<20	<20	<20
6363	<20	<20	<20	<20
6365	<20	65	<20	40
6367	<20	50	<20	38
6368	<20	<20	<20	<20
6369	<20	68	<20	41
6370	<20	50	<20	37
6372	<20	29	<20	<20
6373	<20	<20	<20	<20
6375	26	97	26	67
6383	30	96	30	63
6386	<20	<20	<20	<20
6390	45	126	45	103
6391	<20	69	<20	44
6392	<20	45	<20	35
6393	<20	<20	<20	<20
6394	<20	<20	<20	<20
6395	53	201	51	135
6396	<20	27	<20	<20
6397	<20	<20	<20	<20
6398	<20	46	<20	34
6401	315	774	313	611
6403	<20	28	<20	21
6405	<20	40	<20	28

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6406	<20	<20	<20	<20
6407	<20	93	<20	58
6409	<20	50	<20	38
6410	35	110	35	86
6411	<20	<20	<20	<20
6412	<20	<20	<20	<20
6413	<20	<20	<20	<20
6414	<20	<20	<20	<20
6415	79	288	79	212
6418	21	69	21	46
6419	<20	<20	<20	<20
6420	<20	<20	<20	<20
6421	<20	<20	<20	<20
6422	<20	<20	<20	<20
6423	<20	<20	<20	<20
6424	<20	<20	<20	<20
6425	<20	<20	<20	<20
6426	20	87	20	72
6428	<20	<20	<20	<20
6429	50	103	50	99
6430	565	1,511	566	1,403
6431	<20	<20	<20	<20
6432	368	872	367	770
6433	22	50	22	45
6434	<20	<20	<20	<20
6436	<20	<20	<20	<20
6437	<20	59	<20	58
6438	40	79	40	68
6440	60	102	60	98
6442	57	225	58	260
6443	42	100	42	95
6444	<20	<20	<20	<20
6445	<20	<20	<20	<20
6446	<20	20	<20	<20
6447	<20	<20	<20	<20
6448	<20	31	<20	21
6450	444	1,362	439	1,028
6460	21	72	21	55
6461	<20	69	<20	50
6462	<20	<20	<20	<20
6464	<20	<20	<20	<20
6465	<20	<20	<20	<20
6466	<20	<20	<20	<20
6467	<20	<20	<20	<20
6468	<20	45	<20	27
6472	<20	26	<20	<20
6473	<20	<20	<20	<20
6475	<20	41	<20	34

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6476	<20	<20	<20	<20
6477	<20	35	<20	21
6479	<20	70	<20	49
6480	<20	<20	<20	<20
6484	<20	<20	<20	<20
6485	<20	56	<20	42
6487	<20	<20	<20	<20
6488	<20	29	<20	25
6489	<20	<20	<20	<20
6490	<20	30	<20	21
6501	<20	69	<20	51
6502	32	107	32	83
6503	44	176	41	127
6504	<20	<20	<20	<20
6505	<20	<20	<20	<20
6506	<20	<20	<20	<20
6507	<20	58	<20	42
6509	<20	<20	<20	<20
6510	67	231	66	166
6511	<20	48	<20	38
6512	<20	<20	<20	<20
6513	<20	22	<20	<20
6514	<20	64	<20	54
6515	<20	43	<20	30
6516	36	116	36	91
6517	<20	60	<20	42
6518	<20	25	<20	<20
6519	<20	48	<20	38
6521	<20	41	<20	28
6522	<20	56	<20	41
6525	67	279	66	201
6528	<20	46	<20	30
6530	1,277	3,485	1,264	2,764
6531	<20	23	<20	<20
6532	55	270	53	186
6535	37	140	37	107
6536	41	148	41	108
6537	<20	69	<20	43
6544	<20	<20	<20	<20
6553	<20	<20	<20	<20
6556	57	222	57	160
6558	23	90	23	73
6560	56	152	56	130
6562	22	79	22	69
6564	<20	39	<20	33
6566	130	349	129	275
6567	<20	<20	<20	<20
6568	<20	26	<20	22

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6569	<20	25	<20	<20
6571	<20	<20	<20	<20
6572	<20	<20	<20	<20
6574	<20	<20	<20	<20
6575	<20	23	<20	<20
6603	38	120	37	85
6605	<20	<20	<20	<20
6606	<20	<20	<20	<20
6608	<20	<20	<20	<20
6609	<20	78	<20	63
6612	<20	<20	<20	<20
6613	<20	<20	<20	<20
6616	<20	<20	<20	<20
6620	<20	39	<20	36
6623	21	91	21	68
6627	<20	<20	<20	<20
6628	<20	<20	<20	<20
6630	44	120	45	102
6632	<20	<20	<20	<20
6635	<20	32	<20	26
6638	34	82	33	78
6639	<20	<20	<20	<20
6640	<20	34	<20	33
6642	64	137	64	128
6646	38	79	38	70
6701	304	697	302	544
6705	<20	<20	<20	<20
6707	65	206	65	161
6710	33	54	33	49
6711	<20	<20	<20	<20
6713	<20	43	<20	41
6714	264	735	264	741
6716	<20	28	<20	48
6718	66	137	67	122
6720	62	161	62	158
6721	89	199	90	192
6722	463	785	462	782
6725	639	1,358	637	1,160
6726	20	73	20	62
6728	291	573	290	505
6740	139	238	139	229
6743	361	700	360	595
6751	58	181	57	205
6753	129	339	128	379
6754	<20	95	<20	110
6758	<20	<20	<20	<20
6760	20	34	20	32
6765	193	411	193	392

	FTB(A) customers		FTB(B) customers	
Postcode	Sole Parent	Total	Sole Parent	Total
6770	242	454	241	433
6798	<20	144	<20	106
6799	<20	72	<20	61
invalid	71	287	64	180

Western Australia: Carer Respite Services

(Question No. 1248)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to federally-funded carer support and emergency respite services available in Western Australia:

(1) What is the number of facilities in each of the financial years 1999-2000 to 2004-05, including the facilities that ceased operating.

(2) What is the total amount of funding received in each of the financial years 1999-2000 to 2004-05.

(3) What is the location of each facility in each of the financial years 1999-2000 to 2004-05, including the facilities that ceased operating.

(4) What is the number of clients each facility assisted in each of the financial years 1999-2000 to 2004-05.

(5) What statistical information is collected by the department regarding carers under the age of 18 in Western Australia.

(6) (a) What specific services are available to young people who are carers in Western Australia; and (b) can details be provided of the services that are available.

(7) What statistical information is collected by the department regarding carers over the age of 65 in Western Australia.

Senator Patterson—The answer to the honourable senator's question is as follows:

The majority of Australian Government funded carer respite services are supported through the Department of Health and Ageing. The Family and Community Services portfolio funds Respite for Carers of Young People with Severe and Profound Disabilities, and Respite Services for Young Carers. Through this portfolio the Australian Government has offered funds on a matched basis to State and Territory governments for Respite Care for Older Carers. Under the Commonwealth State and Territory Disability Agreement, the Australian Government contributes funding to State and Territory governments to provide services to people with disabilities and their carers, which may include respite care. The answers provided below relate to the Respite for Carers of Young People with Severe and Profound Disabilities and Respite Services for Young Carers programmes only.

(1)

1990-00	2000-01	2001-02	2002-03	2003-04	2004-05
9	9	9	9	9	9

(2)

	1990-00	2000-01	2001-02	2002-03	2003-04	2004-05
Respite for Carers of Young People with severe or profound disabilities	$378,566	$452,795	$473,199	$406,457	$415,399	$422,045
Young Carers 'at risk'	_	_	_	_	_	$147,085

(3) East Perth, Myaree, Bunbury, Kalgoorlie, Spencer Park, Port Hedland, Broome, Geraldton, Northam.

(4) Data provided by the Commonwealth Carer Respite Centres to the Department of Health and Ageing on the number of clients assisted in each facility is not disaggregated by each facility. Through the Minimum Data Set, information is collected on the number of carers and care recipients assisted with respite. Data for the Respite for Carers of Young People with Severe or Profound Disabilities and the Young Carers 'at risk' programme is not separately identified.

(5) and (7) Family and Community Services and Department of Health and Ageing commissions the Australian Institute of Health and Welfare (AIHW) to coordinate the Commonwealth State Territory Disability Agreement National Minimum Data Set collection (CSTDA NMDS). Each year the AIHW reports on disability services provided or funded under the CSTDA, including data relating to service users, their characteristics, their informal carers, patterns of service usage and information on the service outlets providing disability services (including respite services). Data on people receiving carer-related payments from Centrelink is collected quarterly.

(6) The Respite for Carers of Young People with Severe or Profound Disabilities Programme provides immediate and short-term respite to carers of young people with severe or profound disabilities whose needs are not being met through existing state/territory government or other Australian Government initiatives. The programme is delivered nationally through a network of around 60 (2004-05) Carer Respite Centres funded by the Commonwealth Department of Health and Ageing. Funding is provided to purchase, organise and coordinate respite care assistance that is tailored to the individual needs of carers and those for whom they care.

The Young Carers 'at risk' Respite Programme provides respite services to young carers at risk of leaving school before completing secondary education. Under this programme the young carers can access up to five hours of at home respite per week during the school term to complete secondary or vocational equivalent education and two-week blocks of respite to undertake activities such as study for exams, training or recreation.

Compliance Reviews

(Question No. 1249)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the 2004-05 Budget measure entitled 'Compliance Reviews – Expand Data-Matching':

(1) For each of the financial years 2000-01 to 2003-04, how many reviews of income support payments through data-matching of job placement records held by the Department of Employment and Workplace Relations (DEWR) with Centrelink customer records were carried out.

(2) For each of the financial years 2000-01 to 2003-04, can the outcomes of these reviews be provided, in terms of: (a) the number of reviews which resulted in no change to the payment; (b) the number of reviews which resulted in a reduction to the payment; and (c) the number of reviews which resulted in an increase to the payment.

(3) (a) For each of the financial years 2000-01 to 2003-04, what was the departmental cost of these reviews; and (b) what administered savings were attributed to these reviews.

(4) (a) How many reviews of income support payments through data-matching of job placement records held by DEWR with Centrelink customer records were carried out in the 2004-05 financial year; and (b) can the outcome of these reviews be provided, in terms of: (i) the number of reviews which resulted in no change to the payment, (ii) the number of reviews which resulted in a reduction to the payment, and (iii) the number of reviews which resulted in an increase to the payment.

(5) What was the departmental cost of these reviews in the 2004-05 financial year.

(6) What administered savings were attributed to these reviews in the 2004-05 financial year.

(7) In the context of the costing of this budget measure, for each of the financial years 2004-05 to 2007-08, what is the assumed average cost of each additional review.

(8) In the context of the costing of this budget measure, for each of the financial years 2004-05 to 2007-08, what were the assumed outcomes of the reviews, in terms of: (a) the number of reviews which will result in no change to the payment; (b) the number of reviews which will result in a reduction to the payment; and (c) the number of reviews which will result in an increase to the payment.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(2) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(3) (a) Centrelink advise that information relating to Departmental costs referred to in the honourable senator's question is not recorded separately from other similar activities.

(b)

	2000/01	2001/02	2002/03	2003/04
Actual Admin. Savings	$8.626m	$9.798m	$13.961m	$24.244m

(4) (a) and (b) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(5) Centrelink advise that information relating to Departmental costs referred to in the honourable senator's question is not recorded separately from other similar activities.

(6) This information is not readily available and would take a significant resource commitment to provide.

(7) The costing does not go down to the level of individual reviews. It is based on the numbers of reviews and includes additional funding for other processes such as debts raising.

(8) For each year 25,000 reviews to be completed. It is estimated that (a) 23,150 would have no change to the payment. (b) 1,850 would incur a reduction in rate of payment and (c) it was not anticipated that any cases would result in an increase in the rate of payment.

Family Tax Benefit

(Question No. 1250)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to Family Tax Benefit (FTB) Part A payment:

(1) For each of the financial years 2001-02 to 2004-05: (a) what is the total number of clients in receipt of a FTB Part A payment; (b) how many clients were in receipt of the maximum FTB Part A payment; (c) how many clients were in receipt of a FTB Part A payment that was less than the maximum and above the base rate; (d) how many clients were in receipt of the base rate FTB Part A payment; and (e) how many clients were in receipt of a FTB Part A payment that was less than the base rate.

(2) For the purposes of costing the 2005 Budget measure to increase FTB Part A thresholds: in each of the financial years 2005-06 to 2008-09, what are: (a) the assumed total numbers of clients who will

receive FTB Part A payment; (b) the assumed numbers of clients who will receive the maximum FTB Part A payment; (c) the assumed numbers of clients who will receive a FTB Part A payment less than the maximum rate and above the base rate; (d) the assumed numbers of clients who will receive the base rate FTB Part A payment; and (e) the assumed numbers of clients who will receive a FTB Part A payment less than the base rate.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) The table below shows the number of customers in receipt of FTB Part A for each of the financial years 2001-02 to 2004-05 by payment type.

FTB (A) Fortnightly Instalment Customers by Payment Type

FTB (A) payment type	2001-02 As at 28/06/2002	2002-03 As at 27/06/2003	2003-04 As at 25/06/2004	2004-05 As at 24/06/2005
(a) Total	1,795,355	1,783,423	1,809,122	1,828,495
(b) Maximum Rate	620,354	615,207	615,831	610,995
(c) Broken Rate	431,552	427,482	423,531	536,838
(d) Basic Rate	708,709	701,280	721,391	617,879
(e) Tapered Base Rate	34,233	39,277	46,968	62,549
Unknown	507	177	1,401	234

(2) The FTB (A) population projections are usually extrapolated from trends in existing numbers. The details of costing methodologies are Cabinet-in-Confidence and cannot be provided.

Rent Assistance

(Question No. 1251)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the payment of rent assistance:

(1) Why is rent assistance not identified as a line item in the department's Portfolio Budget Statements, along with other payments, e.g. carer allowance.

(2) Is the cost of rent assistance incorporated into the line item of other payments; if so, which payments.

(3) For each of the financial years 2000-01 to 2004-05, how many clients were in receipt of rent assistance.

(4) For each of the financial years 2000-01 to 2004-05, how many clients were in receipt of rent assistance and each of the following payments: (a) Age Pension; (b) Disability Support Pension; (c) Newstart Allowance; (d) Parenting Payment; (e) Carer Payment; (f) Carer Allowance; (g) Youth Allowance; and (h) Family Tax Benefit.

(5) For each of the financial years 2000-01 to 2004-05, what was the average rent assistance paid to clients in receipt of each of the following payments: (a) Age Pension; (b) Disability Support Pension; (c) Newstart Allowance; (d) Parenting Payment; (e) Carer Payment; (f) Carer Allowance; (g) Youth Allowance; and (h) Family Tax Benefit.

(6) For each of the financial years 2000-01 to 2004-05: (a) how many reviews were carried out on rent assistance payments, and can the outcome of those reviews be provided (i.e. the number resulting in no change, the number resulting in a reduction in payment and the number resulting in an increase in payment); and (b) can details be provided of that review process.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) Rent Assistance does not have a separate appropriation but forms part of the payment with which it is made. Expenditure on Rent Assistance is included in the line items for those payments.

(2) Yes. Within the FaCS' portfolio Rent Assistance is now incorporated into the line items for the following payments:

- Family Tax Benefit A
- Age Pension
- Bereavement Allowance
- Carer payment
- Special Benefit
- Widow B pension
- Wife Pension (Age)
- Wife Pension (DSP)

Rent Assistance is also included in line items for:

- Disability Support Payment
- Mature Age Allowance
- Newstart Allowance
- Parenting Payment Partnered
- Parenting Payment Single
- Partner Allowance (Benefit)
- Partner Allowance (Pension)
- Sickness allowance
- Widow Allowance
- Youth Allowance

These payments are now managed within the Employment and Workplace Relations portfolio except for Youth Allowance (students) which is managed within the Education, Science and Training portfolio. Expenditure on Rent Assistance is incorporated into the line items for those portfolios.

(3) It is estimated that 1,443,876 individuals were entitled to Rent Assistance at some time during the 2003-04 financial year and 1,487,664 in 2004-05. No comparable information is available about the total number of individuals paid Rent Assistance in other financial years. Programme monitoring is focussed on the number of income units, which may be individuals or families, receiving assistance at a particular time rather than over a period of time. The average number of income units assisted each fortnight from 2000-01 to 2004-05 was:

2000-01	2001-02	2002-03	2003-04	2004-05
960,769	967,603	930,859	937,669	952,791

(4) No information is available about the total number of individuals who may have received both Rent Assistance and one of the listed payments at some time during a financial year. The following table shows the number of individuals paid Rent Assistance in the previous fortnight who were entitled to Family Tax Benefit (FTB) or one of the relevant payments at a date in June each year. Rent Assistance is not payable as part of Carer Allowance and no standard reports identify Carer Allowance recipients who also receive Rent Assistance.

Payment type	June 2001	June 2002	June 2003	June 2004	June 2005
Age Pension	178,894	178,009	187,227	194,730	203,051
Disability Support Pension	156,928	157,600	162,023	169,856	175,714
Newstart Allowance	200,937	184,712	174,088	167,307	155,388
Parenting Payment	257,494	245,657	245,311	251,272	255,872
Carer Payment	10,299	11,475	13,077	14,779	17,213
Carer Allowance	Not available	Not available	Not available	Not available	Not available
Youth Allowance	92,493	91,943	89,823	89,142	84,686
Family Tax Benefit	359,472	345,358	342,653	347,850	370,214

(5) No information is available about the average amount of Rent assistance paid to individuals during a financial year. The following table shows the average amount of Rent Assistance paid in the previous fortnight to individuals who were entitled to FTB or one of the relevant payments at a date in June each year. Rent Assistance is not paid as part of Carer Allowance. No standard reports identify Carer Allowance recipients paid Rent Assistance.

Payment type	June 2001	June 2002	June 2003	June 2004	June 2005
Age Pension	$53.13	$56.18	$57.95	$59.68	$61.51
Disability Support Pension	$63.57	$68.02	$70.51	$73.03	$75.92
Newstart Allowance	$58.13	$62.14	$64.21	$66.21	$68.70
Parenting Payment	$82.47	$85.20	$87.83	$90.76	$93.69
Carer Payment	$58.75	$62.45	$64.40	$66.32	$69.16
Carer Allowance	Not available	Not available	Not available	Not available	Not available
Youth Allowance	$52.37	$55.50	$57.51	$59.71	$62.33
Family Tax Benefit	$79.72	$82.76	$85.32	$88.08	$90.17

(6) (a) The number of reviews conducted each financial year, and the outcome of those reviews is set out in the following table.

Year	Reviews Completed	Outcome of Rent Assistance review		
		No change in payment	Reduction in payment	Increase in payment
2000-01	355,921	229,307	96,963	29,651
2001-02	692,702	426,107	173,430	93,165
2002-03	948,288	710,676	149,952	87,660
2003-04	976,330	757,191	155,530	63,609
2004-05	755,638	556,382	134,958	64,298

(b) Centrelink conducts two types of Rent Assistance reviews.

The first type of review is targetted at Rent Assistance recipients in informal renting arrangements. In general, Rent Assistance recipients are required to provide evidence of the amount of rent they pay. Rent Assistance recipients who have not provided a copy of a tenancy agreement are reviewed every six months. They are sent a review form, commonly referred to as a rent certificate, which can be signed by the landlord as verification of their rental obligations. If the landlord does not agree to sign the form, or if the tenant is concerned about possible discrimination, the customer may provide a declaration of their liability and supporting evidence such as receipts or bank statements.

The second type of review is targetted at Rent Assistance recipients thought to be at risk of incorrect payment for other reasons. An example would be where Centrelink records show another person has moved to the same address as an existing Rent Assistance recipient. In these

cases both occupants would have their entitlement reviewed at the same time to ensure that the individual rent liabilities are consistent with the total rent charged for the property.

Age and Service Pensions

(Question No. 1252)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005

With reference to the 2005-06 Budget measure entitled 'Age Pension and Service Pension Registers – improved integrity':

(1) Why do the figures for this measure in the department's Portfolio Budget Statement differ from the figures for the same measure in Budget Paper No. 2 (p. 159), even allowing for the inclusion of Department of Veterans' Affairs (DVA) funding.

(2) What are the assumptions behind the departmental costs and administered savings relating to this measure.

(3) For each of the financial years 2005-06 to 2008-09: (a) how many customers are assumed to have their payment reduced as a result of this measure; (b) what is the assumed average amount of the reduction in each year; and (c) how many customers are assumed to have their payment cancelled as a result of this measure.

(4) (a) Why are the savings predominantly in the first year; and (b) does this represent the numbers of clients who are currently in the system and who are assumed to be claiming payments from both Centrelink and DVA.

(5) Currently, how many clients are assumed to be claiming payments from both Centrelink and DVA.

(6) Do the savings in subsequent years represent the numbers of new clients who will attempt to claim payments from both Centrelink and DVA.

(7) When did the department first become aware that some people were claiming payments from both Centrelink and DVA.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) The discrepancy between the figures for the measure in the Family and Community Services Portfolio Budget Statement and Budget paper No. 2 for 2005-06 is due to an oversight. The figures in Budget Paper No. 2 do not take departmental expenses for 2005-06 into account.

(2) The Departmental costs reflect the expected cost that will be incurred by FaCS and Centrelink in the implementation of this measure. The administered savings are based on there being approximately 410,000 customers on the Department of Veterans' Affairs (DVA) register. It has been assumed that 30% or 123,000 customers will also have a Centrelink record. Of the 30% of customers who have a record on both registers, 2 percent or 2,460 will be claiming a payment from both Centrelink and DVA in 2005-06. In addition, it has been assumed that approximately 1 percent or 20 of these cases will be due to an identity fraud.

(3) In each of the financial years 2005-06 to 2008-09 it is assumed that there will be no rate reductions. The savings for these years is based on the assumption that the daily matching of the identity registers will prevent approximately 200 incorrect payments in each year.

(4) (a) The savings arise predominantly in the first year from the full matching of the DVA and Age Pension registers. (b) Yes.

(5) It has been assumed that there are 2,460 clients who are claiming payments from both Centrelink and DVA in 2005-06.

(6) The savings in subsequent years are based on the assumption that the daily matching of the identity registers will prevent approximately 200 incorrect payments in 2006-07 and each future year.

(7) People claiming payments from both Centrelink and DVA is a long-standing risk which has previously been managed through the raising and recovery of debts. The measure 'Age Pension and Service Pension Registers – improved integrity' should prevent the occurrence of this type of debt in the future.

Incorrect Payment and Fraud Detection

(Question No. 1253)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the 2000-01 Budget measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Detection':

(1) For each of the financial years 2000-01 to 2003-04: (a) what were the estimated departmental costs associated with this measure; and (b) what were the estimated administered savings associated with this measure.

(2) For each of the financial years 2000-01 to 2004-05: (a) what were the actual departmental costs associated with this measure; (b) what were the actual administered savings associated with this measure; (c) how many customers had their payment reduced as a result of this measure; (d) what was the average amount of the reduction in each year; and (e) how many customers had their payment cancelled as a result of this measure.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) (a)

	2000/01	2001/02	2002/03	2003/04
Estimated Dept. Costs	$12.035m	$11.451m	$11.137m	$8.408m

(b)

	2000/01	2001/02	2002/03	2003/04
Estimated Admin. Savings	$25.949m	$42.476m	$40.330m	$39.399m

(2) (a) Centrelink advise that information relating to Departmental costs referred to in the honourable senator's question is not recorded separately from other similar activities.

(b)

	2000/01	2001/02	2002/03	2003/04
Actual Admin. Savings	$18.583m	$38.819m	$41.582m	$41.185m

(c) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(d) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(e) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

Compliance Package—Detection

(Question No. 1254)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the 2001-02 Budget measure entitled 'Compliance Package – Detection':

(1) For each of the financial years 2001-02 to 2004-05: (a) what were the estimated departmental costs associated with this measure; (b) what were the actual departmental costs associated with this measure; (c) what were the estimated administered savings associated with this measure; (d) what were the actual administered savings associated with this measure; (e) how many customers had their payment reduced as a result of this measure; (f) what was the average amount of the reduction in each year; and (g) how many customers had their payment cancelled as a result of this measure.

(2) How does this measure differ from the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Detection', given that both claim to generate savings by improved data-matching between government agencies and tip-offs from the public.

(3) How are the costs and savings generated by this measure different from the costs and savings identified for the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Detection'.

(4) Are the costs and savings of this measure in addition to the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Detection'.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) (a)

	2001/02	2002/03	2003/04	2004/05
Estimated Dept. Costs	$9.380m	$8.184	$4.631m	$4.681m

(b) Centrelink advise that information relating to Departmental costs referred to in the honourable senator's question is not recorded separately from other similar activities.

(c)

	2001/02	2002/03	2003/04	2004/05
Estimated Admin Savings	$27.658m	$45.041m	$38.973m	$37.362m

(d)

Actual Admin. Savings	$28.159m	$45.478m	$39.468m	$unknown

(e) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(f) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(g) Centrelink advise that this information is not readily available and would take a significant resource commitment to provide.

(2) This measure differs from the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Detection' because it provided additional resources to meet an increased number of tip-offs, and it provided for access to additional sources of data for data matching.

(3) The costs for this measure are different from the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud - Detection' as they relate to the costs of accessing addi-

tional data sources. The savings differ from the 2000-01 measure due to the variation in the ratio of the payment types reviewed.

(4) Yes.

Incorrect Payment and Fraud—Research and Development Projects

(Question No. 1255)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the 2000-01 Budget measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Research and Development Projects':

(1) For each of the financial years 2000-01 to 2003-04: (a) what were the estimated departmental costs associated with this measure; and (b) what were the estimated administered savings associated with this measure.

(2) For each of the financial years 2000-01 to 2004-05: (a) what were the actual departmental costs associated with this measure; (b) what were the actual administered savings associated with this measure; (c) how many customers had their payment reduced as a result of this measure; (d) what was the average amount of the reduction in each year; and (e) how many customers had their payment cancelled as a result of this measure.

(3) Can a list of the feasibility studies carried out as a result of this measure be provided, including: (a) the date each commenced and finished; (b) the cost of each study; (c) a description of each project; and (d) the result of its evaluation after the first 12 months.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) (a)

	2000/01	2001/02	2002/03	2003/04
Estimated Dept. Costs	$4.695m	$2.454m	$0.588m	$0.001m

(b)

	2000/01	2001/02	2002/03	2003/04
Estimated Admin. Savings	$18.615m	$19.563m	$7.266m	$0.942m

(2) (a) Centrelink advise that information relating to Departmental costs referred to in the honourable senators question is not recorded separately from other similar activities.

(b)

	2000/01	2001/02	2002/03	2003/04
Actual Admin. Savings	$6.433m	$7.896m	$4.724m	not avail.

(c)

	2000/01	2001/02	2002/03	2003/04
Number of payment reductions	1,211	855	149	0

(d) This information is not readily available and would take a significant resource commitment to provide.

(e)

	2000/01	2001/02	2002/03	2003/04
Number of cancellations	363	347	205	0

(3) Health Insurance Commission (HIC) compensation data matching pilot

(a) Commencement 1 October 2000 Finish Date 31 September 2002.

(b) Cost of study not available

(c) A feasibility study to match data from the Health Insurance Commission (compensation records) to detect instances of customers with undisclosed compensation payments.

(d) The feasibility study generated savings of $4.2 million in the first year.

Immigration, Multicultural and Indigenous Affairs (DIMIA) matching, interagency pilot

(a) Commencement 1 July 2000 Finish Date 30 June 2002.

(b) Cost of study $475,540 over 2 years

(c) A feasibility study with DIMIA records to detect instances of customers ineligible for Family Tax Benefit due to residency.

(d) The feasibility study generated savings of $354,000 in 2000/01.

Australian Taxation Office (ATO) Undisclosed Annuities and Superannuation pilot

(a) Commencement 1 July 2000 Finish Date 30 June 2002.

(b) Cost of study $885,250 over 2 years.

(c) A feasibility study with the ATO Annuities and Superannuation records to detect cases of undisclosed superannuation assets.

(d) The feasibility study generated savings of $619,000 in 2000/01.

Australian Taxation Office (ATO) Reasonable Benefits limit

(a) Commencement 1 July 2000 Finish Date 30 June 2002.

(b) Cost of study $989,820 over 2 years.

(c) A feasibility study with the ATO offices Reasonable Benefit records data to detect cases of under declared/undeclared lump sum superannuation payments.

(d) The feasibility study generated savings of $197,000 in 2000/01.

Compliance Package—Research and Development

(Question No. 1256)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005

With reference to the 2001-02 Budget measure entitled 'Compliance Package – Research and Development':

(1) For each of the financial years 2001-02 to 2004-05: (a) what were the estimated departmental costs associated with this measure; (b) what were the actual departmental costs associated with this measure; (c) what were the estimated administered savings associated with this measure; (d) what were the actual administered savings associated with this measure; (e) how many recipients had their payment reduced as a result of this measure; (f) what was the average amount of the reduction in each year; and (g) how many recipients had their payment cancelled as a result of this measure.

(2) How does this measure differ from the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Research and Development Projects', given that both claim to generate savings through feasibility studies in data-matching and inter-agency activities.

(3) How are the costs and savings generated by this measure different from the costs and savings identified for the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Research and Development Projects'.

(4) Are the costs and savings of this measure in addition to the 2000-01 measure entitled 'Measures to Improve Control of Incorrect Payment and Fraud – Research and Development Projects'.

(5) Can a list of the feasibility studies carried out as a result of this measure be provided, including: (a) the date each commenced and finished; (b) the cost of each study; (c) a description of the project; and (d) the result of its evaluation in the second year.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) (a)

	2001/02	2002/03	2003/04	2004/05
Estimated dept. costs	$6.909m	$1.418m	0	0

(b) The information relating to departmental costs referred to in the honourable senator's question is not recorded separately from other similar measures

(c)

	2001/02	2002/03	2003/04	2004/05
Estimated Admin. Savings	$10.132m	$11.162m	$1.093m	$0

*Note: Measure was for two years only, with some residual savings expected in the third year.

(d)

	2001/02	2002/03	2003/04	2004/05
Actual Admin. Savings	$5.878m	$12.467m	Not available	0

(e)

	2001/02	2002/03	2003/04	2004/05
How many customers were reduced?	988	546	0	0

(f) The average reduction rate for the measure is not readily available and would take a significant resource commitment to provide.

(g)

	2001/02	2002/03	2003/04	2004/05
How many payments were cancelled?	586	293	0	0

(2) Both measures identify new avenues of compliance activity and improve control of incorrect payments. They differ in that they match against different sources of data.

(3) The savings and cost methodologies for both measures are similar but the number of cases for review in each measure was different.

(4) Yes

(5) Data matching with Australian Tax Office (ATO) Pay-As-You-Go data

(a) Commencement 1 July 2001 Finish Date 30 June 2003

(b) $2,140,735 over 2 years.

(c) The objective of the feasibility study with the ATO PAYG records was to detect cases of Centrelink customers with undisclosed and/or undeclared income from employment or investments.

(d) It identified savings of $8.2m in 2002/3.

Data matching with Australian Tax Office Australian Business Number (ABN) data.

(a) Commencement 1 July 2001 Finish Date 30 June 2003

(b) $1,223,059 over 2 years.

(c) The objective of the feasibility study with the ATO Australian Business Register (ABR) Australian Business Number data to detect cases of undisclosed and/or undeclared income from business activities.

(d) It identified savings of $1.6m in 2002/03.

Private Trusts and Companies

(Question No. 1257)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

Budget measure entitled 'Assessment of Income and Assets Held in Trusts and Private Companies':

(1) For each of the financial years 2004-05 to 2007-08, what are the estimated administered savings relating to the inclusion of income and assets held in trusts and private companies in the means test for pensions and allowances.

(2) In the 2004-05 financial year, how many people receiving a pension or allowance have income and assets held in trusts and private companies.

(3) For each of the financial years 2005-06 to 2007-08, what is the estimated number of claims involving income and assets from trusts and companies that will be assessed as a result of this measure.

(4) In the context of the estimated future savings from this measure, for each of the financial years 2005-06 to 2007-08: (a) what is the estimated number of recipients who will have their payment reduced as a result of this measure; and (b) what is the estimated number of recipients who will have their payment cancelled as a result of this measure.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) Please refer to page 74 of the Family and Community Services Portfolio Budget Statements 2004-05. There are no administered savings associated with the Budget measure entitled 'Assessment of Income and Assets Held in Trusts and Private Companies' for the financial years 2004-05 to 2007-08.

The additional departmental funding provided under this measure is to help ensure that the overall savings related to the original measure 'Revised Means Test Treatment of Private Trusts and Companies' are realised. The estimated administered savings of the original measure were published on page 163 of the Family and Community Services Portfolio Budget Statements 2000-01.

(2) This information is not readily available from Centrelink systems.

(3) It was estimated that for each year, 37,000 new claims involving income and assets from trusts and companies will be assessed as a result of this measure.

(4) (a) The additional departmental funding provided under this measure is to help ensure that the overall savings related to the original measure 'Revised Means Test Treatment of Private Trusts and Companies' are realised. There are no reductions to be attributed to this budget measure. (b) The additional departmental funding provided under this measure is to help ensure that the overall savings related to the original measure 'Revised Means Test Treatment of Private Trusts and Companies' are realised. There are no cancellations to be attributed to this budget measure.

Private Trusts and Companies

(Question No. 1258)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the 2000-01 Budget measure entitled 'Revised Means Test Treatment of Private Trusts and Companies':

(1) For each of the financial years 2000-01 to 2003-04: (a) what were the estimated departmental costs associated with this measure; and (b) what were the estimated administered savings associated with this measure.

(2) For each of the financial years 2000-01 to 2004-05: (a) what were the actual departmental costs associated with this measure; (b) what were the actual administered savings associated with this measure; (c) how many claims involving income and assets from trusts and companies were assessed as a result of this measure; (d) how many recipients had their payment reduced as a result of this measure; (e) what was the average amount of the reduction in each year; and (f) how many recipients had their payment cancelled as a result of this measure.

(3) What is the rationale for including income and assets held in, or derived from, private trusts and companies in the income and asset tests for social security payments.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) (a) The estimated departmental costs associated in this measure were published on page 163 of the Family and Community Services Portfolio Budget Statements 2000-01. They were:

2000-01	2001-02	2002-03	2003-04
$31.233m	$40.465m	$9.894m	$8.329m

A further $7.781m was provided for 2003-04 in the Family and Community Services Portfolio Additional Estimates Statements 2003-04 (page 72).

(b) The estimated administered savings associated in this measure were published on page 163 of the Family and Community Services Portfolio Budget Statements 2000-01. They were:

2000-01	2001-02	2002-03	2003-04
$9.050m	$78.216m	$136.539m	$140.971m

(2) (a) Centrelink systems cannot report on actual expenditure at this level of detail for this period. (b) Actual administered savings associated with this measure for each of the financial years 2000-01 to 2004-05 are:

2000-01	2001-02	2002-03	2003-04
$9.65m	$78.40m	$118.96m	$122.48m

Savings generated in 2000-01 before the commencement of the new rules relate to an associated compliance project that was agreed and funded as part of the measure. Administered savings for 2004-05 are not yet available.

(c) Claims involving income and assets from trusts and companies assessed as a result of this measure for each of the financial years 2001-02 to 2004-05 were:

2001-02	2002-03	2003-04	2004-05
15,915	36,693	31,236	38,236

There were no claims assessed for 2000-01, as the new rules did not commence until 1 January 2002.

(d) The number of recipients who had their payment reduced as a result of this measure for each of the financial years 2000-01 to 2003-04 is not available. Centrelink systems were unable to disaggregate between cancellations and reductions prior to the introduction of a new computer system for recording the outcomes of review activity in 2004-05.

For 2004-05, the number was 4,304. Note that this figure is obtained from all reviews of private trusts and companies.

(e) The average amount of the reduction for each of the financial years 2000-01 to 2003-04 is not available. Centrelink systems were unable to disaggregate between cancellations and reductions prior to the introduction of a new computer system for recording the outcomes of review activity in 2004-05.

For 2004-05, the average amount was $1,741.40.

(f) The number of recipients who had their payment cancelled as a result of this measure for each of the financial years 2000-01 to 2003-04 is not available. Centrelink systems were unable to disaggregate between cancellations and reductions prior to the introduction of a new computer system for recording the outcomes of review activity in 2004-05.

For 2004-05, the number was 290. Note that this figure is obtained from all reviews of private trusts and companies.

(3) The social security trust and companies rules that were introduced on 1 January 2002 ensure that customers who control income and assets in private trusts and companies receive similar treatment to customers who receive income and own assets directly. It is reasonable that people who control significant assets and income in private trusts and private companies should use those assets and income to support themselves before accessing taxpayer-funded social security entitlements.

Under the means test rules in force prior to 1 January 2002, assets and income of private trusts and companies may not have been attributed to a person even though that person may have been the source of the funds and/or had effective control over the assets and income. This often meant that these people were treated more favourably than others with similar assets and income but held directly in their own names.

For example, if a couple owned a business that they operated as a partnership, their share of the business assets and income would be directly assessed against them for social security purposes. The same customers with their business assets held in a private trust or private company, may have been able to arrange the business affairs so as to have little or none of the business income and assets assessed against them.

Health Care Cards

(Question Nos 1259 and 1260)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 26 September 2005:

With reference to the impact of the budget measure to increase the threshold for the Family Tax Benefit on the cost of the health care concession cards:

(1) In the context of costing this impact for each of the financial years 2005-06 to 2008-09: (a) what are the assumed numbers of people who will become eligible for a health care concession card; (b) what is the assumed cost in each financial year of these people becoming eligible for the health care concession card; and (c) what is the assumed average per capita cost for each financial year of the health care concession cards.

(2) For which concessions are health care concession card holders eligible.

Senator Patterson—The answer to the honourable senator's question is as follows:

(1) (a) Around 40,000 families will become eligible for a health care card (HCC) under the measure, commencing from 1 July 2006.

(b) Australian Government costs will be $101.32m in 2006-07, $109.43m in 2007-08 and $116.38m in 2008-09.

(c) Australian Government per capita costs will be $666.03 in 2006-07, $717.54 in 2007-08 and $768.95 in 2008-09.

(2) HCC holders (and in some instances their dependants) may receive the following Australian Government concessions:

- pharmaceuticals listed on the Pharmaceutical Benefits Scheme (PBS) at the concessional rate; and free PBS prescriptions through the PBS Safety Net, after receiving 54 PBS scripts in the 2006 calendar year, 56 scripts in 2007 or 58 scripts in 2008;
- bulk-billed GP appointments, at the discretion of the doctor (the Government provides financial incentives for GPs to bulk-bill concession card holders);
- a reduction in the cost of out-of-hospital medical expenses above a concessional threshold, through the extended Medicare Safety Net.

In some instances, additional health, household, transport, education and recreation concessions may be offered by some state/territory and local governments and private providers. However these providers offer these concessions at their own discretion, and their availability may vary from state to state.

People who automatically qualify for a HCC as Sickness Allowees can also receive:

- certain Australian Government hearing services;
- free mail redirection from Australia Post, for a period of up to 12 months.

Sea Lions

(Question No. 1264)

Senator Siewert asked the Minister for the Environment and Heritage, upon notice, on 29 September 2005:

With reference to the exemption of the western rock lobster fishery from export controls under the Environment Protection and Biodiversity Conservation Act 1999, the listing of the Australian sea lion (Neophoca cinerea) as a threatened species under the Act, the placing by the Western Australian Minister for Fisheries (Mr Ford) of a moratorium on the proposed installation of sea lion excluder devices in the pots used in this fishery and the continuing unnecessary mortality of this species:

(1) Is the Minister aware that such excluder devices exist and provide an inexpensive method of excluding sea-lions from craypots.

(2) What action does the Minister plan to take to address this issue.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) I am aware that excluder devices are being trialled by the Department of Fisheries, Western Australia (DFWA) to determine their efficacy at minimising Australian sea lion interactions and to monitor their effect on rock lobster landings by fishers. I note that those trials are ongoing.

(2) The Western Rock Lobster Fishery management arrangements were accredited for the purposes of Part 13 of the Environment Protection and Biodiversity Conservation Act 1999 (the Act) in July 2002. A recommendation was made for ongoing monitoring of sea lion interactions and implementation of appropriate mitigation measures in a timely manner should interactions significantly increase. No such increase in sea lion interactions has been reported.

Reassessment of the Western Rock Lobster Fishery is scheduled for 2007. However, the Department of the Environment and Heritage (DEH) is currently negotiating with the DFWA to coordinate an early re-assessment under the Act to coincide with the Marine Stewardship Council (MSC) re-accreditation process early in 2006. The issue of sea lion interactions and Part 13 accreditation will be closely examined during the re-assessment process.

Sea Lions

(Question No. 1271)

Senator Bob Brown asked the Minister for the Environment and Heritage, upon notice, on 29 September 2005:

With reference to the support by the South Australian Department of Primary Industries and Resources (PIRSA) for a large abalone farm adjacent to one of the world's greatest sea lion colonies at West Waldegrave Island Conservation Park, near Elliston:

(1) Have any conservation organisations made representations to the Minister requesting that the Government intervene to protect the colonies of sea lions.

(2) Given its responsibilities under the Environment Protection and Biodiversity Conservation Act 1999, did PIRSA contact the department requesting an assessment of the likely impact of the development on West Waldegrave Island on species listed under the Act.

(3) Has the department carried out any such assessment, whether in response to an approach by PIRSA or other representations; if so, did the assessment consider whether the abalone farm would threaten the survival of this species of sea lion.

(4) If the impact upon sea lions was considered, did the assessment take into account the effects of: (a) the possible entanglement from buoy lines and structures; (b) the disturbance to nearby island wildlife colonies, particularly during the pupping season; (c) habitat degradation, including the impact upon the food supply of the sea lions; and (d) the impact of wastes released by the abalone farm.

(5) Given that an assessment was made, was the development approved; if so, what conditions were imposed.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) Yes.

(2) No.

(3) A referral has not been made under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), therefore no assessment has taken place under Parts 7 or 8 of the EPBC Act.

(4) and (5) No formal assessment has taken place as the matter has not been referred under the EPBC Act and therefore no approval has been granted.

Road Accidents

(Question Nos 1275 and 1276)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 5 October 2005:

(1) Since 21 June 2004, how many road accidents have occurred in Australia.

(2) How many of these accidents resulted in one or more fatalities.

(3) How many of these accidents resulted in one or more persons suffering some form of permanent injury.

(4) What is the estimated total cost of these accidents.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) The ATSB only collects data on road accidents involving fatalities and serious injuries.

(2) From 22 June 2004 to 31 August 2005, there were 1730 fatal road crashes in Australia resulting in 1913 fatalities.

(3) Data on persons seriously injured in road crashes are currently available up to June 2003 only. The ATSB has no data on levels of impairment due to injury in a road crash.

(4) The ATSB has no data on the cost of these road accidents. Only estimates of annual costs of road crashes are available. The latest available estimate is $16 billion for 1996 (1996 dollars) by the Bureau of Transport Economics.

Iraq

(Question No. 1294)

Senator Nettle asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 October 2005:

With reference to the answer to question on notice no. 28, provided to the Foreign Affairs, Defence and Trade Legislation Committee during estimates hearings on 1 and 2 June 2005 regarding Mr Ahmed Aziz Rafiq:

(1) How many Australians are detained by any force in Iraq.

(2) For each of the Australians detained in Iraq, can details be provided on the following: (a) who is detaining them; (b) where are they being detained and how is this known; (c) when was the Government notified of their detention; (d) what is the legal basis of their detention; (e) have they been charged; if not, when will they be charged; if so, what were the charges; (f) have they been, or is there any intention, to transfer them to detention in Guantanamo Bay; (g) what steps has the Government taken to secure their release; (h) how many consular visits have they received and when were the visits; if there were no visits, why; (i) have any of them appeared before a court; if not, when are they scheduled to do so; (j) do they have legal representation; (k) have their families been notified of their imprisonment; (l) will their families be provided with government assistance to obtain legal advice and support to facilitate answering charges or obtain release; and (m) have they been visited by representatives of the Red Cross.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) One.

(2) (a) Patriotic Union of Kurdistan (PUK).

(b) Northern Iraq. PUK and ICRC authorities confirmed the location.

(c) The ICRC notified the Australian Embassy in Amman of the man's detention by way of a Third Person Note received on 30 November 2004.

(d) Understand the man is being held on security related issues.

(e) Understand the man has not been charged. The Embassy in Baghdad continues to seek further information from the PUK and Iraqi authorities on the circumstances of the man's detention and its legal basis.

(f) Not aware of any intention to transfer the man to Guantanamo Bay.

(g) Our Embassy continues to seek further information on the circumstances of the man's detention and ensure his welfare is protected. The Department has also contacted PUK and Kurdi-

stan Regional Government (KRG) representatives in Australia to obtain further information. The head of Consular Branch also raised our concerns with the Iraqi Ambassador.

(h) Communication difficulties and the security environment have hampered our efforts to establish reliable contact with PUK authorities and arrange a consular visit. The Embassy continues to pursue this.

(i) Not aware that the man has appeared before a court or whether a court date has been scheduled.

(j) Not aware whether the man has legal representation.

(k) Yes.

(l) The family is able to apply for financial assistance through Special Circumstances (Overseas) Scheme managed by the Attorney-General's Department.

(m) Yes.

Parliament House: Energy Conservation
(Question No. 1309)

Senator Bob Brown asked the President, upon notice, on 13 October 2005:

(1) For each year since Parliament House opened in 1988, how much electricity has been used: (a) in Parliament House; and (b) in the Senate, and, in each case, what has been the cost.

(2) Since 1998, what electrical energy conservation measures have been initiated: (a) for Parliament House; and (b) for the Senate.

(3) When were these initiatives implemented and with what outcome.

The President—The answer to the honourable senator's question is as follows:

(1) The following table shows the amount of electricity in kilowatt hours (kWhrs) and the cost of electricity used in Parliament House since the building was opened in 1988. We are unable to provide figures for Senate electricity consumption as the Senate is not metered separately.

Financial Year	Electricity Consumption (kWhrs)	Cost
1988/1989	43,306,684	$3,095,781
1989/1990	37,822,381	$2,851,426
1990/1991	35,105,846	$2,891,373
1991/1992	33,488,603	$2,871,097
1992/1993	32,845,474	$2,978,598
1993/1994	31,528,675	$2,910,136
1994/1995	30,296,098	$2,769,676
1995/1996	29,127,500	$2,765,186
1996/1997	29,407,577	$2,618,048
1997/1998	28,754,428	$1,851,095
1998/1999	29,129,805	$1,780,965
1999/2000	28,356,692	$1,812,439
2000/2001	28,503,767	$1,962,330
2001/2002	27,241,054	$1,902,063
2002/2003	27,064,716	$1,903,932
2003/2004	27,767,628	$2,207,771
2004/2005	25,339,491	$2,198,900

(2) The following table lists the major electrical energy conservation measures that have been implemented since 1988. Measures that affected Senate electricity consumption have been noted.

Conservation measure	Description	Senate Impact	Financial year implemented
Fine tuning of air conditioning systems.	The entire air conditioning system was fine tuned. In the process some hundreds of construction defects or omissions were identified. Examples include: excess air flow; insufficient air flow; no heating; no thermostatic control; and heating permanently on. Start/stop times for the air conditioning plant were adjusted so that the air conditioning only ran when required.	Yes.	1990-1991.
Variable speed drives for air conditioning fans.	Variable speed drives were installed to give much greater energy efficiency at lower air flows.	Yes.	1996-1997.
Direct digital controllers modifications.	The air conditioning systems at Parliament House are controlled by Direct Digital Controllers. The software has been completely rewritten to eliminate some initial problems and to reduce energy consumption. The new software also makes much greater use of outside air for free cooling.	Yes.	1994-1995.
Variable air volume project.	The volume and temperature of the air supplied to each suite is controlled by a variable air volume box. The controls for all of these boxes have been upgraded from the existing pneumatic controls to electronic controls. The electronic controls enable air conditioning to be shut down when the suites are unoccupied. The thermostats in Senators' and Members' offices are fitted with an override button that enables the suite air conditioning to be run after hours.	Yes.	The project was implemented in six stages between 1997-1998 and 2004-2005.
Supplementary air conditioning units.	A number of small supplementary air conditioning units have been installed to cool small rooms containing heat-generating equipment. Prior to the installation of these supplementary units some of the main building air conditioning units had to be run 24 hours a day to provide cooling to these rooms. With the supplementary units installed energy savings can be achieved by turning off the main air conditioning system after hours.	Yes.	Chamber control rooms; 1993-1994. Satellite stations; 1992-1993. Media air conditioning; 1993-1994. Air fans control rooms; 1998-1999. Media monitoring rooms; 1995-1996. Telecom rooms; 1993-1994.

Conservation measure	Description	Senate Impact	Financial year implemented
Rectification of chilled water flow problems.	Originally one of the large chillers had to be run continually because there were flow problems in the chilled water system that prevented the small chiller from running in times of low load. The reason for this was that there were an excessive number of bypass flows in the chilled water system and a number of leaking valves. Once these problems were rectified it was possible to run the small chiller during the winter months. Running the small chiller instead of one of the large chillers resulted in reductions in chiller energy consumption during winter—estimated at 30%.	Yes.	1992-1993.
Chiller Sequencing.	The original chiller sequencing program was found to be unreliable and chiller faults were commonplace. For example, starting chillers unnecessarily and incurring high monthly charges. A new chiller program was written which selects the most efficient chiller combination.	Yes.	1992-1993.
Carbon monoxide control of car park fans.	Carbon monoxide sensors have been installed in the Senate, House of Representatives and Public car parks and all car park exhaust fans have been fitted with variable speed drives. Instead of running the car park exhaust fans continually at full speed the fan speeds are reduced when the level of carbon monoxide is low.	Yes.	Senate car park; 1995-1996. House of Representatives car park; 1996-1997. Public car park; 1995-1996.
Lighting.	A number of modifications have been made to the lighting in order to reduce energy consumption. Reduced wattage globes have been installed in some areas. In other areas more energy efficient light fittings have been installed. Lighting time blocks have been modified and external lighting is now controlled by light sensors. Occupancy sensors have been installed in some areas to turn off lights when the area is not occupied.	Yes.	Installation of low wattage lamps; 1991-1992. Upgrade light sensors and change time blocks; 1994-1995. Toilet light fitting replacement; 2003-2004. Basement light fitting replacement; 2004-2005.
Gas Fired Steam Generator.	Originally there were a number of electric steam generators that supplied steam to the kitchens. These steam generators were replaced with a central gas fired steam generator. The new gas fired steam generator is more economical to run and generates significantly less greenhouse gas emissions.	No.	2001-2002.

Conservation measure	Description	Senate Impact	Financial year implemented
Utilisation of waste heat from the computer room to heat the swimming pool.	The swimming pool requires 40kW of electric heating 24 hours a day to warm the pool water. A heat exchanger system was installed to transfer heat from the basement computer room to the swimming pool water. This system provides backup air conditioning for the computer room and free heating for the swimming pool.	No.	2002-2003.

(3) Implementation dates are included in the table above. We are unable to provide details on reductions as we do not meter separately.