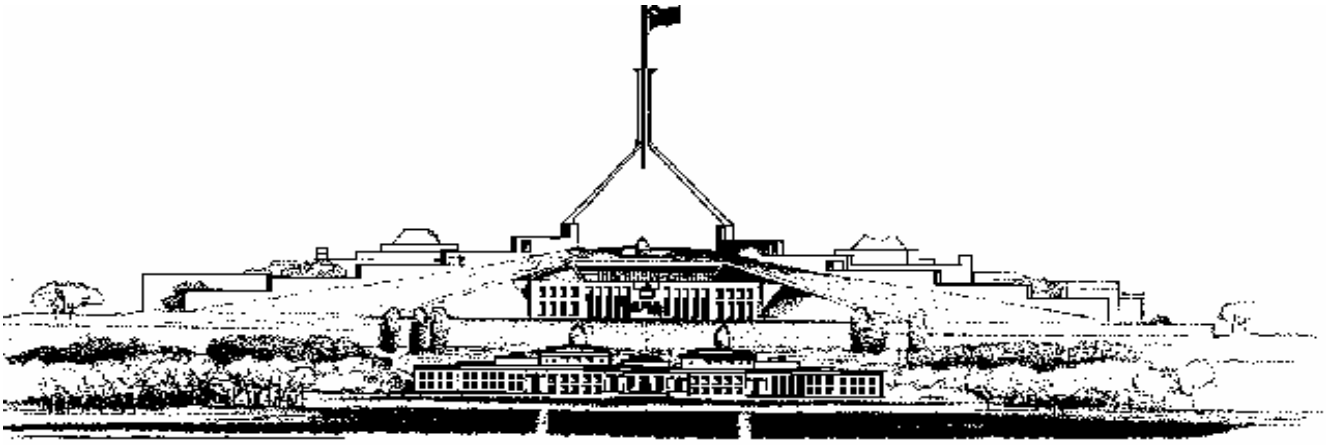
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 8, 2006

THURSDAY, 17 AUGUST 2006

FORTY-FIRST PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

BY AUTHORITY OF THE SENATE

INTERNET

The Journals for the Senate are available at
http://www.aph.gov.au/senate/work/journals/index.htm

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at
http://www.aph.gov.au/hansard

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

SITTING DAYS—2006

Month	Date
February	7, 8, 9, 27, 28
March	1, 2, 27, 28, 29, 30
May	9, 10, 11
June	13, 14, 15, 16, 19, 20, 21, 22, 23
August	8, 9, 10, 14, 15, 16, 17
September	4, 5, 6, 7, 11, 12, 13, 14
October	9, 10, 11, 12, 16, 17, 18, 19
November	6, 7, 8, 9, 27, 28, 29, 30
December	4, 5, 6, 7

RADIO BROADCASTS

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

CANBERRA	103.9 FM
SYDNEY	630 AM
NEWCASTLE	1458 AM
GOSFORD	98.1 FM
BRISBANE	936 AM
GOLD COAST	95.7 FM
MELBOURNE	1026 AM
ADELAIDE	972 AM
PERTH	585 AM
HOBART	747 AM
NORTHERN TASMANIA	92.5 FM
DARWIN	102.5 FM

FORTY-FIRST PARLIAMENT
FIRST SESSION—SEVENTH 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. Nicholas Hugh Minchin

Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan

Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. 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. Nicholas Hugh Minchin

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan

Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell

Deputy Leader of The Nationals—Senator the Hon. 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 Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston

Nationals Whip—Senator Nigel Gregory Scullion

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

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate

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
Bernardi, Cory[5]	SA	30.6.2008	LP
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
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	LP
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, Hon. 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.
(5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, 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	The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House	The Hon. Anthony John Abbott MP
Attorney-General	The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council	Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House	The Hon. Peter John McGauran MP
Minister for Immigration and Multicultural Affairs	Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women's Issues	The Hon. Julie Isabel Bishop MP
Minister for Families, Community Services and Indigenous Affairs Minister Assisting the Prime Minister for Indigenous Affairs	The Hon. Malcolm Thomas Brough MP
Minister for Industry, Tourism and Resources	The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service	The Hon. Kevin James Andrews MP
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate	Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and 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. Eric Abetz
Minister for the Arts and Sport	Senator the Hon. Charles Roderick Kemp
Minister for Human Services and Minister Assisting the Minister for Workplace Relations	The Hon. Joseph Benedict Hockey MP
Minister for Community Affairs	The Hon. John Kenneth Cobb MP
Minister for Revenue and Assistant Treasurer	The Hon. Peter Craig Dutton MP
Special Minister of State	The Hon. Gary Roy Nairn MP
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister	The Hon. Gary Douglas Hardgrave MP
Minister for Ageing	Senator the Hon. Santo Santoro
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. Bruce Frederick Billson MP
Minister for Workforce Participation	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration	Senator the Hon. Richard Mansell Colbeck
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Robert Charles Baldwin MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence	Senator the Hon. John Alexander Lindsay (Sandy) Macdonald
Parliamentary Secretary (Trade)	The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs	The Hon. Andrew John Robb MP
Parliamentary Secretary to the Prime Minister	The Hon. Malcolm Bligh Turnbull 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 to the Minister for Agriculture, Fisheries and Forestry	The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training	The Hon. Patrick Francis Farmer MP
Parliamentary Secretary (Foreign Affairs)	The Hon. Teresa Gambaro MP

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 Ageing, 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 Minister for Citizenship and Multicultural Affairs	Senator Annette Hurley
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

CONTENTS

THURSDAY, 17 AUGUST

CONTENTS—*continued*

CONTENTS—*continued*

CONTENTS—*continued*

Thursday, 17 August 2006

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

PETITIONS

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

Asylum Seekers

To the Honourable Members of the Senate,

The petition of the undersigned to the Honourable President and Members of the Senate in Parliament shows:

The petitioners believe in the rights of all children;

The petitioners call on you to reject the proposed new changes to Australia's refugee laws, and to ensure no child who comes to Australia seeking asylum is put into detention.

by **Senator Bob Brown** (from 102,325 citizens).

Military Detention: Australian Citizens

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

The Petition of the undersigned draws to the attention of the Senate the continuing operation of the United States military detention facility at Guantanamo Bay. This facility exists in contravention of international law and has been widely condemned by the leaders of other Western nations, the United Nations, respected jurists and religious leaders. The recent decision to release 134 detainees following a review by the US Department of Defense, 119 to their countries of citizenship, further highlights the illegitimacy of the facility's operation.

Your petitioners believe:

(a) the United States' military detention facility at Guantanamo Bay exists in a jurisdictional

(b) those suspected of any crime, including terrorist-related offences, have a right to a fair trial, to allow them an opportunity to defend all charges against them;

(c) South Australian David Hicks has been detained at Guantanamo Bay for more than four years, and it is unlikely he will be repatriated by the Australian Government in the foreseeable future, despite the repatriation of the citizens of nearly every other Western nation;

(d) in the absence of any effort to ensure the human rights of detainees, and following allegations of outright violations of these rights, the facility must be closed.

Your petitioners therefore request the Senate urge the Government to support calls for the military detention facility at Guantanamo Bay to be closed.

by **Senator Stott Despoja** (from 3,416 citizens).

Pregnancy Counselling Services

The petition of the undersigned to the Honourable President and Members of the Senate in Parliament shows:

Women are entitled to protection from deceptive advertising and misleading information, and have the right to know if they are contacting an anti-choice pregnancy counselling service.

Please move to regulate pregnancy counselling immediately and ensure Government-funded counsellors provide objective and truthful information about all available pregnancy options.

by **Senator Stott Despoja** (from 15,390 citizens).

Petitions received.

NOTICES

Presentation

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

That there be laid on the table by the Minister representing the Minister for Health and Ageing (Senator Santoro), no later than the end of question time on 4 September 2006, the report on developments in assisted reproductive technology prepared for the Government by Matthews Pegg Consulting Pty Ltd.

Senator WATSON (Tasmania) (9.31 am)—On behalf of the Standing Committee

on Regulations and Ordinances, and following receipt of a satisfactory response on behalf of the Regulations and Ordinances Committee, I give notice that, at the giving of notices on the next day of sitting, I shall withdraw business of the Senate notice of motion No. 1 standing in my name for five sitting days after today for the disallowance of the Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2006 (No. 1). I seek leave to incorporate in *Hansard* the committee's correspondence concerning these regulations.

Leave granted.

The correspondence read as follows—

Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2006 (No. 1), Select Legislative Instrument 2006 No. 3

30 March 2006

Senator the Hon Eric Abetz

Minister for Fisheries, Forestry and Conservation

Suite M1.17

Parliament House

CANBERRA ACT 2600

Dear Minister

I refer to the Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2006 (No. 1), Select Legislative Instrument 2006 No. 3. These Regulations specify a levy for licences granted or renewed in the Torres Strait Prawn Fishery.

The Committee notes that section 17 of the Legislative Instruments Act 2003 directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken particularly where a proposed instrument is likely to have an effect on business. Section 18 of the Act provides that in some circumstances consultation may be unnecessary or inappropriate. The definition of 'explanatory statement' in section 4 of the Act requires an explanatory statement to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken. The Explanatory Statement that accompanies this Determination makes no reference to consultation. The Committee therefore seeks your advice on whether consultation was undertaken and, if so, the nature of that consultation.

The Committee also seeks an assurance that future explanatory statements will provide information on consultation as required by the Legislative Instruments Act.

The Committee would appreciate your advice on the above matter as soon as possible, but before 5 May 2006, 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

_____

22 June 2006

Senator John Watson

Chairman

Senate Standing Committee on Regulations and Ordinances

Parliament House

CANBERRA ACT 2600

Dear Senator Watson

Thank you for your letter of 30 March 2006 (ref: 46/2006) regarding the Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2006 (No. 1), Select Legislative Instrument 2006 No. 3. I regret the delay in responding.

With respect to Standing Committee's question regarding consultation, I advise that on 13 January 2005 the Australian Fisheries Management Authority (AFMA) wrote to all members of the Torres Strait Prawn Working Group (the Working Group). The Working Group is part of the Protected Zone Joint Authority formal consultative structure.

The letter outlined proposed changes to the levy arrangements in the Torres Strait Prawn Fishery and invited comments on the proposals. The Working Group includes members of the Torres Strait Prawn Entitlement Holders Association—the industry body representing operators in the Torres Strait Prawn Fishery. The letter was copied

to all licence holders and to the state industry peak body, the Queensland Seafood Industry Association. No responses to this correspondence were received.

Officers from my Department have spoken to the Committee Secretariat to clarify how information in the Explanatory Statement could have been better presented to inform the Standing Committee on how Section 17 of the Legislative Instruments Act 2003 requirements were met in this instance. My Department advises that the outcomes of this discussion have been reported to AFMA to avoid future misunderstanding.

I trust that the above information satisfactorily addresses the Committee's concerns.

Yours sincerely

Eric Abetz

Minister for Fisheries, Forestry and Conservation

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 am)—I move:

That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

No. 6 Trade Marks Amendment Bill 2006.

No. 7 Australia-Japan Foundation (Repeal and Transitional Provisions) Bill 2006.

No. 8 Therapeutic Goods Amendment Bill (No. 3) 2006.

No. 9 Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006.

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 am)—I move:

That the order of general business for consideration today be as follows:

(1) general business notice of motion no. 501 standing in the name of Senator Stephens relating to inflation and the economy; and

(2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

The following item of business was postponed:

General business notice of motion no. 490 standing in the name of Senator Bartlett for today, relating to the importation of illegal timber and wood products, postponed till 4 September 2006.

RETAIL DEVELOPMENT AT SYDNEY AIRPORT

Senator NETTLE (New South Wales) (9.33 am)—I move:

That the Senate—

(a) notes:

(i) that Sydney Airports Corporation Limited plans to build a massive 50 400 square metre retail development on airport land,

(ii) that non-aeronautical development at Sydney Airport is currently exempt from state and local planning laws,

(iii) the concern of local councils, businesses and residents about the adverse effects of this development on their communities and local businesses,

(iv) that the amended major development plan has been sent directly to the Minister for consideration without renewed public consultation, and

(v) similar concerns are being expressed by the community regarding non-aeronautical developments at other airports around Australia; and

(b) calls on the Government to:

(i) direct Sydney Airports Corporation Limited to undertake another round of consultation with the community and

other stakeholders before the amended plan is considered by the Minister, and

(ii) ensure that the legislative response to the review of the Airports Act 1996 includes removing the exemption from state and local government planning laws for non-aeronautical development and ensure that such development is subject to relevant state and local planning laws to ensure appropriate consultation, development and public accountability.

Question put.

The Senate divided. [9.38 am]

(The President—Senator the Hon. Paul Calvert)

Ayes……	8
Noes……	51
Majority……	43

AYES

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

NOES

Adams, J.	Barnett, G.
Bernardi, C.	Bishop, T.M.
Boswell, R.L.D.	Brandis, G.H.
Brown, C.L.	Calvert, P.H.
Campbell, G.	Chapman, H.G.P.
Colbeck, R.	Ellison, C.M.
Ferguson, A.B.	Ferris, J.M. *
Fierravanti-Wells, C.	Fifield, M.P.
Forshaw, M.G.	Heffernan, W.
Hogg, J.J.	Humphries, G.
Hurley, A.	Hutchins, S.P.
Johnston, D.	Joyce, B.
Kirk, L.	Ludwig, J.W.
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.
Patterson, K.C.	Payne, M.A.
Polley, H.	Ray, R.F.
Ronaldson, M.	Scullion, N.G.
Sherry, N.J.	Stephens, U.
Sterle, G.	Troeth, J.M.
Trood, R.	Watson, J.O.W.
Webber, R.	Wong, P.
Wortley, D.	

* denotes teller

Question negatived.

Senator O'BRIEN (Tasmania) (9.41 am)—by leave—The opposition did not support that motion, although we agree with many parts of it. We proposed an amendment to clause (b)(ii) in relation to the powers of the Commonwealth and Commonwealth land. In the absence of an agreement on that, we were forced to vote no.

BRICKWORKS DEVELOPMENT AT PERTH AIRPORT

Senator SIEWERT (Western Australia) (9.41 am)—by leave—I, and also on behalf of Senator Mark Bishop, Senator Chris Evans, Senator Sterle, Senator Webber and Senator Murray, move the motion as amended:

That the Senate—

(a) notes:

(i) that on 15 August 2006 the Minister for Transport and Regional Services approved a major brickworks on Commonwealth land at Perth Airport,

(ii) that non-aeronautical development at Perth Airport is currently exempt from state and local planning laws,

(iii) that there is evidence that the Swan Valley air-shed already contains concentrations of acid gases from existing brickworks which are impacting on the health of surrounding residents,

(iv) the concern of local councils, businesses, residents and the State Government about the adverse effects of this development on their communities and health,

(v) that the Environmental Assessment Report tendered by the Department of the Environment and Heritage identi-

fies serious deficiencies in the BGC (Australia) Pty Ltd proposal, and

(vi) the slipshod approach the Minister for Transport and Regional Services has taken to the exercise of his sole power of control on airport planning; and

(b) calls for:

(i) a comprehensive assessment of airborne pollution in the Swan Valley airshed and the impact of this pollution on the health of local residents prior to any commencement of work on the brickworks, and

(ii) the proponent to be required to address the serious deficiencies in the proposal, as identified by the Department of the Environment and Heritage.

Question put.

The Senate divided. [9.46 am]

(The President—Senator the Hon. Paul Calvert)

Ayes……	31
Noes……	34
Majority……	3

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Brown, C.L.	Campbell, G. *
Faulkner, J.P.	Forshaw, M.G.
Hogg, J.J.	Hurley, A.
Hutchins, S.P.	Kirk, L.
Ludwig, J.W.	Marshall, G.
McEwen, A.	McLucas, J.E.
Milne, C.	Moore, C.
Murray, A.J.M.	Nettle, K.
O'Brien, K.W.K.	Polley, H.
Ray, R.F.	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.	Bernardi, C.
Boswell, R.L.D.	Brandis, G.H.
Calvert, P.H.	Campbell, I.G.
Chapman, H.G.P.	Coonan, H.L.
Eggleston, A.	Ellison, C.M.
Ferguson, A.B.	Ferris, J.M. *
Fierravanti-Wells, C.	Fifield, M.P.
Humphries, G.	Johnston, D.
Joyce, B.	Lightfoot, P.R.
Macdonald, I.	Macdonald, J.A.L.
Mason, B.J.	McGauran, J.J.J.
Nash, F.	Parry, S.
Patterson, K.C.	Payne, M.A.
Ronaldson, M.	Santoro, S.
Scullion, N.G.	Troeth, J.M.
Trood, R.	Watson, J.O.W.

PAIRS

Carr, K.J.	Minchin, N.H.
Conroy, S.M.	Vanstone, A.E.
Crossin, P.M.	Kemp, C.R.
Evans, C.V.	Colbeck, R.
Lundy, K.A.	Heffernan, W.

* denotes teller

Question negatived.

MR DAVID HICKS

Senator STOTT DESPOJA (South Australia) (9.50 am)—by leave—I move the motion as amended:

That the Senate—

(a) notes:

(i) the comments by the Attorney-General (Mr Ruddock) on 14 August 2006 that: '[David Hicks' repatriation] should happen as quickly as possible' and 'Were that not to be the case, we would be seeking his return in the same way we did with Mamdouh Habib... I would never benchmark myself but I do note that the United States…wants to have the matters that Congress has to deal with resolved before it rises for the mid-term election, which suggests November', and

(ii) that South Australian David Hicks has now spent more than four and a half years in detention in Guantanamo Bay; and

(b) calls on the Federal Government to lobby for David Hicks' immediate trial or repatriation.

Question put.

The Senate divided. [9.51 am]

(The President—Senator the Hon. Paul Calvert)

Ayes……	31
Noes……	34
Majority……	3

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Brown, C.L.	Campbell, G. *
Faulkner, J.P.	Forshaw, M.G.
Hogg, J.J.	Hurley, A.
Hutchins, S.P.	Kirk, L.
Ludwig, J.W.	Marshall, G.
McEwen, A.	McLucas, J.E.
Milne, C.	Moore, C.
Murray, A.J.M.	Nettle, K.
O'Brien, K.W.K.	Polley, H.
Ray, R.F.	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.	Bernardi, C.
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.	Ferris, J.M. *
Fierravanti-Wells, C.	Fifield, M.P.
Humphries, G.	Johnston, D.
Joyce, B.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Minchin, N.H.
Nash, F.	Parry, S.
Patterson, K.C.	Payne, M.A.
Ronaldson, M.	Santoro, S.
Scullion, N.G.	Troeth, J.M.
Trood, R.	Watson, J.O.W.

PAIRS

Carr, K.J.	Campbell, I.G.
Conroy, S.M.	Vanstone, A.E.
Crossin, P.M.	Kemp, C.R.
Evans, C.V.	Macdonald, I.
Lundy, K.A.	Heffernan, W.

* denotes teller

Question negatived.

STUDENT SERVICES

Senator NETTLE (New South Wales) (9.54 am)—I move:

That the Senate—

(a) notes:

(i) that the University of Sydney has to step in to spend $30 million over 3 years to preserve student services supplied by student organisations,

(ii) that this decision may mean that construction of research facilities at the University of Sydney will be delayed, and

(iii) despite this injection of much needed funds, there will still be an $18 million shortfall in funding for student services at the university over the next 3 years; and

(b) calls on the Government to amend the Higher Education Support Act 2003 to allow universities to charge compulsory fees to students so students can provide the full range of student services that make up the 'rich student experience' that the Vice Chancellor of the University of Sydney is attempting to preserve with this payment.

Question put.

The Senate divided. [9.55 am]

(The President—Senator the Hon. Paul Calvert)

Ayes……	8
Noes……	57
Majority……	49

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

Abetz, E.	Adams, J.
Barnett, G.	Bernardi, C.
Bishop, T.M.	Boswell, R.L.D.
Brandis, G.H.	Brown, C.L.
Calvert, P.H.	Campbell, G.
Chapman, H.G.P.	Colbeck, R.
Coonan, H.L.	Eggleston, A.
Ellison, C.M.	Faulkner, J.P.
Ferguson, A.B.	Ferris, J.M. *
Fierravanti-Wells, C.	Fifield, M.P.
Forshaw, M.G.	Hogg, J.J.
Humphries, G.	Hurley, A.
Hutchins, S.P.	Johnston, D.
Joyce, B.	Kirk, L.
Lightfoot, P.R.	Ludwig, J.W.
Macdonald, J.A.L.	Marshall, G.
Mason, B.J.	McEwen, A.
McGauran, J.J.J.	McLucas, J.E.
Minchin, N.H.	Moore, C.
Nash, F.	O'Brien, K.W.K.
Parry, S.	Patterson, K.C.
Payne, M.A.	Polley, H.
Ray, R.F.	Ronaldson, M.
Santoro, S.	Scullion, N.G.
Sherry, N.J.	Stephens, U.
Sterle, G.	Troeth, J.M.
Trood, R.	Watson, J.O.W.
Webber, R.	Wong, P.
Wortley, D.	

* denotes teller

Question negatived.

IMMIGRATION: BUSINESS SPONSORED VISAS

Senator WORTLEY (South Australia) (9.59 am)—I move:

That there be laid on the table by the Minister for Immigration and Multicultural Affairs (Senator Vanstone), no later than 10 am on 4 September 2006, the report on T&R Pastoral and its employment of workers on subclass 457 visas prepared by the Department of Immigration and Multicultural Affairs, which included an investigation, in the form of a labour survey carried out by the Meat Industry Training Advisory Council, and any other related documentation.

Question negatived.

INTERNATIONAL DAY OF PEACE

Senator MOORE (Queensland) (10.00 am)—I, and also on behalf of Senator Allison, move:

That the Senate—

(a) notes that:

(i) on 7 September 2001, the United Nations (UN) General Assembly declared that the International Day of Peace should be observed annually on the fixed date of 21 September, as a day of global ceasefire and non-violence, and

(ii) UN Secretary General Kofi Annan has repeatedly urged member states of the UN to support the observance of a global ceasefire on the day, arguing that a global ceasefire would:

(A) provide a pause for reflection by the international community on the threats and challenges faced,

(B) offer mediators a building block towards a wider truce, as has been seen in nations such as Ghana and Zambia,

(C) encourage those involved in violent conflict to reconsider the wisdom of further violence,

(D) provide relief workers with a safe interlude for the provision of vital services and the supply of essential goods,

(E) allow freedom of movement and information, which is particularly beneficial to refugees and internally-displaced persons, and

(F) relieve those embroiled in violent conflict from the daily burden of fear for their own safety and the safety of others;

(b) supports the Australian organisations that intend to hold vigils, concerts and walks on 21 September 2006, in Melbourne, Sydney, Adelaide, Darwin and Brisbane; and

(c) calls on the Government to actively support the principles of the International Day of Peace on 21 September.

Question agreed to.

MIGRATION LEGISLATION AMENDMENT (RETURN TO PROCEDURAL FAIRNESS) BILL 2006

First Reading

Senator BARTLETT (Queensland) (10.00 am)—I move:

That the following bill be introduced:

A Bill for an Act to restore the application of common law natural justice to the Migration Act 1958, and for related purposes.

Question agreed to.

Senator BARTLETT (Queensland) (10.01 am)—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 BARTLETT (Queensland) (10.01 am)—I move:

That this bill be now read a second time.

I seek leave to table the explanatory memorandum and have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

MIGRATION LEGISLATION AMENDMENT (RETURN TO PROCEDURAL FAIRNESS) BILL 2006

This Private Senator's Bill is one of a series of Migration Bills which I will introduce over the course of this parliamentary year.

The aim of these Bills is to provide a roadmap for what needs to be done to reverse the many negative provisions that have been introduced into the Migration Act 1958 over the last fifteen years which have undermined the rule of law and restricted or removed the rights of refugees, asylum seekers and migrants.

This bill repeals provisions of the Migration Act 1958 inserted by the Migration Legislation Amendment (Procedural Fairness) Act 2002. The fundamental concern that the Democrats have with the Act is that it removes the well established common law principles of natural justice and replaces that with inadequate codes of procedure.

The code of procedure scheme which is established in the sections of the Migration Act does not wholly duplicate the existing common law principles. In fact the Minister's second reading speech during debate on the 2002 bill also conceded that the code of procedure did not provide the full protection of the common law requirements of the natural justice hearing rule.

The problem with this is the flow-on effect that applicants will only be entitled to "second rate" natural justice. These concerns are even greater given the removal of an applicant's right to judicial review also imposed by the Migration Legislation Amendment (Judicial Review) Act 2001 which was passed by the major parties in the Senate. We do not believe further restrictions are desirable or justified.

We believe that the provisions in the Migration Act has reduced the accountability of decision makers and led to poorer decisions. It has also led to less opportunity for flawed decisions to be overturned.

The Democrats do not support measures which prevent access to review of decisions and seek to repeal these provisions. I commend this bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Publications Committee

Report

Senator WATSON (Tasmania) (10.02 am)—On behalf of the Publications Committee, I present 14th report of the committee.

Ordered that the report be adopted.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator SCULLION (Northern Territory) (10.02 am)—On behalf of the Community Affairs, Economics, Finance and Public Administration Legislation Committee and the Rural and Regional Affairs and Transport Legislation Committee, I present additional information received by the committees relating to hearings on the 2005-06 additional and budget estimates and the 2006-07 budget estimates.

TRANSPARENT ADVERTISING AND NOTIFICATION OF PREGNANCY COUNSELLING SERVICES BILL 2005

Report of Community Affairs Legislation Committee

Senator HUMPHRIES (Australian Capital Territory) (10.03 am)—I present the report of the committee on the provisions of the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator HUMPHRIES—I move:

That the Senate take note of the report.

This inquiry has been one of a series of difficult inquiries conducted by the Community Affairs Legislation Committee in recent years. It was difficult because it blended the apparently straightforward issue of transparent advertising with the morally fraught issue of abortion. The committee attracted significant interest from the community. There were more than 6,000 contributions; most of them were in the form of email contributions, but there were many submissions as well. The committee travelled to Melbourne, Sydney and Adelaide to take evidence and also held a public hearing in Canberra.

The report which I have just presented explores a variety of issues that were raised in the evidence that the committee received. As senators will see, the committee has divided on the issues presented in the report, in particular on whether the bill which is the subject of the report should be supported by the Senate. The majority position is that the bill should be rejected. There are a variety of reasons for coming to this view. Essentially, the majority of the committee viewed the bill as having a number of significant flaws. Those flaws may be discussed at greater length if and when this bill is brought on for debate, but I want to touch on a few of them now.

There was significant concern on the part of the committee majority about the constitutionality of the bill; that is, whether the parliament has the power to pass a bill which effects these changes to the law. I understand that Senator Barnett will speak at greater length on that issue.

The report highlights a series of problems with terminology used in the bill. For example, the term ‘referrals’ in clause 6 of the bill presented a particular problem. The bill requires that a pregnancy counselling service that does not provide so-called ‘referrals’ for termination of pregnancy must include in the advertising and notification material for that service a statement that it does not do so. It was pointed out to the committee that there is considerable difference in the way in which the term ‘referral’ is used here and the way it might be used with reference to the services provided by a doctor. The term ‘non-directive’ also gave witnesses some concern. The term is used widely in health and counselling services around the country, but it is used in a different sense in the bill, at least on the evidence of some witnesses, to that used in the sector.

The proponent of this bill claims that the bill imposes on the sector rules which apply in the course of trade and commerce; that is, things which apply in the general community are made to apply to this sector. But I think this approach is a troubling one when it applies to a sector which offers services based on the work of volunteers. There is an imposition of commercial requirements in this bill backed by massive fines imposed on organisations which are largely staffed and operated by volunteers.

The bill purports to offer a balanced approach, one which is even-handed. It says that the law applies to everybody, irrespective of their particular service in the community. As I heard the evidence in this inquiry, a famous phrase from Anatole France sprang to mind:

> The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread.

This bill purports to be even-handed, but it dramatically affects one part of the pregnancy counselling services much more than others.

Where is the equivalent requirement for pregnancy counselling services with financial links to abortion clinics to declare that fact? Where is the requirement for such services to declare that they do not offer, for example, information about adoption? That is missing from this legislation. There is a provision in clause 7 of the legislation to ban a pregnancy counselling service which does not 'refer for abortions', using the language of the bill—even one which openly declares that fact, pursuant to the legislation—and prohibits that service from advertising its services in the 24-hour help section of the telephone directory. That is utterly outrageous. These services have a right to provide information to women. It is the impression of the majority of the committee that what this legislation does is to target services which do that without making referrals for abortion. In the interests of providing other senators with time to speak, I intend to close my remarks here.

Senator CAROL BROWN (Tasmania) (10.09 am)—I rise to speak on the minority report on the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005, which recommends that the bill passes the Senate. The intent of the bill is clear. The bill is straightforward and balanced. The overriding purpose of the bill is to 'prohibit misleading and deceptive advertising and notification of pregnancy counselling services'. The bill aims to ensure that all advertising is truthful. The legislation is not about the services that a pregnancy counselling service can or cannot provide. It does not force any counselling service to provide services over and above those they currently offer.

What it does is to say that all advertising of pregnancy counselling services must be truthful. It does not force, as was claimed by some organisations and individuals, a pregnancy counsellor to participate in an illegal act. It does not force pregnancy counselling services to provide referrals for abortion. It will not force pregnancy counselling services to close or restrict their business. What this legislation will do is to force all pregnancy counselling services to ensure that all advertising material is truthful. The bill is not trying to tell volunteers at pregnancy counselling services to change anything that they currently are doing.

The bill simply requires that any organisation that advertises itself as a pregnancy counselling service does so truthfully, and that is, after all, what this bill hinges upon: the issue of truthfulness. This is a bill that states that any pregnancy counselling service's advertising be truthful as to the type of service it provides. This is a simple bill that

says that you must be truthful. If your organisation does not want to provide counselling that includes advice about termination of pregnancy as an option, then so be it. However, the bill says that you must ensure that your advertising makes it transparently clear that you do not provide that service.

There seems to me to be a fundamental principle at the heart of this bill. If you wish to offer pregnancy counselling services and do not wish to provide information about one of the three options, then there is nothing in this bill that will force you do so. By the same token, if you do not wish to provide information about an option, then you surely must be prepared to let potential clients know that. I have no doubt that all the people working in the area of pregnancy counselling are people of conviction. Based on their own values and knowledge, they provide counselling services to other people in our community without being paid for it. If people of conviction can provide these services, then surely the organisations that they work for should be organisations of conviction and ensure that all advertising of the services that they offer is truthful—nothing more, nothing less.

Senator ADAMS (Western Australia) (10.12 am)—I rise today to support the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005. The major objectives of this bill are to prohibit misleading and deceptive notification and advertising of pregnancy counselling services and to promote transparency in any advertising material. Pregnancy counselling services provide information and advice to women, especially when faced with an unplanned pregnancy, on the options available to them, generally considered to be parenting, adoption or termination. I agree with the principles underpinning this bill and the necessity for pregnancy counselling services to be open and transparent about the extent of all-options counselling that they provide.

My agreement with these principles forms the basis of my strong support for the government's intentions in relation to the introduction of the national pregnancy services telephone hotline, which will provide professional, non-directive advice. It will be a requirement for the helpline operator to provide a non-directive counselling service to assist a person to make a decision. The advice provided by the helpline will cover the full range of options available: raising a child, adoption and termination.

Throughout the inquiry, the committee was overwhelmed by the evidence presented to it either supporting or refuting a link between pregnancy termination and some alleged health risks. I was particularly concerned by some of the inaccurate and wildly exaggerated claims presented to the committee, such as that termination leads to an increased risk of breast cancer and the development of mental health problems or infertility. There is no credible scientific evidence to support these claims.

I understand that the National Breast Cancer Centre will be publishing a report refuting claims of a link between pregnancy termination and an increased risk of breast cancer. I commend this work and that of other distinguished research bodies which are working to further our knowledge and understanding of such health care matters, both domestically and internationally.

Australian women have a right to be provided with accurate, complete and scientifically proven information, regardless of whether the pregnancy counselling service they approach for assistance does or does not provide information on accessing termination services. Only information that is substantiated by credible scientific studies and reported by reputable health care organisa-

tions should be used by pregnancy counselling services when discussing the options for dealing with an unplanned pregnancy. Each option, whether it be continuing with the pregnancy and choosing to either parent or adopt out or choosing to terminate the pregnancy, brings with it associated medical risks to the woman, depending upon her particular situation. Only by providing the woman with a thorough understanding of the issues related to each option can she feel empowered to make an autonomous and informed decision about her pregnancy.

The committee heard evidence on the additional challenges faced by women living in rural, regional and remote communities who experience an unplanned pregnancy. These women are not afforded the same luxury as are their counterparts in city centres in being able to shop around for advice and support from a range of service providers. For women living in small outback communities, if their local doctor is opposed to pregnancy termination and will not provide information about accessing a termination or other family planning advice, there are often very limited opportunities for accessing alternative advice. The situation is further complicated because it can be particularly difficult to obtain confidentiality in small towns. This is why unbiased, non-directed and independent pregnancy counselling and support available through telephone help lines is so important to these women. *(Time expired)*

Senator POLLEY (Tasmania) (10.17 am)—I rise to speak on the report of the Senate Community Affairs Legislation Committee's inquiry into the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005. Pregnancy counselling services are just that: they provide counselling relating to pregnancy. This bill is about advertising and whether these service providers should be required to advertise whether they are pro-life or pro-choice. Mrs Pat Gartlan from my home state of Tasmania made the following observations in her submission to the committee:

> It is a fact that everyone is biased about all manner of topics in the sense of holding a particular view. There is no such thing as an unbiased person. However, a counsellor is trained to recognise their own attitudes and to leave them outside the counselling situation.
>
> A marriage guidance counsellor may be biased against divorce as a solution, but abide faithfully by the rules of counselling set out by the organisation.
>
> It is a matter of interest that marriage guidance counsellors are not required to state in any advertising, whether or not they are inclined to favour divorce as a solution to marital disharmony.

In another submission to the committee, Dr David van Gend said that it is inappropriate and unnecessary to force pregnancy counselling organisations to state their stance on abortion in advertising material. Logic would surely prevail in that women who are seriously set on abortion as the only course available to them would not necessarily contact a pregnancy counselling provider if alongside such a provider in the phone directory they were to find pregnancy termination services. We must remember that this issue is separate to that of abortion, but the sad fact is that many women who find themselves pregnant and thinking about abortion would not contemplate approaching a pregnancy counsellor as they may not even consider themselves to be pregnant.

Instead of focusing on the issue of whether or not a counselling service should advertise its pro-life or pro-choice persuasion, our focus would better serve Australian women if we ensured that women who do seek abortions by contacting a termination provider receive adequate counselling before and after the procedure. Pregnancy Counselling Australia commented during the hearings that the wide range of pregnancy coun-

selling services available throughout Australia cater to the differing needs of women dealing with unplanned pregnancies. This would suggest that women who have been able to find a number for a counselling service would readily be able to find a number for a termination service if that were their wish.

Among the conclusions of the committee is the point that I believe is the real issue concerning unplanned pregnancies in Australia. There should be a comprehensive approach to sex education in this country. Our aim as legislators should be to ensure that more is done to reduce the overall number of unplanned and unwanted pregnancies so that the demand for pregnancy counselling services is decreased and thus the number of abortions is drastically cut. That would be the best possible outcome for everyone. But instead we have this misguided idea that, because some counselling services are not advocating or endorsing abortion as a readily available option, they are breaking women's trust and that there needs to be legislation in place to ensure that they raise the topic of abortion.

Abortion, for all women, should be an absolute last resort. I am concerned, as I know some of my colleagues in this place are, that all too often in today's world women see abortion as a secondary form of contraceptive. This should not be the case. Abortion is not a preventative measure. Whichever way you prefer to look at it, abortion ends the life of what would otherwise have become a baby—a human life in its own right.

People have been quick to point out that this bill is not about abortion, and that is correct. However, we have not seen nearly as much focus on counselling services which do offer a multitude of advice on abortion, while failing to point out the assistance that may be available to mothers if they continue with a pregnancy, for example, or other options such as adoption. I seek leave to incorporate the rest of my speech in *Hansard*.

Leave granted.

Senator POLLEY—*The incorporated speech read as follows—*

Coming back to my point about education and prevention, a recent study in Europe found that children who discussed sex at an early age with their parents held off having sex longer than those who did not talk about the subject when they were young.

The study also found that those who learned about the birds and the bees from a young age had less sexual encounters that involved alcohol or drugs then those who had not.

While education will not prevent all unplanned pregnancies in Australia, with close to 100,000 abortions currently performed each year, it is most definitely worth looking at greater education as a solution.

The committee in its conclusions found that the community is widely in favour of transparency in advertising, but whether this extended to forcing organisations that are primarily made up of volunteers who give their own time for the betterment of women in need, I am highly doubtful.

The majority position of the committee, shared by myself, Senator Humphries and Senator Barnett, found that the evidence presented to the committee during the course of the inquiry cast doubt over the efficacy and effect of the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005.

It is my belief, and the belief of other majority Senators, that it would be irresponsible to recommend that the Senate look to pass this bill into law which could fail to apply to applicable situations.

Overall it is considered that the bill seeks to hamper efforts of those pregnancy counselling services who are offering services which offer women free and sound advice in the midst of what can be a very confusing and traumatic time. The intention of the bill to intimidate and pressure services to refer for abortion or impose specific requirements for transparency without imposing

equivalent provisions on other services, such as those linked to abortion providers, is biased in the very least.

The majority Senators are in agreement that the apparent effect of this bill would be to increase the likelihood of ready referral for abortion, and with the abortion rate in this country already at obscene levels, this is certainly something we must strive to prevent.

The fact that it was not presented throughout the committee's inquiry that there are women who want abortions but are unable to gain access also suggests that the need for this bill is unfounded.

It also reflects on the widespread community consensus, as was evident at the time the RU486 legislation was considered, that there are too many abortions in Australia.

The majority Senators believe that, rather than obstructing the work of pregnancy counselling services that seek to assist women dealing with unplanned pregnancy, by offering genuine alternatives to abortion, that the public and the Parliament should be thankful for these services which are largely carried out by a dedicated and caring bunch of volunteers.

I thank all those that provided evidence and submissions.

The committee majority therefore recommends that the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 not be supported.

Senator BARNETT (Tasmania) (10.21 am)—I stand to strongly oppose the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005. Firstly, I wish to thank the secretariat for the work that they did under difficult and challenging circumstances. I also wish to thank many of the witnesses who appeared before our committee—particularly the pregnancy counselling services which at times felt targeted and under attack. I believe those services felt at times that the services they provide to the Australian nation were in fact not valued or appreciated. I want to stand here and say that I do support them and thank them for the services that they do provide.

The net effect of the bill would be to increase the likelihood of ready referral for abortion. The bill does have a narrow focus and, in my view, it is irresponsible. Rather than the parliament obstructing the work of pregnancy counselling services, which offer an invaluable service to the community—and specifically to women in the community dealing with an unplanned pregnancy—it should be grateful for the community service performed by those organisations. As has been noted by the chairman, Senator Humphries and Senator Polley, it is my view as well that the abortion rate in this country is already at an unsatisfactorily high level of close to 100,000 abortions each year. That is unacceptable. It is certainly something that we all, in this parliament and across the community, must strive to prevent.

In my view, the legislation is also significantly and potentially constitutionally flawed. As I indicated, it unfairly targets a particular pregnancy counselling group while leaving out those linked to abortion clinics. The Commonwealth should look at ways of fostering and enhancing the work of these groups and do all it can to prevent the number of abortions in Australia rising. In terms of the majority report, a great deal of evidence was received regarding the terminology of the bill, especially the terms 'non-directive' and 'referral'. The proponent of the bill has accepted that there are, and were, serious objections to those terms and has intimated that amendments may be proposed to address these concerns.

Finally, I want to address the constitutional issues raised by the bill. It is my view that significant parts of the bill itself raise serious questions about its validity, especially in its attempt to regulate non-broadcast advertising by noncorporations which are not

engaged in interstate trade or commerce. I refer specifically to placitum (i) of section 51 of the Constitution regarding trade and commerce, and placitum (xx) of section 51 on the corporations power.

I note that the minority report even refers to advice from Mr Charles Francis, who argued in his submission:

> It ... seems to me that the requirements of the Bill in so far as it seeks to deal with those who provide counselling services free is probably beyond the constitutional powers of the Commonwealth and is a matter for the States only.

That is in the minority report. Their report then concludes:

> Mr Francis' view that this is a matter for the States is one that is definitely worth pursuing.

Maybe that is a matter for the proponent to pursue. I will leave it there and thank the Senate.

Senator NETTLE (New South Wales) (10.25 am)—Women in Australia who are pregnant, especially those who have an unplanned pregnancy, have the right to access a counselling service that will give them all-options, genuine pregnancy counselling information about all of the three options and paths that they can pursue. That is not the case currently in Australia because women do not know which services will provide them with that genuine care. The Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 seeks to address that issue by ensuring that organisations which advertise are clear and transparent about what the services are that they will provide women with. Will they provide genuine, all-options pregnancy counselling?

The Greens support this bill because we want to ensure that women who are pregnant, particularly those with an unplanned pregnancy, are able to access a service that meets their needs and is going to provide them with evidence based, medically proven information about public health issues; that is going to listen to their view; and that is going to advise them and assist them in coming to their decision. It is extraordinary that such a service does not exist in Australia. The Greens have concerns about the number of organisations that do not provide that genuine, all-options counselling.

We also have concerns about the amount of government funding that is provided to many of those organisations that are not transparent in their advertising and that do not provide women with all-options counselling. Young women at universities have asked me, 'How do I know which services are genuine?' In response, I have produced a guide which outlines which pregnancy counselling services offer genuine pregnancy counselling and which ones do not. I seek leave to table that guide here today.

Leave granted.

Senator NETTLE—It is extraordinarily important that women are able to access this information so that they can know that the services that they are calling up for advice, at a time when they really need that advice, will give them genuine counselling and will help them to decide what is a very difficult decision. *(Time expired)*

Senator STOTT DESPOJA (South Australia) (10.27 am)—I begin by thanking the members of the secretariat for their hard work, Ms Hodgkinson and Mr Humphery in particular, and thanking all my colleagues for their participation in an interesting, at times complex and often emotive inquiry, and that includes thanking the chair for his work. I introduced the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 to regulate pregnancy counselling services insofar as they would be prevented from misleading or deceptive advertising in relation to their notification of pregnancy counselling services. The bill is de-

signed to ensure that those particular organisations which do not refer for terminations declare that fact so that women seeking advice on whether to continue a pregnancy know exactly what kind of organisation they are contacting.

The urgency of this issue was highlighted only this year in March when the government announced that it would allocate $51 million over the next four years to establish a National Pregnancy Support Telephone Helpline and introduce a Medicare rebate for pregnancy counselling. Currently, in this country, there are no federal government funded, dedicated, pro-choice pregnancy counselling services, which means that no pro-choice service is able to provide a national, 24-hour pregnancy counselling helpline, and thus they are not eligible to advertise for listing in the 24-hour listings in the White Pages. The federal government must address this, at a minimum by allocating a similar, comparable amount or the same amount of money to funding a pro-choice dedicated pregnancy counselling service at least equivalent to that of the pro-life Australian Federation of Pregnancy Support Services.

Unlike organisations that charge for the services they provide and thus are subject to the Trade Practices Act, pregnancy counselling organisations are not prohibited from engaging in deceptive behaviour or misleading advertising, and this bill was designed to address that loophole. The committee heard a range of evidence, including from anti-choice pregnancy counselling services that did not support regulated, transparent advertising because they were concerned that fewer women would contact them if the women knew that they did not refer for terminations. Festival of Light, I acknowledge, reinforced this point, claiming that the bill would result in women 'missing out on vital information that they needed about the risks of abortion'.

It is hard to imagine how anyone with women's best interests at heart could believe seriously that receiving a high volume of phone calls is more important than women receiving up-front, unbiased, objective advice about their circumstances and about the options available to them so that they could make the best informed decision for themselves on the basis of that information. My definition of 'non-directive' may have been opposed by some, but I stand by the notion that 'all options' means all options, and there are only three options—adoption, keeping the baby or, indeed, having a termination, which is a legitimate and legal option in this nation.

Evidence presented to the committee reinforced the urgency of this issue and highlighted the misleading and deceptive information that women do receive. Dr Susie Allanson, a clinical psychologist from the Fertility Control Clinic in Melbourne, provided case studies to the committee. One woman in particular had received information that resulted in quite a traumatic experience. She reported:

> My boyfriend and I went to a pregnancy counselling service ... They showed us a film that was really frightening showing the baby trying to get away from the instruments the doctor was using. Then they told us how bad it was to have an abortion and I would never be able to have any children. They said my boyfriend would leave me if I had an abortion. I said my parents would kill me and kick me out if they found out I was pregnant. They said they would give me baby clothes and somewhere to stay till I had the baby. I said I wanted to finish school and I had to get an abortion. I did not want to live with strangers or adopt the baby out. I was so furious and scared after seeing them.

Ms Brigid Coombe, from the Pregnancy Advisory Centre in Adelaide, also presented the committee with evidence of examples of de-

ceptive counselling practices. There are case studies, there is anecdotal evidence and, although witnesses generally supported the principle of transparency in advertising, there was debate about the terminology used. I do not deny that. It was particularly about the definition of 'non-directive' and the words 'to refer'. Indeed, there was strong support from the people who gave evidence in favour of the bill for the terminology that was used.

Anti-choice organisations and individuals argued, I claim incorrectly, that the bill 'intends to put out of business any pregnancy counselling service which will not refer for abortion'. That is wrong. The bill is not designed to disadvantage anyone, to obstruct pregnancy counselling services or to ensure that people have a particular philosophical or ideological opinion. I defend the right of a diverse range of services to exist, but I insist, as would many other people, on seeing these services being up-front and honest about what they do and how they advertise.

I thank the cross-party support that I have had, particularly from women, including Senators Adams, Brown, Moore, Webber and Nettle, and my colleagues in the Democrats. I also acknowledge the work of everyone in this committee, regardless of perspectives. This has been another great example of people working together with women's interests at heart in an attempt to ensure not only that women's reproductive rights are protected but that counselling and pregnancy services are up-front. *(Time expired)*

Debate (on motion by **Senate Moore**) adjourned.

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Report

Senator JOHNSTON (Western Australia) (10.34 am)—I present the first progress report of the Foreign Affairs, Defence and Trade Legislation Committee on reforms to Australia's military justice system, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator JOHNSTON—I move:

That the Senate take note of the report.

In supporting the motion, I will say a few things about the current state of military justice, about the response to the 40 recommendations contained in the committee's report of June 2005, entitled *The effectiveness of Australia's military justice system*, and about the committee's receipt of a review of evidence from departmental officers on the progress of the government's response to those recommendations. Our report today is entitled *Reforms to Australia's military justice system: first progress report*. Every six months the committee intends to have, in the nature of a public hearing, an inquiry or review into the progress of the government's response to the 2005 report.

The broad aspects of the June 2005 report included the general administration of justice inside the Australian Defence Force, including prosecutions; investigations, particularly by military police; service discipline; whistleblower programs; legal service quality and capability; redress of grievance procedures; conflicts of interest; and procedural fairness, to name just a small part of what the committee came to call military justice in its extensive review of the system.

The government response has been earnest and comprehensive. The Chief of the Defence Force has written to me, as chair of the committee, and disclosed a strong will to address the matters that the committee put on the table back in June 2005. I believe that neither the Chief of the Defence Force nor his chain of command will tolerate the material that gave rise to the term of reference

which brought forward the report in June 2005. Nothing that I have seen through the committee's close surveillance of the ADF indicates that there is anything other than a strong will on the part of the chief and his chain of command to attack and address these issues. However, I must say that time will tell. The Chief of the Defence Force is motivated and, I believe, determined, and I want to take a moment to thank him for his response. It is not easy for senior military officers to take the advice of parliament in some of these areas, and the reforms that we proposed were extensive, sweeping and quite large for the Defence Force to accommodate. So it is a work in progress.

I was very pleased with the quality of the witnesses before the committee: Rear Admiral Marcus Bonser, the head of the Military Justice Implementation Team; Mr Ronald Brent, Deputy Commonwealth Ombudsman; Mr Mark Cunliffe, head of Defence Legal; Mr Geoff Earley, Inspector-General of the Australian Defence Force; Lieutenant Colonel James Gaynor, Acting Director of Military Prosecutions; Ms Diane Harris, Acting Director-General of Fairness and Resolution Branch; Air Commodore Simon Harvey, Director-General, ADF Legal Services; and Professor John McMillan, Commonwealth Ombudsman and Defence Force Ombudsman. These people took the time over some three or more hours to come before the committee and account for what they have been doing to address the issues contained in the 2005 report. I took some comfort in the earnestness, energy and determination of those witnesses. But, as I say, it is a work in progress. The six-monthly reviews must, in my respectful opinion, continue. The committee cannot afford to take a backward step in maintaining close surveillance of the performance of the ADF in these areas.

We have seen a triservice police investigative capability audit, which is a very important address of an on-the-ground investigative capacity inside the ADF. I look forward to receiving that audit report. We have seen a permanent military court established and redress of grievance process restructuring for the Fairness and Resolution Branch—a very positive step. The Inspector-General of the ADF was very positive indeed. I must say his movement to focus groups with soldiers, sailors and airmen seems to be an extremely impressive and effective mechanism and must be pursued and maintained.

One final area I want to touch on in the broad area that comes under the umbrella of military justice is cadets. I believe that there is a new will to address the administration and management of under-18-year-old members of the ADF, namely cadets. I think the indications are that the movement is in the right direction and that the right mindsets are being applied to dealing with those problems. The committee in this matter is as one; it is very determined, and I hope people reading these words and the words of other senators on this subject are left in absolutely no doubt that the committee is very determined to maintain a very strong process of surveillance. It intends to drive the reforms that are evident on the surface in the Australian Defence Force with respect to military justice. The committee is as one and is determined, and I trust that the departmental officials that I have named are—and they appear to be—as determined as the committee to do the right thing here.

So that the bodies and agencies will continue, in my respectful submission, to come under close scrutiny by the management and administration of the Director of Military Prosecutions, we will consult widely and deliberately with the Inspector-General of the ADF. The military police agency will be under great scrutiny, particularly the development and reform of their investigative capability. The offices of the Chief Judge Ad-

vocate and the Registrar of Military Justice are vital and important to the administration of military justice in the ADF, as are the head of trial counsel and the alternate dispute resolution agency and that agency's administration.

We had a public hearing on 19 June. There will be many more such public hearings. The committee is very determined. I want to thank Admiral Bonser for the way in which he came to the committee, gave his evidence and administered the witnesses, and the way in which we were given the necessary information and advice on the progress of this very important subject.

On the general findings, I was pleased with the nature of the response and with the initiatives and reforms put in place in response to the 2005 report. The caveat that I would put on the table is that these are simply signposts. I do not believe the end destination has been achieved; we have not arrived at that but are still on the way. No relaxation or comfort can be taken from the reforms until a period of time has expired such that precedent determines that there has been real reform in the ADF. As I say, I am happy with the direction and I think the committee is broadly happy with the direction; but we are as one in saying that determination and surveillance must be maintained, and I believe that the committee will be maintaining strong surveillance of the ADF on these issues.

I want to thank the committee secretariat for the ongoing work they do on some of these issues. I am talking about sudden deaths and a whole host of very grief-stricken aspects of life in the ADF. The objective of the Australian Defence Force is to fight and win. With 55,000 service personnel there are going to be issues. We have the obligation to see that those issues are resolved as fairly, properly and justiciably as possible. It is a work in progress.

Senator HUTCHINS (New South Wales) (10.44 am)—It gives me great pleasure to follow the Chair of the Foreign Affairs, Defence and Trade Legislation Committee inquiry into reforms to Australia's military justice system, Senator Johnston, because, during the progress of not only this inquiry but our original inquiry into military justice, the likes of Senator Johnston, Senator Payne, Senator Sandy Macdonald and my colleagues Senator Hogg and Senator Bishop were of invaluable assistance in some of the difficult areas and aspects of the military that we had to deal with. Senator Johnston outlined that this is the first progress report of the surveillance or oversight of the implementation of those aspects of the military justice report that the government agreed to implement. It was with pleasure that the government agreed to our recommendation to have surveillance or oversight ability into that implementation. You may recall that the inquiry implemented by the Foreign Affairs, Defence and Trade References Committee was the sixth inquiry into military justice in 10 years. Clearly, from the evidence that we were given during the conduct of that inquiry, there had been very little procedural or cultural change within the military in Australia. That is why it was with pleasure that the government accepted the ability of the legislation committee chaired by Senator Johnston to operate in that surveillance role.

My colleague Senator Bishop, who may be making a contribution later in this debate, has highlighted on the last few occasions he has spoken that he is not overly convinced that there is this change in the military. Indeed, our initial report concentrated on procedural change. We are clearly not in a position to implement cultural change within the Australian military; that is something that can only come from the top down. Looking

at a number of outstanding cases from that 10-year period does not lead us to the conclusion that that cultural change in the military has taken place. There is the case of Air Vice Marshal Criss and what look like the terrible things that were done to him. He was a senior officer and a man who was held in high esteem by his Air Force men, so much so that when he left the air base—I live near RAAF Base Glenbrook—all the air men and air women, if they are the terms for RAAF personnel, lined the streets around the exit to the air base to farewell him. That is the esteem in which he was held.

We are still receiving inquiries from the families of deceased personnel who are still in conference with the Commonwealth about compensation. We are still receiving inquiries from families about aspects of their children's service lives and what they see as being the denial of military justice. I am glad that Senator Johnston mentioned the fine work of the secretariat of this committee, headed by Dr Kathleen Dermody. To a large degree, we senators have been protected from some of the terrible, I suppose, documentation that has been presented to Dr Dermody and her staff over the two inquiries. They are the ones who are receiving the phone calls from distressed parents because their children are still in difficult situations or have died either naturally or by suicide. Sometimes, during the conduct of the previous Senate inquiry, they received these inquiries almost daily from parents, men and women who have a grievance against the Australian military. Senator Bishop highlighted the other day the case of Lieutenant Commander Robyn Fahy and the difficulties that have been experienced by the family of Air Force cadet Eleanor Tibble.

So we are not necessarily convinced that this cultural change is under way within the military. Why would you be at all convinced that it is occurring if the newspaper reports are correct about the conduct of the Kovco inquiry? It seems that even now, after all the publicity, the fanfare and the determination by government and senior staff of the military to make sure that there is procedural and cultural change for justice in the military, what is being exposed in the Kovco inquest does not lead you to any conclusion other than that this is some sort of paper shuffle by the military.

Senator Hogg was going to speak in this debate, and I might echo some of Senator Hogg's views. Senator Hogg is quite sceptical of the military and how they treat the parliament and Senate inquiries. At best, Senator Hogg—and Senator Hogg can come in here later and say whether I am right or wrong—believes that the military are dismissive of us and, at worst, that they have utter contempt for us. I wait to see the outcome of the Kovco case and whether we will be proven correct in some of our observations of the lack of cultural change.

Currently before the CDF is a report from Andrew Podger into the ethos and training of ADF establishments. We did request of the minister that we receive a briefing on this report but, as it is still with the commander, we were advised that it is not available at this stage. I hope there is nothing damning in that report of military establishments such as Singleton or other training establishments, but, to use what I think is a Sydney expression, I would put London to a brick on it that there is a difficulty that will be explained in that report about what is still going on in these defence establishments.

In conclusion, I suppose it is ironic that at the moment we have a number of young men and women in uniform in all parts of the world defending basic human rights. The irony is that it still appears that those basic human rights that we ask them to defend

elsewhere are denied them in our own establishments.

Senator PAYNE (New South Wales) (10.53 am)—I rise to participate in this debate on the tabling of the first progress report on reforms to Australia's military justice system by the Senate Foreign Affairs, Defence and Trade Legislation Committee. As other speakers have commented, this is an update on the committee's substantive report tabled in June last year. It also provides me with an opportunity to acknowledge and thank my colleagues on both sides of the chamber for the comments they made at that time in relation to my involvement in the report. Many colleagues will know that it was a difficult time for me personally in my family. I was unable to be here when the report was tabled, and my colleagues were very supportive. I am very grateful for that.

The government's response to the committee's initial report last year was a very serious and thoughtful one made by the then minister, Robert Hill, and the ADF. One of the undertakings in that response was for the provision of six-monthly reports on progress of the implementation of reforms to the military justice system, and this is the first of these. We have a focused and specific Military Justice Implementation Team under the leadership of Rear Admiral Mark Bonser. I think all members of the committee would agree that that is a very effective way for the committee to communicate with the ADF on these issues and has provided the committee with a point of focus that is very useful.

The committee has been provided with a formal written update on progress of implementation of the recommendations. It is quite a comprehensive document which is found in the report at appendix 4. I, for one, have found that very helpful in determining exactly where we are in the process in this regard.

There are several key matters to note that the committee has raised in this first progress report. The first of those is in relation to the triservice police investigative capability audit, which all of us regard as an absolutely critical exercise that is crucial to the effective investigative capacity within the military, and it is one that we hope is taken very seriously. We look forward to the completion of that audit and to seeing the response to it from Defence.

We are also looking forward to the establishment of the permanent military court and are hoping to see legislation on that in a reasonably short space of time. The ROG—redress of grievance—process has been restructured into a single branch known now as the Fairness and Resolution Branch. That seems, from the evidence that the committee was given from the acting head of that branch and other witnesses present on that occasion, to be having a positive and beneficial effect on the way in which these matters are handled. Hopefully, it is a simpler and clearer process for those people who feel the need to take up an ROG. I do not think it is something that the overwhelming number of members of the ADF do on a whim; it is something that they contemplate very seriously. So if this consolidation of aspects of that process in the Fairness and Resolution Branch can assist with making that a simple, clear, effective, taint-free process then that is a very important aspect of this.

The Inspector-General of the ADF, Mr Earley, has been referred to by other speakers. I thought the inspector-general's evidence before the committee was very useful and provided us with some insights into how he sees his job growing in many ways. Certainly, the size of his department is growing significantly. One point that I would make—I think other members would agree but that is, of course, for them to say—is that the committee still encourages the IGADF and

the ADF—therefore the government—to contemplate giving the IGADF the opportunity to make his own report; not just a report to the CDF but hopefully a report that comes before this parliament in terms of the work of his office. We would regard that as an important step towards the independence and capacity of the IGADF to work outside the chain of command and to report separately. That is noted as well in our report.

A number of other key appointments have been made since the committee reported. We have had the appointment of Lieutenant Colonel Lyn McDade to the position of Director of Military Prosecutions, and that of Lieutenant Colonel Geoff Cameron CSC to the position of Registrar of Military Justice. They are both timely and welcome appointments. We also note in the report that we commend Defence on the progress they have made but acknowledge that the road to cultural change in the organisation is a very long one. *(Time expired)*

Senator MARK BISHOP (Western Australia) (10.58 am)—I also rise to make a few comments on this first progress report on reforms to Australia's military justice system that has been tabled by the Senate Foreign Affairs, Defence and Trade Legislation Committee. I commence my remarks where Senator Payne ended hers, and compliment her on making her usual sound response.

The background to this has been well documented in the initial Senate committee report on this matter. Basically, that earlier report into military justice found that Australia's military justice system had a culture of bias, delay, breaches of privacy, poor investigations, failure of process, lack of communication and a lack of genuine, independent review. A lot of that was put down to the then prevailing culture within the armed forces.

The government in its wisdom considered that unanimous report from the various senators on the committee and came down in a very short time with a very detailed response, given by the then Minister for Defence, former Senator Hill. Senator Payne described the government's response as a serious and thoughtful one. I am not so sure that I would go that far, but I would not be prepared particularly to demur from her description, because it was a significant response. I recall thinking at the time that obviously there had been some intense negotiations between the government and the defence forces, and I came to the view, in terms of the government's then response, that it had gone as far as it thought it was possible to go without causing major and perhaps unwarranted angst.

Nonetheless, when the ALP responded in due course after considering the government's response, it gave a lukewarm response because the government had avoided or chosen not to accept the major thrust of the Senate report to civilianise military justice. We indicated a concern then and we have not backtracked from that position. Nonetheless, the government's response did address major institutional reform. It addressed process within the military. It did create extra positions and provide extra funding and it did undertake to provide better and more detailed training on a range of fronts going over the two years that were to come after October or November last year.

I have been publicly critical of the Defence Force and to some extent critical of the lack of change within the military on this issue. That remains the formal position of my party, and we are not yet minded to depart from that. It concerns us that we are not able to give more than lukewarm support and encouragement at this stage. It was clear from the written evidence and some of the comments made by senior persons to the committee in its public hearings that they thought they had undergone major change and that

there was major reform in process, and I think they would be very disappointed at the findings of this bipartisan committee today. At best, this is a lukewarm response, but in reality it is a fairly significant reminder that there is an enormous amount of work to be done.

I say that because it is my current view that there are still major problems on the horizon and that there is not yet an acceptance of the need for cultural change or reform at all levels within the military. There have been two high-profile cases settled in recent times, and we acknowledge that and that the parties were satisfied with the outcome. However, there remain a large number of unresolved low-profile cases. The committee is still receiving significant amounts of correspondence on new cases and, apart from those cases that seem to warrant extensive media interest and high-profile and embarrassing moments in public hearings, it is not yet possible, in my view, to conclude that there is reform and closure of other cases, which would be necessary for cultural change to occur within the armed forces. High-profile cases are settled, and that is welcome. Low-profile cases are still of great concern to the partners and mothers and fathers of those people who have been assaulted, who may have died or who have been penalised in the progress of their career. Just because they are not on the front page of the paper or on the ABC news does not mean they are not important. They warrant ongoing and immediate review. I seek leave to continue my remarks later. *(Time expired)*

Leave granted; debate adjourned.

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2006

Returned from the House of Representatives

Message received from the House of Representatives returning the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006, and informing the Senate that the House has made the amendments requested by the Senate.

Third Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.03 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Senator Bob Brown—I wish to record the Greens' opposition to this legislation.

CUSTOMS LEGISLATION AMENDMENT (BORDER COMPLIANCE AND OTHER MEASURES) BILL 2006

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2006

First Reading

Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.04 am)—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.

Quorum formed.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.07 am)—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—

CUSTOMS LEGISLATION AMENDMENT (BORDER COMPLIANCE AND OTHER MEASURES) BILL 2006

This bill, the Customs Legislation Amendment (Border Compliance and Other Measures) Bill 2006, contains amendments to the Customs Act 1901 that deal with a range of matters.

These amendments relate to:

- the disposal of dangerous goods;
- the restriction of the access of security identification card holders to section 234AA places, ships, aircrafts and wharves;
- minor corrections to provisions implementing the Australia-United States Free Trade Agreement;
- the provision of information in respect of security identification cards to Customs;
- the implementation of the Accredited Client Program;
- the protection from criminal responsibility of Customs officers handling narcotic goods in the course of duty; and
- remaking a misdescribed amendment to the Customs Act.

This bill enables the Chief Executive Officer, or a Regional Director, of Customs to dispose of any seized goods, if they are satisfied that the retention of those goods poses a danger to public health and safety. This power extends the existing authority to dispose of certain seized vessels, live animals and perishable goods.

This bill also enables Customs officers to issue a direction to security identification card holders not to enter or be in a restricted access area.

Amendments in this bill will allow authorised officers of Customs to obtain from an issuing authority updates of required identity information in relation to the security identification cards issued by that issuing authority, including expiration and revocation of cards.

This bill makes minor technical amendments to provisions relating to the determination of whether goods imported into Australia are US originating goods and thereby eligible for preferential rates of duty.

This bill also makes amendments to the Accredited Client Program which allows for highly compliant importers to take delivery of goods after providing Customs with minimal information in a request for cargo release on condition that they provide full details on all the goods they import in each month on a periodic declaration.

The program will be amended to require these importers to pay a monthly duty estimate based on anticipated imports for each month under the program. This estimate is then reconciled with the customs duty payable on the goods actually imported in the relevant months

Finally, this bill provides protection from criminal responsibility to Customs officers who possess, convey or facilitate the conveyance of prohibited imports, prohibited exports or smuggled goods in the course of their duties. Similar protections currently exist but do not apply to narcotic goods. This bill ensures that the new protections apply in relation to narcotic goods.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2006

This bill will give the force of law in Australia to a Protocol amending the Australia-New Zealand Double Tax Agreement. The bill will insert the text of the Protocol into the International Tax Agreements Act 1953.

The bill also includes consequential amendments to provide the legislative framework to support Australia's treaty obligations to provide assistance in the collection of tax debts and to ex-

change information on tax matters with other jurisdictions.

The Protocol between Australia and New Zealand was signed on 15 November 2005. Details of the Protocol were announced and copies were made publicly available following the date of signature.

The Protocol enhances trans-Tasman integrity aspects relating to administering and collecting tax imposed in accordance with the treaty and the laws of both countries. The Protocol reflects the Government's desire to provide for more effective exchange of information on a broader range of taxes, for example, GST, and to provide for reciprocal assistance in collection of taxes.

The Government believes that the conclusion of the Protocol and the associated amendments will strengthen the integrity of Australia's tax system. These measures will reduce tax evasion in both countries and will assist in ensuring that tax liabilities on cross-border transactions are correctly determined, through bi-lateral administrative co-operation between the Australian Taxation Office and the New Zealand Inland Revenue Department.

The Protocol also includes an obligation for New Zealand to enter into negotiations with Australia in the event that New Zealand agrees to lower rates of withholding tax with another country. This 'most favoured nation' obligation recognises the importance the Government places on lowering withholding taxes imposed on Australian investment in New Zealand, consistent with the direction set in Australia's double tax treaty arrangements with the United States and the United Kingdom.

The enactment of this bill, and the satisfaction of the other procedures relating to proposed treaty actions, will complete the processes followed in Australia for those purposes.

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

Debate (on motion by **Senator Ian Campbell**) adjourned.

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

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.08 am)—I move:

That intervening business be postponed till after consideration of business of the Senate order of the day no. 4 relating to the proposed disallowance of the Criminal Code Amendment Regulations.

Question agreed to.

CRIMINAL CODE AMENDMENT REGULATIONS 2005 (No. 14)

Motion for Disallowance

Debate resumed from 16 August, on motion by **Senator Bob Brown**:

That the Criminal Code Amendment Regulations 2005 (No. 14), as contained in Select Legislative Instrument 2005 No. 298, specifying the Kurdistan Workers Party (PKK) as a terrorist organisation, and made under the Criminal Code Act 1995, be disallowed.

Senator ROBERT RAY (Victoria) (11.09 am)—At the outset, may I say that I strongly support having a proscription regime in place in Australia. I noted from Senator Bob Brown's speech last night that he, in principle, does not oppose the proscription regime but would rather it have a different construction—I do not think I am misleading the chamber in that. I point out that the Parliamentary Joint Committee on Intelligence and Security will be reviewing the proscription regime in 2007. Already, parts of that regime have been looked at by the Sheller report, so we will be looking at the Sheller recommendations—especially those to do with association—and all other aspects of the proscription regime in 2007.

When the regime was set up, the main defensive mechanism against an unfair proscription occurring was to make it a disallowable instrument in the two houses of parliament. One would have less confidence

now that, if the government made a mistake, it would in fact be disallowed, given the government's majority. However, I want to assure this chamber that the Parliamentary Joint Committee on Intelligence and Security takes it duties seriously when assessing the Attorney-General's proscription activities. It is absolutely essential that these be rigorously examined. We have never got ourselves into a situation where we have become just a bunch of Uncle Toms agreeing with everything that security agencies want to do. The examination of each one of these proscriptions is quite vigorous and quite detailed.

So far, 19 organisations have been listed in Australia. I note for the record that that is far fewer than in the United Kingdom, the United States, the European Union, Canada and even the United Nations. As a government, a parliament and a country, we have made fewer proscriptions than most like-minded countries.

Unfortunately, this debate is often misinformed. ASIO and the Attorney-General use six broad criteria, for which they give reasons, for proscription of an organisation. But I must say that they are not mandatory. The definition of the organisation as a terrorist organisation is the crucial element here. Nevertheless, ASIO and the Attorney-General report back here on six criteria to keep the parliament and the committee informed as to why decisions have been made.

Overall, there are two essential elements of terrorism that we have to address. The first is finance. Most terrorist organisations rely on finance from people who, on many occasions, do not understand that the money is going towards terrorist activity. Terrorism and terrorist organisations cannot exist without finance. The second element is that in most cases they cannot exist without the sponsorship of other nations. Terrorists have to train somewhere. There are still several regimes on this globe that allow terrorist training within their ranks. Those are the countries that have to be isolated and punished if we want to get rid of the scourge of terrorism. Very stringent measures have been taken to cut off the flow of funds to terrorist organisations. We have carried separate legislation in this parliament. We have the ability to freeze the accounts of terrorist organisations, and that has been done fairly vigorously.

I have no doubt at all that the PKK is a terrorist organisation. I refer senators to page 17 of our report, where we list some of the most recent efforts of the PKK—and I am talking about in the last two years. I was in Kusadasi last year just two days before they set off a bomb on a minibus. That bomb killed five people. These people were not the soldiers or the oppressors; they were five innocent people, two tourists and three others, going about their way of life, and they were blown up for the cause.

It is sometimes argued that proscribing the PKK is using too broad a brush and that just its military wing should be banned. But so far it has been impossible to disentangle the various elements of the PKK to allow such a course of action. This is an organisation that has many front organisations and many interwoven organisations and subgroups right throughout it. It has been impossible to this date for the Australian government to disentangle them as we did with Hamas and its military wing—we did not ban the general Hamas movement. We have, however, asked the government to continue to try to examine that particular area, and I am hopeful that they will.

A further consideration in not proscribing an organisation is whether they are engaged in a genuine peace-building process. In other words, a pre-emptive proscription may well

be seen as isolating a particular group and disrupting their participation in the peace process. It is one of the reasons over the last few years, I suspect, that the Tamil Tigers have not been proscribed. They were involved with the Norwegians and the Sri Lankan government in a dialogue trying to bring about a peaceful settlement of the dispute in Sri Lanka. There is no doubt that the PKK, up until around 2003, had entered a peace-building process with the Turkish government. But that period clearly ended in 2003, and terrorist activities resumed.

I think that in his speech Senator Brown implied that the proscription of the PKK was in some way a response to lobbying by the Turkish government. In evidence before the Parliamentary Joint Committee on Intelligence and Security, it came out for the first time—and there is no denying this—that the Turkish government on two occasions approached the Australian government to proscribe the PKK. The most notable occasion was when Prime Minister John Howard visited Gallipoli. He was certainly requested by the Turkish authorities to proscribe PKK. So the committee went back and examined when the first moves got underway to proscribe the PKK and found that they predated either of the two approaches, which I think were in December 2004 and April 2005. We found that it went back another 12 months before that.

So we have no evidence available to us that any lobbying efforts on behalf of the Turkish government influenced the actions of the Australian government and, in turn, the Attorney-General, Mr Philip Ruddock. It is also true that in the last few weeks the Turkish ambassador has been active, writing to MPs and urging us to maintain the ban on the PKK. But I can honestly say that none of those views had arrived when the committee put down its report, nor did they have any influence whatsoever on the committee. There is no denying, of course, that human rights in Turkey are often violated. But, to most of us, the solution to these problems will never be aided or assisted by terrorist acts of violence against innocent individuals.

Many of the organisations that oppose the PKK being proscribed make the point that there are many Kurds in Australia who are refugees who want to continue their links to an organisation they perceive as trying to right the wrongs in their homeland. I have to say that I very strongly support paragraph 2.67 of the Parliamentary Joint Intelligence and Security Committee's report, entitled *Review of the listing of the Kurdistan Workers' Party (PKK)*, which states:

> Australia has obligations under international law to protect refugees. However, those granted refugee status in Australia have obligations to comply with Australian law. Past associations cannot be used to justify funding and support of terrorist organisations.

I mentioned earlier that there have been 19 proscriptions. In every case, the Parliamentary Joint Intelligence and Security Committee has supported those listings and has not recommended disallowance in this chamber or in the other place. Yet on this occasion, it should be said for the record, our report was more qualified than the other 18 were. I will read to the chamber the recommendations that appear on page 33 of the committee's report, because they are more qualified than any of the other recommendations. I hope that in the spirit of bipartisanship in which the committee unanimously made them—that is, four Labor, four Liberal and one National Party member all agreed to these recommendations—the government will at least absorb and consider them. They read as follows:

> The Committee supports the listing.
>
> However it also recommends that the matter be kept under active consideration and requests, in

that process, that the Government take into account:

- the number of Australians of Kurdish origin who may support the broad aims of the PKK without endorsing or supporting its engagement in terrorist acts;
- whether it would be sufficient to proscribe the PKK's military wing, the Kurdistan Freedom Brigade (Hazen Rizgariya Kurdistan HRK) referred to in the Attorney's Statement of Reasons; and
- the fluid state of moves towards possible ceasefires.

Those three points were the unanimous view of the committee. The committee did, however, divide seven to two, with two of the committee asking the government to reassess the listing and the other seven asking the government to maintain the listing. Nevertheless, the entire committee agreed with those three points.

The opposition has addressed these matters in its party room and has decided to support the government's listing of this particular organisation. There are members of the Labor Party who have qualifications about that. Whilst they may not oppose the listing, they worry about the ramifications. It is good that this occurs. It is excellent that this sort of consideration is given. This chamber was never intended as a rubber stamp and neither is the party room. We have to give consideration to all points of view wherever possible. But, whilst it is not as clear-cut and decisive as some of the other proscriptions, what this ultimately comes down to is that, deep down, the PKK continues to be a terrorist organisation that murders innocent individuals—and, whatever the faults and whatever the provocation of the Turkish regime, that cannot be justified.

Senator LUDWIG (Queensland) (11.21 am)—This is a debate about the listing of an organisation, and perhaps it is worth going back to what that listing does. We are debating a disallowance motion moved by Senator Bob Brown in respect of the listing of the Kurdistan Workers Party, the PKK. In this area some guidance has been provided by the Parliamentary Joint Committee on Intelligence and Security, which released a report in April 2006.

It is worthwhile outlining the process that is undertaken in a listing. What happens is that a review is conducted under section 102.1A of the Criminal Code Act 1995. Section 102.1A provides that the Parliamentary Joint Committee on Intelligence and Security may review a regulation specifying an organisation as a terrorist organisation, for the purposes of paragraph (b) of the definition of 'terrorist organisation' in section 102.1 of the Criminal Code, and may report the committee's comments to each house of parliament before the end of the applicable disallowance period.

We are at the point where we have the committee report and Senator Bob Brown has sought to disallow the instrument. It is worth adding that this is the 19th organisation to be listed under this legislation over the last two parliaments. The committee has diligently conducted six reviews. Some of those were of multiple listings or groups, and 16 organisations were relistings of organisations originally listed under previous legislative arrangements.

I will turn to the organisation we are discussing today. The Kurdistan Workers Party, or PKK, which is also known as the People's Congress of Kurdistan, among other aliases, was proscribed as a terrorist organisation in December 2005. The PKK is now listed as an organisation that, directly or indirectly, is engaged in preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not a terrorist act has occurred or will occur, or an organisation that advocates the doing of a terrorist act, whether or not a

terrorist act has occurred or will occur. While the PKK is not listed as a terrorist organisation with the United Nations at this time, it is proscribed in Canada and in the United States, where it was listed as Kongra-Gel, or the KGK, with an explanation that it was formerly known as the PKK. The PKK is listed in the United Kingdom and in the European Union, with the exception of Norway, which is mediating in the dispute. All Australian states and territories have agreed to the listing of the PKK.

Despite what has gone before, Senator Bob Brown has moved that the Criminal Code Amendment Regulations 2005 (No. 14), as contained in Select Legislative Instrument 2005 No. 298, specifying the Kurdistan Workers Party as a terrorist organisation, be disallowed. The majority of the Parliamentary Joint Committee on Intelligence and Security support the listing of the PKK. To give some indication of the legal issues here, in the Criminal Code Act 1995 there are seven main offences with respect to proscribed terrorist organisations. They are: directing the activities of a terrorist organisation; membership of a terrorist organisation; recruiting for a terrorist organisation; training a terrorist organisation or receiving training from a terrorist organisation; getting funds to, from or for a terrorist organisation; providing support to a terrorist organisation; and associating with a terrorist organisation.

Such terrorist related offences are obviously among the most serious crimes that can be perpetrated. Dealing with crime and responding effectively to national security dangers is an area where Labor is and will continue to be ever vigilant. We do not have to be reminded of the recent terrorist shocks in UK and US aviation. The London, Mumbai and Madrid rail attacks are clearly in everybody's mind. Also, we are approaching the second anniversary of the Beslan massacre in Russia. Clearly, this is an area where Australia has to be vigilant and look at the issues.

In the current debate we are considering the process of listing, the parliamentary oversight and the disallowance procedure, which allows the matter to be brought forward for debate here. We are called upon to consider the PKK. Conducting an assessment of this nature is always difficult. Much of the intelligence on the PKK is of an operational nature. Page 21 of the report by the joint committee goes to that very point. It says:

> ... the PKK's participation in the political process does not decrease the group's relevance to security so long as militants continue to plan and conduct terrorist attacks.

The majority report of the joint committee requested that the government keep this listing under active consideration. The minority report called on the government to reassess the PKK listing.

The proscription of an organisation is a serious decision that Labor knows the joint committee give careful consideration to. On the advice of the joint committee report, the PKK should be listed as a terrorist organisation. Labor supports that position. Labor shares the concern raised by all members of the committee that there needs to be careful consideration of this listing and requests that, in that process, the government take into account the following points. Firstly, it should take into account the number of Australians of Kurdish origin who may peacefully support the broad aims of the PKK without endorsing or supporting its engagement in terrorist acts. Secondly, it should consider whether it would be sufficient to proscribe the PKK's military wing, the Kurdistan Freedom Brigade, referred to in the Attorney's statement of reasons. Thirdly, the government should consider the fluid state of moves towards possible ceasefires.

Labor urges the government keep this matter under active scrutiny to ensure that security implications are met in a way that does not place innocent people in jeopardy of prosecution. This would seem to Labor to be a fair and reasonable request. On that basis, Labor opposes the disallowance motion moved by Senator Bob Brown and calls for the active consideration of the listing of the Kurdistan Workers Party as a terrorist organisation, taking into consideration the advice of the committee.

When you turn to the particular process that has preceded this issue, it is worth looking at the report of the Parliamentary Joint Committee on Intelligence and Security, because the government's procedures are outlined at 1.9 of the report:

> In a letter sent to the committee on 25 January 2006, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of the listing:
>
> an unclassified Statement of Reasons was prepared by ASIO, and endorsed by DFAT, dealing with the case for listing the organisation.
>
> Chief General Counsel, Mr Henry Burmester QC provided written confirmation on 14 November 2005 that the Statement of Reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds of the matter required under section 102.1(2) for the listing by regulations of an organisation as a terrorist organisation.
>
> The Director-General for Security, Mr Paul O'Sullivan, wrote to the Attorney-General on 23 November 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation.
>
> A submission was provided to the Attorney-General on 30 November 2005 including …

I will not go into the details of that submission, but it provided a statement of reasons from ASIO. Having considered the information provided in the submission, the Attorney-General signed a statement confirming the aforementioned matters. The Attorney-General then wrote to the Prime Minister, on 2 December 2005, advising of his intentions to list the PKK as a terrorist organisation. The Attorney-General also wrote to the Leader of the Opposition on 2 December 2005 about the proposed listing of the PKK as a terrorist organisation and offered a briefing on the matter.

The matter was brought to the attention of all states and territories. The Attorney-General wrote to the Chair of the Parliamentary Joint Committee on ASIO, ASIS and DSD—as the committee was known then—on 2 December 2005 and advised of his decision to list the PKK as a terrorist organisation. The Governor-General made the regulation on 15 December 2005. The regulation was lodged and a press release was issued at that time.

Following that, we had the report, the recommendations and then the opportunity to have a debate here as well. It is worth while outlining all the procedural matters and steps that have been taken to get to this point and for this matter to be finally determined here. That is an area where Senator Brown has taken a different view from Labor and the government, but I do agree with Senator Brown that we can at least have, in this chamber, this debate about the regulation. Labor sought hard to ensure that this opportunity would be available. Be that as it may, in this instance Labor does support the majority recommendation and does not support the disallowance motion by Senator Brown.

Senator BARTLETT (Queensland) (11.33 am)—This is an important debate, as Senator Ludwig just indicated, and it is pleasing that thus far we have been able to conduct it in a measured way. There is always the opportunity for cheap political points and for people who express concerns about listings like this to be basically

smeared as being supporters of terrorism and things like that. It is pleasing that this debate has not descended to that sort of puerile level.

What we need to remember is not just the impact on people in Turkey who are affected by actions of the PKK or the aims and goals of the PKK and their supporters in Turkey but also the impact on Australians. Listing an organisation in this way, as the PKK has been, has the potential to impact on Australians, including, in my view, Australians who are, in all meaningful senses of the word, innocent of any genuine attempt to support what might be seen as terrorist acts.

There is no doubt that the PKK has been and, in some circumstances, continues to be involved in, supporting of or linked to actions that can reasonably be described as terrorist activities. The labels 'terrorism' and 'terrorist' are somewhat fluid—and I will not get into that debate now, beyond acknowledging that they are subjective terms in some circumstances. But clearly there has been politically motivated violence carried out by the PKK in Turkey, and to that extent there is understandable concern about being seen to support those acts.

I want to emphasise that a report has been done into this by the Parliamentary Joint Committee on Intelligence and Security. The committee has had the opportunity to review the evidence. I make the point again, as I often do, that that committee does not, by law, have any members from the crossbenches; it does not have any minor party or Independent members on it. So we are completely dependent on the views of the major parties—and the major party members who are on that committee—to assess any of the evidence. I think that is unfortunate.

Whilst there is a valid argument about proportionality, and one could say that there are not enough crossbench members in both houses to justify a position in proportional terms, I would also point out that this committee, of all the committees in the parliament, is—by definition and understandably—the most secretive. It is the least open, so there is less opportunity than is the case for any other committee for people outside of the committee to view what is going on. If ever there were a valid argument that a committee should have a diversity of representation on it, it would be for that committee. I once again express my dissatisfaction with that arrangement. I again request that, the next time the relevant legislation comes up for amendment, that situation be remedied—even if it is at the expense of cross-party representation on some of the other standing committees. It is a situation where evidence is presented in camera by groups like ASIO and others, and we have no alternative other than to rely on the judgements of the members of the committee, which they present by way of a report.

As has already been outlined in this debate, the report contained a minority view from two Labor members, which is very unusual—I do not know if it is unprecedented, but it is certainly extremely unusual. Senator Ray, as a longstanding member of that committee, outlined the details in his contribution. As is usually the case—not always but usually—Senator Ray's contribution was very measured and balanced with regard to the issues—not that I am saying I agreed with all his conclusions. The points made in the minority report by Mr Duncan Kerr and Senator Faulkner cause concern. It should be emphasised that listing an organisation has potentially serious consequences for Australians. It does not just mean that we are making some judgement that a particular organisation overseas is a bunch of bad people—that we are making some official statement that they are bad guys or something like that; it has particular significant, specific legal

consequences, and that is why it should not be done lightly and why it should be fully justified.

As Senator Ray pointed out, the majority report was less definitive and conclusive than usual. There was more of a flavour of wanting an eye kept on this one. That whole flavour of being less definitive than usual causes me and the Democrats some concern because we are talking about basic rights here—the basic rights of Australians, and others, of course. Paragraph 1.13 of the minority report says:

> ... the Joint Committee received nothing by way of evidence or submissions that would justify a conclusion that the proscription—

of the PKK—

> would have any direct positive security benefits for Australia.

It goes on to say:

> Australia already has strong laws to criminalise actual conduct involving terrorism.
>
> ... Actions giving direct assistance to any acts of terrorism are already unlawful.

So refusing to make these listings does not mean that people can get away with directly supporting terrorist acts and organisations and get off scot-free. It is already unlawful. That is one of the issues around the whole concept of listing. There has been some suggestion that you need special offences for terrorism that otherwise do not apply, when of course there are already many laws regarding supporting, facilitating or conspiring to be part of acts of violence of whatever sort, and those laws already exist separate to this listing. That also must be emphasised.

The minority report goes on to say:

> Sending money out of Australia to aid the PKK is already prohibited and it is already an offence under Australian domestic law for any Australian to serve an organisation seeking to overthrow a foreign government by force. No Australian has been charged with such existing offences.

So, what proscription does is to take a further step and create a criminal offence for a person belonging or giving any support to the PKK, disconnected from the need to prove any act of or support for terrorism. Of course, the problem is that the PKK is a lot more than just a bunch of criminals conducting terrorist acts. There certainly is that element, but you cannot disconnect that from the wider aims of many of the Kurdish people in that region for greater rights.

This is not a matter of taking sides in the dispute between Kurdish people in Turkey and the Turkish government; it is a matter of recognising that there are legitimate differences of opinion about the rights of the Kurdish minority in that region and that people have a legitimate right to hold those views. They do not have a legitimate right to conduct violence to promote those views. That is where the distinction lies. In some cases, it is impossible to carve out a neat dividing line between the two, and that is the problem that has arisen here.

The bigger problem is that there is a significant Kurdish community in Australia—and it must be emphasised that they have contributed very positively to Australia—and also a very significant Turkish community. The Kurdish people come from a region which covers not just Turkey but also parts of Iraq, Iran and Syria. It should be noted that whatever criticisms of constraints of the rights of Kurdish people in Turkey are or have been in the past—certainly my understanding is that circumstances now have improved from what they were in the past—the oppression and persecution of Kurds was far worse in the previous regime in Iraq and is far worse in the current regime in Iran.

The fact is that many Australians of Kurdish background, who are positive and constructive members of the Australian community, nonetheless identify with and support

the broad aims of the PKK inasmuch as they see it supporting greater rights for the Kurdish people living in Turkey. The problem with listing the PKK is that many of these people who simply see themselves as broadly supportive of the PKK in a general sense—without necessarily approving of its violent actions—could get caught up by the laws of Australia that come into force as a result of this listing. That is a concern to me, and certainly that is a concern expressed in the minority report. Perfectly innocent Australians, in all meaningful senses of the word 'innocent', could be deemed to be criminals and guilty of criminal offences simply by virtue of being supportive, in a very general sense, of the PKK in that they view it as fighting for greater freedom for Kurdish people in Turkey. That to me is a serious concern. From the whole report, not just the minority report, it does not appear that those potential consequences were taken into account by the government when making this listing.

I want to take the opportunity, even though it may be seen as slightly tangential to the issue, to stress that this is not about taking sides. I have spoken a few times before in this chamber about modern-day Turkey. The position I am taking is not anti-Turkey in any way. I have met with the Turkish ambassador and have visited Turkey. I strongly support them in their efforts to become part of the European Union and I think the actions of some current European countries in resisting that are not helpful. I think they are undesirable in a global sense, let alone in a regional sense, over there.

There are certainly issues with regard to human rights and freedom of speech that Turkey needs to improve on. But Turkey's history is very different to Australia's and I think people need to be a bit more conscious of the very significant challenges that Turkey has to face. The world can look very different when your neighbours are countries like Iran, Iraq, Syria and some of those to the east of Turkey. Also, Turkey has a history, being at that bridge between East and West, of having people at various times over many years trying to carve it up and dole bits out as spoils of war. It is not surprising that it has a different view of the world and different concerns and sensitivities.

Every country to some extent is a prisoner of its history and has difficulty in facing and confronting some of its flaws. Australia certainly has that in its inability to confront the reality of its own history over the last couple of hundred years and the serious human rights abuses that have been perpetrated. We also have a very severe problem in acknowledging the reality that our modern-day prosperity has in many ways been built on the oppression and slaughter of the Indigenous people of this country.

So I am not in any way seeking to lecture Turkey about their need to resolve some of their human rights issues and their difficulties with confronting some of their actions of the past, whether towards Kurdish people, Armenians or others. I simply state these issues as a matter of fact and also point out that the position that I and the Democrats are taking on this issue is not in any way taking sides or in any way an anti-Turkey position. It is motivated totally by our concern about the human rights consequences for Australians and the potential for innocent people to be inappropriately caught up in the provisions of Australian law and also by the concerns which go through the full aspects of the committee report about the lack of solidity of some of the evidence put forward by the government to justify this particular act. When in doubt on an issue that has such a serious effect and the potential to catch innocent people in its provisions, I think one should err on the side of protecting the rights of Australians.

I also emphasise once again that it is already illegal in Australia to directly support terrorist acts by the PKK or anybody else and it is an offence to provide money directly out of Australia to the PKK or to serve an organisation seeking to overthrow a foreign government by force. Those things are already against the law. In that circumstance, unless there are very strong and indisputable arguments for imposing further criminalising offences, I do not believe, whilst there is doubt, that such action should be supported. I do not think this action would impact one way or the other on increasing the safety of people in Turkey, including the many Australians, of course, who visit Turkey. I would strongly encourage those who have not visited to go not just to Gallipoli but to many other parts of what is a truly fascinating country. It is simply a matter of whether this is an appropriate use of provisions in Australian law. I and the Democrats do not believe that it is, based on the evidence available to us via the relevant report of the parliamentary committee.

Senator CARR (Victoria) (11.49 am)—I support the Labor Party's position on this disallowance motion. The positions that have been outlined by Senator Ray and Senator Ludwig have highlighted that we will not be supporting this disallowance motion. However, we are concerned about a number of matters that relate to the questions that have been raised and highlighted by the Parliamentary Joint Committee on Intelligence and Security in its report *Review of the listing of the Kurdistan Workers' Party*. I noted the remarks of Senator Ferguson yesterday and Senator Ray and Senator Ludwig today. I particularly note that the joint committee unanimously recommends:

> ... that the matter be kept under active consideration and requests, in that process, that the Government take into account:
>
> - the number of Australians of Kurdish origin who may support the broad aims of the PKK without endorsing or supporting its engagement in terrorist acts;
> - whether it would be sufficient to proscribe the PKK's military wing—

and the fluid state of the current peace negotiations, or what pass for peace negotiations, with the Turkish state.

I also note the minority report of Senator Faulkner and Mr Duncan Kerr, where they highlight a number of concerns. I specifically draw attention to the fact that this committee mainly works on a unanimous basis; in fact, all of the reports that I have seen from this committee have been unanimous except for this one. It is rare indeed for people on this committee to come back to the parliament with reports indicating a difference of view. This is one occasion where that has occurred.

Senator Ferguson drew our attention to the criteria that have been raised with regard to the listing of the PKK. The minority report draws to our attention that 'no evidence was placed before the committee that the proposed listing meets the criteria as submitted by ASIO'. Clearly there is a difference of view between members of the committee on whether that matter of criteria has been addressed, and one can only presume that the emphasis should be placed on the words no evidence 'has been presented'. Senator Ray draws our attention to the fact that these are not mandatory criteria in any event, that they are matters of judgement and, as a consequence, the majority of the committee has taken the view that the action of the government is justified in that regard.

There is also the argument put about the nature of the conflict in Turkey which I think is clearly abhorrent. The fact that 30,000 people have been killed in a civil war is something that no-one could possibly see any virtue in. I read in the CIA's latest report

that there are somewhere between 350,000 and one million people being displaced in the south-west of Turkey. That is something that no-one could take any pleasure in at all. The fact that human rights abuses in Turkey are very, very well documented is something that no-one could take any pleasure in whatsoever.

Turkey is a very interesting country—it is aggressively secular. It is a country, however, that seeks to impose a secular view of its politics to the point where people cannot wear a headscarf, and where the question of national unity is seen to be so important that the teaching of languages other than mainstream Turkish is regarded as a political offence. Certainly that was the case up until very recently, and there is some considerable concern still being expressed about those matters. Anyone who expresses a view about the Armenian genocide is in serious legal trouble, as we have seen recently with the case of prominent intellectuals within Turkey. We have seen that there have been questions raised about the nature of the judiciary, so there are a whole range of issues that need to be addressed. Clearly in those circumstances there are very strongly held views in this country.

My concern, however, is specifically with matters that go to issues of Australians. I have indicated before in this chamber that I have been associated with the Kurdish community in Victoria as a senator for many years. I did not seek, but was awarded, life membership of the Kurdish Association of Victoria. I have worked with the community in my suburb in Melbourne for a very great length of time. Contrary to popular opinion, very few of the community are actually in the Labor Party itself—very, very few indeed—but there are some people who are. I do know this community quite well and I have sought to assist it in terms of migration, social security and all the other work that all of us do on behalf of constituents.

Recently the president and committee of the Kurdish Association approached me to express very deep concern about the implications of this proscription. Ismail Guneser has been in this country for well over 40 years and he expressed a very strong view to me that one of the things that led him to come here was the ability to express your view about political matters. He was deeply disturbed at the prospect that he may be arrested and jailed for carrying a sign. That may well be one of the consequences of this particular proscription. I have pointed out to the association that in my view the proscription of the PKK and its associated entities does not directly affect the Kurdish Association of Victoria because the association is neither proscribed nor listed as an entity of a proscribed organisation. I am concerned, however, that in all the speeches so far from members of the joint parliamentary committee the position has been put that it has been impossible to disentangle the social work of the PKK from its military wing. That is very disturbing, given that it will be an offence under these proscriptions for people to be associated with the PKK and that its social work cannot be distinguished from its military work.

In all the years I have been associated with the Kurdish community in Victoria I have always been impressed with the work they do with regard to Australian citizenship. At their functions there is usually a member from the Democrats; Senator Allison has been at the offices in Pascoe Vale on many occasions. I have seen members of the Liberal Party represented at these functions. I, of course, have been there on many occasions. During these functions you get an opportunity to view the social work and the educational and cultural activities of the community. In all my involvement I have never

heard any member of the community express support for illegal activities. I defy any other member of this chamber who has visited or participated in these functions to confound that view.

I also take the view that it is the right of all Australians of Kurdish descent to defend human rights and, in fact, to defend Kurdish national aspirations. I think it is appropriate that people are able to express views about the Kurdish identity and aspirations, and they may not necessarily see that that is the same thing as being directly associated with the PKK. I have sought legal advice on this matter. The legal advice I have received is that the proscription of the PKK also extends to a person who might be regarded and described as an informal member. That means that someone who is involved with other people who he or she knows are members of the PKK may themselves be suspected of being a member of the PKK and therefore become liable for up to 10 years imprisonment as a result of this informal membership. People who are considered formal or informal members of the PKK and who recruit someone else may also be liable to sentences of up to 25 years imprisonment, and members involved in fundraising on behalf of the PKK or an associated organisation risk 15 years in prison. You can understand that members of the Kurdish community are concerned, given the nature of the proscription laws in this country.

But, given that you cannot disentangle association from membership, formal and informal, it does raise certain questions. There are matters that go to the issue of communications with persons who are known to be or are suspected of being associated with the PKK and who might be involved in such activities on two or more occasions. They are liable for three years imprisonment under this proscription.

These are all matters that are clearly open to interpretation. There may be exemptions under the proscription in defence of such activities because of family or religious contact. Given that most of the Kurds I know are extraordinarily secular in their attitudes, it is unlikely that there would be too many religious circumstances, but circumstances could arise where that would occur. These, of course, may well ultimately have to be determined in an Australian court of law. However, it poses some very difficult issues for people who are concerned with the welfare of the Kurdish community and have taken the view that protesting about human rights is something that they should do in a public way.

As I understand the situation, no evidence of illegality in Australia has been presented. There may well be such evidence, but I am not aware of it and the committee was not aware of it, and no evidence has been put before us with regard to the activities of members of the Kurdish community in this country. There are very strong laws in existence in this country for illegal activity, and there ought to be, as far as I am concerned. That is not in question. If people wish to engage in armed conflict, there are inevitably consequences that flow from that. However, this question also applies to dual citizens who get themselves involved in the armies of other countries, and that obviously occurs, as we have seen in recent times. There is a question about the relationship between human rights abuses and the activities of state organisations that also ought to be borne in mind in these circumstances.

It seems to me that the minority report of Duncan Kerr and Senator John Faulkner raises matters that require attention. There is clearly a case for the government to consider this position very carefully and, as has been pointed out to the chamber, there are circumstances arising where that can occur. I trust

that that opportunity will be taken. There are clearly matters that require much more careful attention than would otherwise be the case. Given the qualified nature of the report, as Senator Ray has pointed out, I think it is something that we should view with great interest and ensure that it occurs.

The Socialist International recently met in northern Iraq with various political representatives with regard to the Kurdish question. In a circular distributed on 16 June, they make this point:

> Conditions for the political representation of Kurds and their enjoyment of other rights remained limited and inhibiting. Cooperation among different political groups was perceived as a positive step in furthering their rights. It was highlighted that the only way to protect and foster the rights of the Kurdish people remained in the political arena and in advancing and deepening democracy without resorting to any form of violence.

That is clearly a view that I support. There are circumstances in Turkey that require urgent reform, and I trust that progress will be made in that regard. I am not aware, however, of anybody in this country, in terms of the work of the Kurdish Association of Victoria, who is actually proposing to break the law or has sought to break the law. I trust that that is the position, and I know that they have very good relationships with the security forces and are well known to them. They come down for a cup of tea on a regular basis. Certain intelligence units in Victoria have made themselves accessible and widely known, so I presume that if there was evidence of breaches of the law then action would have been taken. Nonetheless, it has to be highlighted that there are very large numbers of Australians who are very concerned about the consequences of proscriptions of this nature, and I know that historically there have been circumstances when this type of legislation, this type of proscription, has been abused.

I was recently in Berlin and had the opportunity to have a tour with the President of the Reichstag's office. I was shown some new exhibits that are on public display in the renovated Reichstag building. One part of that building is an excavated tunnel that used to run under the square between the Reichstag and the Reichsminister's house, which is now the parliamentary dining room. That is now on public display, as is part of the excavated tunnel. It is on display because, in Germany, there is yet to be an official acknowledgement of who started the Reichstag fire. It is widely believed that the Reichstag fire was started by people associated with the Reichsminister, Hermann Goering, and that the perpetrators of that fire moved from the Reichsminister's official residence through this tunnel to set fire to the Reichstag. Of course, it was the burning of the Reichstag that led to the various declarations of states of emergency and the various emergency laws when the fascists seized total power in Germany. Those circumstances led to the arrest of people who were described in every instance as terrorists—the Jews and various other groups that the government did not like.

I am not suggesting for a moment that this is the situation, but I use it as an example to highlight that it is very important that we keep a close watch on these issues, particularly when citizens' human rights and civil liberties are at stake. We need to be highly conscious not only of the right to security of all Australians, which should be at the forefront of our thinking, but also of ensuring that in the pursuit and defence of that right to security we do not sacrifice other rights and make mistakes about the way we seek to secure the people of this country from threats of political violence.

Senator NETTLE (New South Wales) (12.07 pm)—I rise to support this disallowance motion, moved by Senator Brown on behalf of the Greens. This motion would overturn the government's ban on the Kurdish Workers Party, which was listed by this government as a terrorist organisation on 15 December last year following the visit to Australia of the Turkish Prime Minister. As Senator Brown outlined yesterday in his comments, the Greens are very concerned about the arbitrary power that has been given to the Attorney-General to label and ban organisations as terrorist organisations. We have expressed our concerns in the parliament about the proscription regime on many occasions. These concerns are not just expressed by the Greens; we share our concerns with the government's own Sheller review, the report of the body that was appointed to review terrorism legislation brought in by this government, including the proscription power. The government's own Sheller review suggested that a fairer and more transparent process should be devised. Some members of the group—and this is certainly a view that the Greens hold—believe that only a court should be able to list an organisation, rather than the political appointment of whoever is the Attorney-General of the day.

The Sheller review said that the laws appear to have a disproportionate effect on human rights and could be subject to administrative law challenge. It also said that no sufficient process is in place that would enable persons affected by proscription to be informed in advance that the Attorney-General is considering proscribing an organisation and to answer the allegation that that organisation is a terrorist organisation.

That deficiency in the process of proscription, highlighted by the government's own Sheller review, comes into play when talking about this particular proscription. We have heard many members in the chamber speak about the impact of this legislation on the Kurdish community in Australia. As the government's own Sheller review highlights, there is no process by which the Kurdish community in Australia could be aware that the Attorney-General had intended to list the PKK as a terrorist organisation—as he did following the visit of the Turkish Prime Minister on 15 December last year. Hence we come to all of the problems that were raised in the minority report of the Joint Committee on Intelligence and Security that looked into this matter and that have been raised by a number of senators. In fact, I think all senators who have spoken on this issue in this chamber have raised that very issue.

As others have said, this is so extraordinarily important because of the vast numbers of members of our community who are members—including informal members—of or associated with a listed organisation who can then become liable to serious prosecution because of the proscription. As others have outlined, some of those penalties are significant. The penalties include a maximum of three years imprisonment for associating with members or informal members of a proscribed organisation.

Senator Carr was speaking previously about the Kurdish Association of Victoria. I am sure that there are members of that organisation who see the PKK as their party, as is quoted in the minority report looking into this matter. They would probably fall outside the category of the three years imprisonment, but there is 10 years imprisonment for informal membership of a proscribed organisation and 25 years for other sorts of intentional involvement. So we are talking about between three and 25 years imprisonment, depending on the level of association that people have with this particular organisation.

I will get onto my particular concerns that relate to the refugee community in Australia. There are members of the Kurdish community who are Australians and who have been given refugee status in this country on the basis of their membership of the PKK. So Australia has accepted that because somebody was a member of the PKK they should be afforded refugee status here in Australia, and there are many of those people. What this banning and labelling of the PKK as a terrorist organisation does is allow the government—which has all of the information about the Australian members of our community who are members of the PKK and, because of that, refugees here—to charge those people with being members of a proscribed terrorist organisation. That is what this proscription does; it allows the government to target those refugees who were given status on the basis of membership of the PKK and charge them with terrorism offences that can lead to between three and 25 years imprisonment. I am sure that, were any government members to choose to speak on this issue and defend their position—or, indeed, members of the opposition, which is also supporting this proscription—they would say, 'Oh, that won't happen.' The difficulty for me is that I am aware of instances, not in relation to the Kurdish community but to other proscribed organisations, when it has happened.

I refer people to the matter of Izhar ul-Haque, a young medical student studying at my old university, the University of New South Wales. He was charged with being involved in the activities of Lashkar-e-Taiba, which was a proscribed terrorist organisation. Lashkar-e-Taiba was proscribed after Izhar ul-Haque had returned from his overseas trip and was back studying at university. His case is an example of an organisation being proscribed a terrorist organisation after an individual's alleged involvement with them. The government chose to retrospectively charge him with terrorist offences, with years of imprisonment associated with them, because of an alleged involvement with an organisation that they later proscribed as a terrorist organisation.

Izhar ul-Haque spent much time in Supermax in Goulburn prison. He was a young university student locked up, and it had a significant impact on his ability to interact with people. When he came out of prison he sat in his bedroom with the door shut, refusing to interact with other people at all. These are the circumstances of this young medical student who was charged by the government retrospectively after they had labelled the organisation he was alleged to have associated with as a terrorist organisation. They went back and proscribed it and then charged Izhar ul-Haque.

My concern is for the refugees in Australia who are refugees on the basis of their membership of the PKK. This banning allows them to be charged with terrorist offences that have imprisonment terms of between three and 25 years. There is an example out there for everyone to look at of the government doing precisely that—charging people with terrorism offences due to their association with a proscribed organisation that was not proscribed by the Australian government at the time of their alleged offence but was subsequently proscribed by the Australian government. As I said before, these are concerns that a vast number of members of our community have raised.

I started my comments by talking about the concerns that the Greens have around this general proscription regime. Similar concerns were raised by Victorian Legal Aid in their submission to the Parliamentary Joint Committee on Intelligence and Security inquiry into this particular proscription. They said:

... we submit that banning organisations is undemocratic. The proscription power breaches the fundamental principle of criminal law that guilt is attributed to individuals on the basis of their own individual actions in causing harm or damage. The proscription power imposes criminal liability by association on whole groups and on those who associate with them. It therefore imposes criminal liability on individuals who may have no proven or provable connection to violent acts that threaten the safety of the public.

No wonder we are hearing concerns from members of the Kurdish community in Australia, which Senator Carr and others have pointed out in the minority report. I will get onto some other implications as we proceed. Victorian Legal Aid continue in their submission:

We are also concerned that this proscription is inconsistent with Australia's international obligations under the International Covenant on Civil and Political Rights, most notably those obligations relating to freedom of association (Article 22). The listing power places a greater restriction on the right to freedom of association than is necessary in a democratic society to maintain national security.

These are the concerns that the government's own Sheller report raised as well, and hence their concerns with the proscription regime as it operates.

Many people over many years have expressed support for self-determination in Turkish Kurdistan. The broad scope of the terrorism laws combined with this proscription could catch many of those people in the net of the terrorism laws, as I have outlined. Senator Carr has spoken about his life membership of the Kurdish Association of Victoria and I have mentioned the many members of that association and a number of other Kurdish associations around Australia who are greatly concerned about this proscription because they know and understand the law. Not all of them are aware of the consequences of the three to 25 years maximum imprisonment that they may face if they identify with this organisation—and remember it is the organisation that allowed them to come to this country.

I move to that issue and express the concerns of the Refugee Council of Australia, which has said that the listing of the PKK will adversely affect Kurds who seek asylum in Australia in the future and also those who have been accorded refugee status in the past. They express concern about:

... the implications of the listing of the PKK under the Code for bona fide asylum applicants or visa holders of Kurdish origins who may be caught by the inclusion of this organisation on the list of proscribed organisations—which in historical terms given the history of the Kurdish struggle and the Turkish government's suppression—

the PKK—

... might with the passing of time evolve into one like the ANC, PLO or Fretlin all of whom are now legitimate representatives or governments of nation states.

They express concern for people who have been granted asylum here on the basis of their membership of the PKK. They also talk about their concerns for any future refugee or asylum seeker from Kurdistan coming to Australia. They say:

Proscription of the PKK would disproportionately affect asylum seekers in a way that they would not be under current 'serious crimes' provisions in the Refugee Convention. Current laws require an investigation of the circumstances behind an individual's past activities and assessment of whether there are 'serious reasons to consider' a person comes within the Exclusion provisions of the Refugee Convention. Simple proscription of an organisation fails to take account of such complex circumstances and could place asylum seekers at risk of being unfairly denied refugee status and returned to a situation of danger contrary to the non-refoulement provisions of Article 33 of the Refugee Convention.

They go on to say:

It can also be argued this step will impact adversely on offshore humanitarian applicants who have only distant links with the PKK such as elderly parents but who may have discreetly assisted the children's political actions.

They talk here about the possibility of members of the Kurdish community in Australia—Australian citizens—who wish to bring their elderly parents here. If their elderly parents have had informal association with the PKK, if they are members of the PKK or are involved with them, the concern raised by the Refugee Council of Australia is that they may be denied refugee status here on the basis of this government's proscription of the PKK as a terrorist organisation. They go on to say:

> There is in the Council's view a serious risk that thorough individual assessments in future cases will be replaced by a blanket refusal of claims invoking the proscription provisions together with the character provisions in the Migration Act for any Kurdish asylum seeker with actual or imputed links to the PKK.

So they raise their concerns about whether this proscription will lead to the Australian government refusing to grant asylum to Kurdish asylum seekers who may have had some association, however weak it may have been, with the PKK.

The consequences of this banning are vast. The consequences that I have raised today are not all dealt with by the joint committee that looked into this matter. That is why we see in the recommendations a request for the government to reassess this. That is why the Greens have moved this disallowance motion, because the impact of this proscription on the present Australian Kurdish community, and on the future Australian Kurdish community in terms of asylum seekers coming from the Kurdish community to Australia, has not been considered. And if it has been considered by the government then the government, with the support of the opposition, appear to have made the decision, 'That's okay, we'll go ahead.'

This is despite ASIO and the government making it clear, as the government senator who spoke on this matter did yesterday, that the PKK poses no threat to Australians. Despite having made it clear that there is no activity going on here in Australia, the government, with the support of the opposition, intends to proceed with this labelling of the PKK as a terrorist organisation, with all the subsequent consequences that I have talked about in relation to the Kurdish community here in Australia and their family members who may wish to come to Australia.

The PKK are one side of an ongoing civil conflict in Turkish Kurdistan—a conflict that has seen tens of thousands of people, mainly civilians, lose their lives. Human Rights Watch has said in one of its many reports on the conflict that the Turkish government have, in the course of the conflict with the PKK, also committed serious violations of international human rights and humanitarian law, including torture, extrajudicial killings and indiscriminate fire. Many who died were unarmed civilians caught in the middle between the PKK and security forces, targeted for attack by both sides.

Precisely because of these activities occurring, the Australian government has made very correct and accurate decisions in the past to grant members of the Kurdish community asylum here in Australia, on the basis of not only their membership of but their association with the PKK. The government has all of that information because it is the basis on which those people were granted entry to Australia. What this proscription does is to allow the government to use that information to charge people with terrorist offences.

I hope that that does not happen. But when I look at the example of Izhar ul-

Haque, for whom that did happen, I am greatly concerned for the Kurdish community, for those Australian citizens who are now open to imprisonment of between three and 25 years for associating with members or informal members of the PKK. The consequences are just astounding, and it is important that senators vote in support of freedom of association by supporting this disallowance motion by the Greens regarding the labelling of the PKK as a terrorist organisation. Do so for the Australian Kurdish community; do so for the principle of the freedom of association; and do so because of the concerns that the government's own review of these proscription powers has raised. Do so because of the concerns raised in the minority report of the committee that looked at this matter. It is important that senators vote today in support of freedom of association. *(Time expired)*

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.28 pm)—The Greens' position on this matter is very similar to that of Norway. We should be facilitating peace rather than taking a side in what is undoubtedly a very nasty civil war that is taking place in eastern Turkey. As contributors to the debate have pointed out, it has led to the loss of some 30,000 lives. There has been a great deal of inhumanity involved, and that applies to both sides. One of the things that we need to deal with in assessing such matters is the behaviour of governments as well as that of organisations, having regard to community disagreement with government.

I repeat the personal view that the Kurdish people should have their right to self-determination. But, that aside, how much better it would be if Australia were taking not the EU position but the Norwegian position, which is that we should be not taking sides but facilitating peace and an outcome which is going to bring peace within Turkey and satisfaction to both the Turkish government and the Kurdish people. The difficulties with proscription of the PKK in Australia have been well canvassed in this debate. I did not bring this disallowance motion without some concern, I can tell you, because it is very easy for a debate simply to become one of who is soft and who is tough on terrorism. What we all have to be strong on is achieving peace beyond proscriptions like this. It is incumbent upon the Australian government to be taking an active role in helping both sides in Turkey to achieve peace, and I have heard nothing about a contribution being made there during this debate—nothing whatever. I would be much prouder of this debate were I hearing that Australia was moving to emulate the very active peace pursuit of Norway, which of course is involved not just in Turkey but also in Sri Lanka and elsewhere in the world where there are huge intractable problems and where the government, on one side, loses civility, and the people on the other side become branded as terrorists, although terror comes from both sides of those debates. There is a strong feeling within the Australian community that knows about this issue that proscription is not the way to go.

Senator Abetz interjecting—

Senator BOB BROWN—I am sorry, I did not hear that interjection, but the senator opposite ducked his opportunity to contribute to this debate. It is a healthy thing for us to debate issues like this. The government has the power of proscription. The Attorney-General has got that power but it needs to be checked by a proper debate in the parliament. We maintain that that power should come from the parliament and not the executive, but that is not the way things are in this country.

It would have been a very different matter had this been a proscription of the military

wing of the PKK, but it is not. It is a proscription of the whole of the PKK, which means the representation of the Kurdish people in Turkey. It is a political organisation. It has a very vigorous social justice component to it. The Kurds are fighting against, amongst other things, not just the repression of their aspirations for self-determination but the repression of their language. Can you imagine what it is like to be in a community where your culture is effectively repressed? One needs to look at the history of Ireland to see what that does to a community and how a community reacts to that. But the Turkish authorities have proscribed the Kurds from teaching their children their own language. Ought not Australia to be saying to the government of Turkey that that cannot be justified, no matter what the rights and wrongs of this dispute are? It is not permissible in a modern functioning democracy which values plurality and the rights of its citizens.

No wonder people react to that. We do not support violence, but you have to understand where violence comes from. Very often it comes from repression, loss of language, loss of culture and denial of rights, so there is a lot to be put right in Turkey. This is a sledgehammer proscription, which would have been much better handled if the concentration had been on the military operations of the PKK and not on all components of the PKK, as is occurring here. Let us hope that Norway has the success that Australia is not setting out to achieve. That will be much more important than any debate we can have in this chamber.

I listened to this proscription carefully and I valued Senator Ray's contribution and the contribution of other members of the opposition. There is a very healthy divergence of opinions within the opposition ranks, which itself must be honoured, particularly when it is brought into a debate like this. This is an extraordinarily difficult issue and it is important that it gets debated here. The government has the numbers, of course, to override any change that debate may make to the impact of this proscription, and we will see that in action shortly. Nevertheless, I am proud to have brought this disallowance motion to the chamber and I thank everybody who took part in the debate. It has led to a better understanding of the difficulty of the issue and the fact that it might not be the right decision that is being made here today. The government is charged with a very heavy responsibility in reviewing that decision in the next 24 months to see that it does not simply keep the proscription going but rigorously reviews what is happening in Turkey, to see that the best outcome can occur there, and assesses feelings within the Australian community. We are talking here about many more than 100,000 people who have a Kurdish background in our community. We are talking about a whole range of issues that have caused the legal community and community organisations to express their concern about this proscription. So I hope the government will review this proscription genuinely, and I thank all those who took part in this debate.

Question put:

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

The Senate divided. [12.40 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes……	8
Noes……	49
Majority……	41

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

Abetz, E.	Adams, J.
Barnett, G.	Bernardi, C.
Bishop, T.M.	Brandis, G.H.
Brown, C.L.	Calvert, P.H.
Carr, K.J.	Colbeck, R.
Conroy, S.M.	Eggleston, A.
Faulkner, J.P.	Ferguson, A.B.
Ferris, J.M.	Fielding, S.
Fierravanti-Wells, C.	Fifield, M.P.
Hogg, J.J.	Humphries, G.
Hurley, A.	Hutchins, S.P.
Johnston, D.	Joyce, B.
Kemp, C.R.	Kirk, L. *
Ludwig, J.W.	Lundy, K.A.
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.	Patterson, K.C.
Payne, M.A.	Polley, H.
Ray, R.F.	Ronaldson, M.
Sterle, G.	Troeth, J.M.
Trood, R.	Watson, J.O.W.
Webber, R.	Wong, P.
Wortley, D.	

* denotes teller

Question negatived.

NOTICES

Presentation

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.44 pm)—by leave—I give notice that, on Tuesday, 5 September 2006, I shall move:

That Schedules 1 and 3 to the Parliamentary Entitlements Amendment Regulations 2006 (No. 1), as contained in Select Legislative Instrument 2006 No. 211 and made under the Parliamentary Entitlements Act 1990, be disallowed.

TELECOMMUNICATIONS DETERMINATIONS

Motion for Disallowance

Senator CONROY (Victoria) (12.45 pm)—I move:

That the following legislative instruments be disallowed:

(a) the Telecommunications (Operational Separation—Designated Services) Determination (No. 1) 2005, made under subclause 50A(1) of Schedule 1 to the Telecommunications Act 1997; and

(b) the Telecommunications (Requirements for Operational Separation Plan) Determination (No. 1) 2005, made under paragraph 51(1)(d) of Schedule 1 to the Telecommunications Act 1997.

Labor are moving to disallow the Telecommunications (Requirements for Operational Separation Plan) Determination (No. 1) 2005 because we believe it to be a public relations exercise that will achieve none of its stated goals. The determinations are conceptually flawed and have been introduced without sufficient consultation with an industry that violently opposes them.

Senator Coonan noted last year that she was very resigned to the fact that the Operational Separation Plan will not meet everyone's expectations, and I am pleased to see that we have drawn Senator Ronaldson out into this debate, because I know from the strength of his public commentary that he could not possibly think that this goes anywhere near far enough to achieving genuine operational separation. So I will be looking for that dive with a half-pike backflip as you explain and justify to the Australian public how you are going to vote for this plan, Senator Ronaldson. Unfortunately, Senator Coonan has met no-one's expectations. She certainly will not have met Senator Ronaldson's expectations, if he is being truthful in the chamber.

The object of operational separation to constrain Telstra's ability to anticompetitively take advantage of its vertically integrated ownership of both natural monopoly network elements and its retail business is a worthy ambition. There is clearly a need for a regulatory response to constrain Telstra's ability and incentive to use its vertically in-

tegrated structure to discriminate against access seekers. Telstra has a long history of employing subtle actions to frustrate competitors' efforts to exercise their legal right to obtain access to Telstra's bottleneck infrastructure.

ACCC investigations have consistently found that the fault-handling and connection services offered by Telstra to wholesale residential customers are inferior to those that Telstra provides to itself. That was the ACCC, Senator Ronaldson. Telstra's use of separate and less reliable computer systems for competitors, coupled with the underresourcing of the business groups providing services to competitors, have been identified as the cause of this discrimination. Obtaining access to Telstra's exchanges for the installation of DSLAM equipment, as access seekers are entitled to do by law, currently takes a minimum of four months and, in some cases, up to a year—one year, Senator Ronaldson.

Appointments are missed, keys are lost and mystery technical problems are found—not to mention the famous fence built around the exchange here in the Australian Capital Territory to keep TransACT out. You were there, Senator Ronaldson, when the evidence was put before the parliament about it—anything to stymie competitor access to Telstra's bottleneck infrastructure. Morgan Stanley has even suggested that Telstra's vertically integrated structure will allow it to significantly delay the financial impact of the ACCC's recent ULL decision by restricting access to backhaul and exchanges. That is what the market expects Telstra to do. It is the kind of behaviour that operational separation is designed to stamp out.

Operational separation need not impose a significant cost burden on Telstra. You only need to look at the United Kingdom to appreciate this. Since the implementation of operational separation on BT in the UK, BT has experienced eight per cent growth and a two per cent increase in profits. The CEO of BT has stated:

> Broadband growth continues to be very strong with the number of BT Wholesale connections now standing at more than seven million. This is pushing the UK to the front of Europe in broadband take up.
>
> The transformation of the business continues to deliver value to our customers and shareholders.

So a more robust operational separation can be a win-win situation for all involved.

However, the model that the government has adopted for its operational separation plan is fundamentally flawed and is doomed to fail—and you know it is doomed to fail, Senator Ronaldson. Labor believes that there are significant problems with the government's operational separation model, stemming from the regime's underlying legislation. Under the government's model—the one that you are going to vote for, Senator Ronaldson—Telstra is separated into retail, wholesale and network businesses. Instead of remedying Telstra's ability and incentive to discriminate against access seekers, this structure effectively institutionalises differential treatment of wholesale access seekers when compared with Telstra retail.

Under the government model, which Senator Ronaldson will defend shortly, wholesale access seekers will be forced to acquire services from the wholesale business unit, while Telstra retail will be able to acquire services from Telstra network. The fact that wholesale customers acquire different products from a different unit of Telstra to Telstra retail is an open invitation for Telstra to 'game' the regime and frustrate the effectiveness of the regime. You and I have both experienced Telstra's gaming recently, Senator Ronaldson. You were at Senate estimates with me. You sat there and questioned Telstra and listened to the gaming in their answers. You know what I am saying is correct, so do

not sit over there and interject: 'Leave me something to say.'

Senator Abetz—Through the chair!

Senator CONROY—Through the chair, Mr Acting Deputy President. Thank you, Senator Abetz. I accept your admonishment. Senator Ronaldson, you have experienced this, so do not sit there and interject: 'Leave me something to say.' What you need to be saying is: 'You're right, Senator Conroy. I'm coming to vote with you, because this isn't good enough.' Do not sit over there, waving a piece of paper, knowing that every word that I am saying here is right—and you really do know that it is right.

The fact that wholesale customers acquire products from a different unit of Telstra from Telstra retail is an open invitation, as I have said, to game the regime. You know that that is absolutely right. The effect of this mistake has been made clear. This has happened since the decision that it would be forced to have operational separation, Senator Ronaldson. I hope you are listening and not just scribbling away over there. Telstra has systematically gutted its wholesale division in the lead-up to the introduction of operational separation. The company has moved its pricing and marketing, business strategy and business and product development decision-making power from the wholesale division to a central body. It has gutted it; it is just an empty shell now. Telstra had already got around operational separation before you introduced your regulation. There have been suggestions that provisioning, customer care and fault rectification may also be centralised in this way. That is right, Senator Ronaldson. I know you actually care about this. I know you care about how long it takes to get things fixed out there in the bush. Telstra has already taken fault rectification out of the wholesale arm and has moved it into another area. This is a sham.

Senator McGauran—Ever heard of the universal service obligation? The law's the law.

Senator CONROY—But the laws are open to having a truck driven through them. Senator McGauran, I accept your interjection. Whether you are a Liberal or a National, you sit back and vote for this knowing that they have already driven a truck through it.

Senator McGauran—I'll be listening to Senator Ronaldson's speech.

Senator CONROY—He will be agreeing with me and voting for it. As such, today Telstra Wholesale does not control the prices. This is the key for Senator McGauran, who pretends he represents rural Victoria. Even though he has ratted on the Nats and joined the Libs, he still pretends he represents rural Australians, just like Senator Ronaldson says he does.

Senator McGauran—He does!

Senator CONROY—Oh, he does pretend! Whoops, sorry, Senator McGauran! I am sure Senator Ronaldson will accept that interjection.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Senator Conroy, please direct your remarks through the chair.

Senator CONROY—I would definitely like that one on the record, Hansard: Senator McGauran saying Senator Ronaldson does pretend he represents rural Victorians. He lives in Ballarat; you live in the city. I think that is a bit rich, coming from Senator McGauran. I will get back to the central issue.

Senator McGauran—Mr Acting Deputy President, I rise on a point of order. Senator Conroy called upon Hansard to pick up that interjection.

The ACTING DEPUTY PRESIDENT—What is your point of order?

Senator McGauran—The point of order is relevance. What Hansard ought to pick up is the humour and the jovialness in it—and, of course, Senator Conroy misleading the chamber and taking advantage of my interjection. That also ought to be picked up by Hansard. Senator Ronaldson, as we all know, is country born and bred and is one of the most rural representatives in this chamber.

The ACTING DEPUTY PRESIDENT—Senator McGauran, please resume your seat. There is no point of order.

Senator CONROY—I hope my time was held over while that little rant took place to try to cover his embarrassment. This is the nub, joking aside—although I do accept Senator McGauran's point about humour. There is a lot of humour in this debate at the moment. I accept that.

As such, today Telstra Wholesale does not control the prices it sells at, does not have sales staff who manage customer relationships and does not have the ability to negotiate new contracts. This is the nub of the issue. All of these critical business functions are now performed from head office, not from Telstra Wholesale. Of course, as a result of the government's flawed structure for its operational separation regime, Telstra has an incentive to do this. Gutting Telstra Wholesale does not hurt the company, because under the government's model Telstra's retail arm acquires its services from the network arm, not from the wholesale arm, which all of the other competitors have to access.

Even worse, this structural flaw is compounded by virtue of the sidelining of the ACCC from the process. This is what you are voting for. Lib or 'Rat Nat', it does not matter. You are voting to take the ACCC out of the equation. When Telstra does abuse its vertically integrated structure anticompetitively, the ACCC will not be able to do anything about it. The ACCC has no powers to investigate breaches of the operational separation regime and would be precluded from taking enforcement action with respect to breaches until the minister approved a rectification plan. This is taking the role of the Minister for Communications, Information Technology and the Arts a long, long way. The way in which this legislation sidelines the ACCC in favour of direct ministerial involvement poses a real risk that the operation of the regime will become unacceptably politicised. I know that when you are in government, whether you are a member of the National Party, a Rat Nat or a Lib, there is no such thing as—

Senator Abetz—At least he's loyal to his leader.

Senator CONROY—Oh, please, Senator Abetz—as the man who single-handedly destroyed the Tasmanian branch of the Liberal Party! How many opposition leaders in Tasmania have you knocked over in the last three years?

Senator Abetz—None.

Senator CONROY—Oh, please! Said with a straight face. All I can say is that the comedy continues.

The ACTING DEPUTY PRESIDENT—Senator Conroy, I remind you of the question before the chair. I ask other senators to cease interjecting.

Senator CONROY—Thank you. I accept your admonishment. As I said, the legislative flaws are compounded in the ministerial determinations, because the legislative framework for the government's operational separation regime does not deliver adequate structural reforms. The regime requires a high level of government involvement in Telstra's day-to-day activities. This is the Liberal Party. These are the free market gu-

rus. They have the minister interfering in the day-to-day business operations of a company that will soon be 100 per cent privatised—that is, if they can ever find anyone to buy it, given the shambles that they are involved in in trying to flog it off to the poor unsuspecting small shareholders of Australia as the price plummets towards $3.50 next week.

The model is forced to attempt to deliver equivalence through rules of conduct rather than by addressing incentives. As such, an examination of the ministerial determinations reveals a series of plans, compliance auditing and reporting obligations—mountains of pointless paperwork and bureaucracy for a company that is already drowning in it. The government has estimated that this complex, rules based approach to operational separation will cost the ACCC $4 million to $5 million per year just to monitor. The poor ACCC will have to spend $4 million to $5 million to monitor this farce. That is the government's own calculation. In contrast, an effective two-way structural split has been estimated to involve monitoring costs of only $1 million to $2 million per year. That is right: the logical, sensible alternative would mean half the cost to the ACCC. So much for abolishing red tape Liberal Party style.

Even worse, somewhere amongst the jungle of customer service plans and compliance programs, the core principle of the operational separation regime—equivalence of service for competitors—has been lost. The extent to which the principle of genuine equivalent service has disappeared from these determinations is clear from the comparison of this regime with the operational separation model advocated by the ACCC. Last year, the ACCC argued that robust operational separation was 'critical to ensure the effectiveness of the telecommunications access regime'.

Graeme Samuel described effective operational separation as requiring Telstra to reorganise its internal affairs and operate as if it were running two or more discrete businesses. He advocated 'a clear internal separation between a retail business supplying services to end users and a network business supplying wholesale services to both the Telstra retail business and its competitors'.

To this end—and this is where government senators should pay very close attention—the ACCC said:

> Internal separation between a 'retail business' supplying services to end users and a 'network business' that would supply wholesale services to all third party access seekers, would enable third parties to obtain prices and service levels that are effectively equivalent to those that are provided to the Telstra retail business.

That is what it is supposed to be about. Ed Willett, Deputy Commissioner of the ACCC, stated that this internal separation was critical and that operational separation could not be delivered merely through theoretical commitments to provide equivalence.

The ACCC focused on the incentive structure that the operational separation regime should create. To this end, the ACCC wanted an operational separation regime that required the separated units to: deal with each other on a commercial arms-length basis, including explicit pricing, invoicing and billing; maintain fully separate accounts and reporting systems capable of capturing all transactions between the businesses; and maintain separate management and staff.

Graeme Samuel stated that the only difference between operational separation and structural separation should be the issue of ownership. However, when we look at the operational separation model created by these determinations, it is clear that none of the ACCC's requirements have been satisfied. The regime does not require Telstra to reorganise its operations as though it were

operating two distinct business units. There are not even any internal transfer prices, let alone arms-length internal contracts between business units. Instead, the regime requires Telstra to maintain a pricing schedule of what it charges itself for bottleneck services. Telstra would still enjoy the freedom to charge differential prices to its wholesale customers. The only restriction would be that it would be required to rebenchmark its internal prices to actual prices periodically.

In the same vein, there is no requirement to establish separate profit-and-loss accounts and balance sheets for the separated business units. In fact, the current regime has more in common with a discredited accounting separation regime than with the ACCC's proposed model for operational separation.

The list of designated services that would be subject to operational separation is just as bad. The list of designated services does not include wholesale line rental, the service for which the ACCC currently has a competition notice on foot, and the definition of ADSL services can be easily circumvented by Telstra. All of these failures were compounded when the government arrogantly rammed through these determinations with next to no opportunity for industry consultation.

This whole process for the development of operational separation has been rushed from day one. We had a one-day inquiry into legislation made available to the committee only two days earlier, and a committee stage for the bill that was filibustered by government senators—and you were one of the worst offenders, Senator Ronaldson—and then guillotined by the government. Drafts of these determinations were published late on Wednesday, 14 December, in the afternoon, with responses from industry required just two business days later, on the following Monday, 19 December. This is consultation arrogant Howard government style. Mr Howard's government gave two days. There was Thursday and Friday, and then it had to be in on Monday. The determinations were then finalised by the minister three days later, on December 22. I seek leave to incorporate the rest of my speech.

Leave granted.

The incorporated speech read as follows—

Even the Department of Communications conceded at Senate estimates that the consultations over these determinations were held over 'a very truncated timeframe.'

One could have been forgiven for thinking that there must have been a desperate need for the government to ram these determinations through in order to have the regime up and functioning as soon as possible.

Unfortunately, the need to finalise these determinations turned out to be so desperate that the Minister proceeded to wait six months to approve Telstra's operational separation plan, prepared under this determination.

And of course we're still waiting to see the pricing equivalence regime.

As a result of these flaws it seems likely to that the government's proposed model for Operational Separation is destined to fail to achieve its goals.

I note that at least one member of the Government has come to the same conclusion.

That person is Paul Neville, the chair of the Government's back bench communications committee.

Michelle Grattan, reports in today's Age that Mr Neville believes there must be a stronger transparency in Telstra's wholesale costing—that is, the price at which it sells its services to competitors.

Mr Neville is quoted as saying:

"You can't have a competitive regime where one party can cross-subsidise its services, ostensibly to the advantage of rural and regional interests, but in reality to the death of competition. This situation in the end will harm country areas".

Mr Neville is fully aware of Senator Coonan's operational separation regime.

His comments today are nothing less than a vote of no confidence in it.

National Party senators should take note.

The most experienced and knowledgeable person on communications matters in the National Party believes that the Government's regulations will harm country areas.

Back in June 2005, the then leader of the National Party, Mr Anderson stated that 'the genuine and robust operational separation of Telstra's wholesale and retail arms' was part of 'the price of the National's agreement for the sale of Telstra'.

Well not for the first time, the Nationals have been dudded by the Liberal Party.

It is not too late however for the National Party to show some spine and try and hold Senator Coonan to at least part of the deal.

Senator Boswell, Senator Joyce and Senator Nash can vote with Labor today and send the Minister back to the drawing board and start again.

The government needs to start from scratch and ask itself, is the rationale for this legislation genuine?

If so it should introduce legislation that adequately addresses the problem.

If not, it should withdraw the regime altogether.

It should not however, introduce half-baked legislation that will achieve nothing more than creating an additional cost burden on Telstra.

If the government is not going to do operational separation properly the country would be better off if it didn't do it at all.

Because the burdens of the government's operational separation regime on Telstra are real.

These determinations will impose a significant compliance burden on Telstra.

They will impose layers of bureaucratic controls and reporting requirements on the company.

All for a regime that will achieve nothing.

As it stands the government's operational separation plan is nothing more than a marketing document.

Its real purpose is to create the impression that the government is interested in improving the competitive process in the Australian telecommunications sector without actually making any changes that will substantively benefit the sector and the country.

Alan Kohler got it right when he predicted in July of this year that the government's operational separation regime would be "No more than a renaming of "accounting separation".

He was spot on when he predicted that the government would wimp it and its operational separation regime would not include separate "balance sheets or any internal accountability for a return on the assets".

And he was on the money when he said that "Investment analysts would quickly see through this and not discount the share price."

This is of course exactly what has happened.

I can understand Telstra's frustration with regulation like this.

Regulation that treats the company as little more than a plaything to be pushed and twisted in order to keep up the Minister's appearances.

Regulation that doesn't learn from past mistakes.

Regulation that is destined to be revisited in the not to distant future when it becomes painfully obvious that it is not addressing the real policy problems it is designed to remedy.

Unfortunately, the government's model for operational separation has proven Telstra Chairman Don Mcgauchie right when he said that "Operational Separation really is a theoretical piece of nonsense, and it is whatever you want it to be, it is whatever you make it. "

In the form created by these determinations, operational separation is a nonsense.

Labor believes that these determinations are so flawed that they ought to be disallowed by the Senate and re-drafted by the Minister so as to at a minimum satisfy her own objectives for operational separation.

Labor believes that there is a need for genuine and robust operational separation.

These determinations are however nothing more than an expensive sham, a product of an arrogant and lazy government that couldn't be bothered to get it right.

This regime won't work and it should be fixed or scrapped all together.

These determinations should be disallowed and the Minister should start from scratch on the regime.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.06 pm)—The Democrats support Senator Conroy's motion to disallow the Telecommunications (Operational Separation—Designated Services) Determination (No. 1) 2005 and the Telecommunications (Requirements for Operational Separation Plan) Determination (No. 1) 2005. We were very critical of the government's legislation establishing the operational separation plan of Telstra—one of Australia's biggest companies and one of the world's most vertically and horizontally integrated telecommunications companies—arguing that it was flawed, very weak and had enormous potential to be exploited by Telstra.

Our view has not changed from that time. If anything, it is reinforced by the news last week that Telstra pulled out of negotiations with the ACCC on fibre to the node, ending yet another round of game playing by Telstra. The editorial in the *Australian* on 9 August said:

Telstra's withdrawal from talks on a fibre network has less to do with arguments over when, and at what level, to set a rate for third-party access, and everything to do with maintaining investment uncertainty for its competitors and keeping them off existing distribution lines for as long as possible.

Telstra's recent behaviour follows a long line of competition failures, like dragging its feet on ADSL 2 Plus access and installation, stalling the ACCC negotiations on the unbundled local loop, putting up barriers to competition access to the ULL and undercutting the retail broadband price. The situation might not be so serious if it were not for the fact that telecommunications is absolutely vital to the national security and economic and social development of Australia.

High-speed internet is essential for successful engagement with the modern economy and society and should pave the way for productivity gains right across global economies. Yet Australia is still behind the OECD average in broadband penetration, ranking 17th amongst 30 OECD countries. We believe the major problem, and the reason Australia is so far behind on broadband, is the government's failure to deal with structural issues in the telecommunications market and within Telstra while simultaneously pushing the privatisation of Telstra in a light-touch regulatory environment.

The government's failure has resulted in one of Australia's largest companies being allowed to put up barriers to competition on a continuous basis and to reduce its investment in infrastructure. The simple fact is that, while competition has improved in telecommunications markets over the years, especially in mobile phones, Telstra with its ownership of the copper network and the HFC cable is still the dominant player in most other telecommunications markets. There are features of telecommunications markets that, in the absence of effective regulation or competition, give an incumbent provider the ability and incentive to hinder competition. The cost of duplicating infrastructure, particularly the access network, is a significant barrier to entry in most markets and therefore a significant impediment to facilities based competition.

This feature alone gives Telstra considerable market power in many wholesale mar-

kets. Compounding the challenge posed by Telstra's power over these important elements of the physical network is that it is vertically integrated. This vertical integration creates the ability and, critically, the incentive for it to favour its own interests over those of its competitors. For instance, Telstra might do this by providing services to its own retail division on better terms than those on which it provides the same services to competitors, providing the same service at a price which is notionally lower than its external wholesale price, providing the same services at a different standard or providing services to itself which it does not provide to its competitors. Telstra therefore has both the ability to favour itself through its ownership of the essential elements of the infrastructure and the incentive, because of its vertical integration, to favour its own interests.

The government tried to deal with this issue through accounting separation, which in our view has monumentally failed. Even the Minister for Communications, Information Technology and the Arts is on the record as saying that accounting separation has been inadequate. Rather than learn from their mistakes, rather than learn from what is happening around the world and rather than learn from and listen to the ACCC, the National Competition Council and the OECD, this government again took the soft option on operational separation. The Telecommunications Legislation Amendment (Competition and Consumer Issues) Bill 2005, passed last year, provided the framework for the operational separation regime. It had the express objective of operationally separating Telstra to promote the 'principle of equivalence' in the terms of supply by Telstra of a limited set of services to Telstra's retail business and Telstra's wholesale business customers—that is, its retail competitors.

Equivalence is intended to be achieved by allowing scrutiny of the terms, including price, on which Telstra supplies those wholesale services to itself. This was supposed to enable the ACCC to assess whether Telstra is engaging in anticompetitive conduct in relation to the supply of those wholesale services. However, the legislation and the accompanying regulations, in our view and in the view of many in the industry, will fail to achieve their objectives.

What amazed us at the time was that the government rejected the ACCC's model in favour of a model that gave almost complete control of the process to Telstra without requiring Telstra to comply with the final separation plan. At the time, many in the industry tentatively supported the aims of operational separation. However, there was overwhelming criticism, including from the ACCC, of the government's model. Mr Graeme Samuel, Chairman of the ACCC, during the hearings into the bill was at pains to say that if certain things were done then the model could meet the government's aims. The ACCC was reluctant to say the model was good or that they were satisfied with the model. At the hearings, Senator Brandis asked Mr Samuel whether the committee could:

> ... take it that the ACCC's position and advice to this committee is that it is satisfied with the government's operational separation model?

Mr Samuel replied:

> I have indicated that there are about five outstanding issues that need to be developed. It would depend on the satisfactory development of those issues, which are quite significant issues, including compliance, investigatory powers and the like, before I could give an opinion on that.

Other witnesses were able to be less circumspect and pointed out the following. Telstra is able to develop the plan themselves. The minister and not the ACCC will oversee the development and implementation of the plan. The operational separation plan is not a licence condition. Enforcement of a breach of

operational separation by the ACCC is not available until after a rectification plan has been developed. There is no requirement for the ACCC to be involved in the development of the draft plan or a requirement that the minister take advice from the ACCC with respect to the draft plan. The legislation does not allow the minister to designate new services. There is an absence of a formal advisory role for the ACCC in the internal wholesale pricing and pricing equivalence regime. The possible length of time in setting prices and the interaction between XIA and XIB of the Trade Practices Act and the operation separation plan were also mentioned.

ATUG gave evidence to the sale inquiry that the operational model created the:

> ... possibility for delay, obfuscation or gaming, which is something that we have been quite concerned about in the past. Giving such a central role to the operational separation plan developed by Telstra alone is too broad and the implications still remain unclear and worrying.

The Democrats moved amendments to address many of these issues. We also moved amendments to strengthen the Trade Practices Act, including divestiture of power to the ACCC to step in and break up Telstra if their structure was an impediment to competition. If my memory serves me correctly, the Senate was not even given the time to debate the merit of these amendments, nor did the government accept any of them.

I must say on behalf of my colleague Senator Murray that we are again disappointed that this government continues to reject our amendments to strengthen the Trade Practices Act, particularly ones that would strengthen the position of small players competing in markets where large companies like Telstra compete.

The government also just does not seem to understand that telecommunications and media are now absolutely intertwined and have to be considered together. Telstra already has a foothold in the media market through its shares in Foxtel and ownership of the HFC cable. More and more media is being delivered over traditional telecommunications lines, and there is huge potential to grow this area and to give consumers more options. However, Telstra's current dominance of the telecommunications market and infrastructure is likely to stifle growth and competition in this area.

As a result of Telstra's ownership of both the copper wire and the HFC network, plus the lack of competition and Telstra's strategy to maximise shareholder value, there has been no incentive for Telstra to invest in its infrastructure, including high-speed broadband. Evidence shows that since privatisation began there has been a steady decrease in infrastructure spending as a percentage of Telstra's sales revenue. The Environment, Communications, Information Technology and the Arts References Committee report *The performance of the Australian telecommunications regulatory regime* said:

> ... during the 1980s under full government ownership of Telstra, 70 to 80 per cent of the annual surplus was reinvested in the network.

Telstra's capital expenditure as a percentage of revenue declined from 23.4 per cent in 1999 to just 14.1 per cent in 2004.

At the Senate inquiry into the final sale bill and accompanying competition bills, Telstra said it would be reluctant to increase its investment in infrastructure under the conditions imposed by the Telstra sale package. Telstra's Managing Director, Regulatory, Ms McKenzie, told the committee,

> The bill appears to require us to give away to our competitors, whenever they ask, value added services in which we have invested. Why would anyone invest in these circumstances?

… … …

> The regulations we face here increase our costs and hamper our ability to expand revenues. In fact, our ability to deliver the next generation of products and services for Australia is severely constrained by regulations that prevent us from earning a commercial return for our 1.6 million shareholders.
>
> … … …
>
> Telstra is a commercial operation. We have to act in the best interests of our customers and our shareholders. If there is no money and we are not making any money, then it will not be there to invest.

There we have it—Telstra telling the committee that they are now overregulated so they will not invest in infrastructure. We have Telstra owning both the copper network and the HFC cable, so there is no competition in infrastructure; we have a part-privatised Telstra trying to maximise their shareholder value by reducing investment capital works; we have a vertically integrated Telstra putting up barriers to their infrastructure; and we have a government that has failed to adequately deal with these issues.

The Democrats have argued for the last five years that if the government insist on going down the privatisation path then at the very minimum Telstra should be required to divest its ownership in the HFC cable. This would open up more competition in the market. The ACCC have argued that, in protecting the revenue of both the copper wire and the HFC cable, investment will not be made or will be delayed in services that would cannibalise the revenue of the other network.

To have fair and transparent competition in Australian telecommunications the government must move down the path of structural separation—that is, separate the wholesale from the retail. We opposed each tranche of the sale of Telstra but, now it is done, this is the only sensible course of action. The government argues that the cost of structural separation may outweigh the benefits, but there has been absolutely no evidence to support those claims because no real investigation has been done. The OECD made strong recommendations that its members consider structural separation as a means of promoting competition in utilities as an alternative to regulation. This is also supported by the National Competition Council.

With its remaining shareholding, the government could still own the infrastructure to guarantee fair access and some sort of parity for regional users. The Democrats argue that telecommunications is as essential as decent roads and power, it should be treated as a critical part of our nation's infrastructure, and the wires, the pipes and the exchanges should remain in public hands. We say it is time for the government to bite the bullet and structurally separate Telstra—keep the infrastructure in government hands, divest Foxtel and the HFC cable and use those funds to roll out fibre.

Senator RONALDSON (Victoria) (1.20 pm)—They must be cracking open the champagne in Telstra at the moment because they cannot believe their luck in that the Australian Labor Party actually wants to remove operational separation. Senator Allison and Senator Conroy either do not understand or do not care what the outcome of this disallowance motion would be were it to be supported. I do not think it will be supported. I cannot believe that Senator Conroy, who preaches competition, who at Senate estimates talks about competition, could actually move a disallowance motion of which the only outcome would be to destroy competition in the telecommunications industry in this country. It is quite remarkable.

What is interesting is the question of who is actually running this portfolio. Is it the shadow minister or the shadow shadow minister? Is it the member for Melbourne in the other place, Mr Tanner, or is it Senator Con-

roy? Because when Senator Coonan—the fantastic communications minister that she is—announced operational separation guess who came out and said that we had stolen their policy? It was the shadow shadow minister, Mr Tanner. He said, 'The government's stolen our operational separation policy.' And now we have the shadow minister—I think he is the shadow minister; I am not too sure whether he is the shadow shadow or the shadow, but he is certainly a shadow—saying that the Australian Labor Party does not support this.

As I said before, the only outcome of this motion being successful is that there will be no operational separation in Telstra, and that is a position that is grossly, grossly irresponsible. Effectively what Senator Conroy wants to do is to water down a critical regulation imposed on Telstra to ensure transparency and equivalence in the supply of services to Telstra's wholesale customers and to further reinforce the development of vibrant competition in the Australian telecommunications market. If the Australian Labor Party support no regulation of Telstra at the expense of competition then so be it. But I can assure you that the government will be making it very, very clear to the Australian community, and particularly to Telstra's competitors, that that is what the Australian Labor Party now stand for. It is so ludicrous that it is probably not unfair to suggest that the Labor Party now want to disallow the universal service obligation, which entitles everyone to a phone service, or the customer service guarantee. How far do they want to go with this outrageous policy position, one which they initially supported and now have turned against?

Let us have a look at what this motion will do. If this motion passes, Telstra will no longer have to establish and maintain within the company separate wholesale, retail and key network services business units. If it passes, Telstra will escape its obligations to implement strategies for service quality, information equivalence, information security and customer responsiveness which relate to Telstra's wholesale services generally. If the motion passes Telstra will no longer have to produce internal contracts, key performance indicators or a price equivalence framework. If it is passed Telstra will no longer be required to have separate staff and separate premises for the wholesale and retail business units, or a requirement that anyone who works for a retail unit cannot work for the wholesale unit.

The government are committed to the operational separation which is being implemented as we speak. We believe it is the only and most effective way to increase the transparency of Telstra's operations and to improve the equivalence of supply of eligible services to Telstra's wholesale customers. The operational separation framework goes well beyond an accounting separation. Senator Allison, the Leader of the Democrats, should apologise for her implication that this was an accounting separation. It is not; it goes well beyond that. It provides for organisational separation strategies for the delivery of high-quality wholesale services, internal contracts for the delivery of designated services and a robust compliance framework. The operational separation arrangements were developed in consultation with the ACCC—not contrary to it, as the Leader of the Democrats alleged. They take into account feedback from industry stakeholders on the preliminary draft plan released by Telstra in February this year.

Operational separation guarantees the independence of Telstra's wholesale business unit from its retail units. The wholesale business unit will now have control within Telstra for providing services to wholesale customers, and the retail business units must no longer have any influence, control or respon-

sibility for providing services to wholesale customers. These measures complement the robust, industry specific and anticompetitive conduct and access regulations in parts XIB and XIC of the Trade Practices Act. The government will be monitoring the effectiveness of operational separation closely, and stands ready to enforce its provisions should it be deemed necessary.

There are people within the industry who, as we speak, are absolutely scratching their heads as to what has possessed Senator Conroy to go down this path. Every one of those competitors, at every Senate estimates hearing I have been at, has been calling for this type of regulation to reinforce the sort of competitiveness that we have seen in the telecommunications industry under this government. It beggars belief that the Australian Labor Party now no longer supports operational separation. It beggars belief that the Australian Labor Party no longer supports competition in the telecommunications industry, because that is exactly what this disallowance motion means today.

Finally, I invite Senator Allison to go back to the details I gave this chamber over the last week and a half about what the OECD said in relation to broadband penetration. She has absolutely misrepresented the position of the OECD and I invite her to go and read that speech which sets out the true situation.

Debate (on motion by **Senator Colbeck**) adjourned.

BUSINESS

Rearrangement

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.29 pm)—by leave—I move:

That government business take precedence immediately till not later than 2 pm.

Question agreed to.

TRADE MARKS AMENDMENT BILL 2006

Second Reading

Debate resumed from 21 June, on motion by **Senator Abetz**:

That this bill be now read a second time.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.30 pm)—I commend the Trade Marks Amendment Bill 2006 to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

AUSTRALIA-JAPAN FOUNDATION (REPEAL AND TRANSITIONAL PROVISIONS) BILL 2006

Second Reading

Debate resumed from 10 August, on motion by **Senator Coonan**:

That this bill be now read a second time.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.30 pm)—I commend the Australia-Japan Foundation (Repeal and Transitional Provisions) Bill 2006 to the Senate.

Senator KIRK (South Australia) (1.31 pm)—I seek leave to incorporate the speech of Senator Hutchins.

Leave granted.

Senator HUTCHINS (New South Wales) (1.31 pm)—*The incorporated speech read as follows—*

On Tuesday, August 8, I was invited to the Biennial Sir Alan Westerman Lecture on Australian Trade Policy.

The lecture was delivered by the Deputy Prime Minister, Mark Vaile at the Department of For-

eign Affairs complex here in Canberra. I was the only opposition MP to attend, maybe because I was the only one invited.

The substance of the speech was a discourse on the current government's trade policy and some difficulties confronting international trade.

This lecture is named after a pioneering Australian public servant, Sir Alan Westerman.

The Deputy Prime Minister commenced his speech with, "Ladies and Gentlemen, I want to take you back to 1955."

Now, the Coalition is probably more comfortable dealing with the 1950s, particularly the Prime Minister, but as the Deputy Prime Minister went on to outline this significant period for Australian trade policy, he also spoke about a very important time for Australia's relationship with Japan and the Japanese people.

Sir Alan and Mr Ushiba commenced negotiation on what was to become the Australia-Japan commerce agreement, which eventually led to the Australia-Japan Treaty.

This was a major step in our relationship with Japan. It was not without its perceived risks to the then government from manufacturers and unions concerned about cheap imports and job losses.

It was just 10 years after the end of World War II, and memories were still quite raw from the wartime aggression of Japan in the Asia-Pacific.

I preface my remarks this way because I think that just as the Deputy Prime Minister took us back to 1955, I want to give support to this Bill and make some observations on our relationships since that important year: how important it has been to us in the past and how important it will continue to be for us going into the future, and I speak not only in economic, cultural or industrial terms, but also in terms of one of the most crucial regional issues, and that is security.

In 1955, the decade-old state of West Germany joined NATO. That meant that Germany remilitarized, rearmed.

I point this out because it is time that Japan's role in security not only in our region but in the wider world is recognised and encouraged.

Japan's Self Defence Force is currently restricted to purely territorial defence, but this role does not reflect the nature of conflict in today's world.

This restriction is included in Japan's Pacifist Constitution. The clause was appropriate during the period of economic reconstruction, and indeed facilitated the process of its recovery. However, it is now outdated and unnecessarily constrains Japan's participation in regional and global security. Under Article 9 of its constitution, however, it cannot deploy in a war zone to settle an international dispute, and nor can it have a standing army, navy or air force.

The role of the Japanese SDF has evolved over the past 60 years from a role providing relief and welfare to being an active member in international peacekeeping and disaster relief.

Since the enactment of the International Peace Cooperation Law in 1992, Japan has participated in peace keeping and humanitarian relief operations in Cambodia, Mozambique, Zaire and the Golan Heights.

More recently, its participation in Afghanistan and Iraq has shown it is willing and able to take on a greater responsibility. An expansion of Japan's SDF would allow it do so.

There is a stark imbalance between Japan's economic capability and its contribution to international affairs. It has the capacity to become a regional leader in security, and this is something that should be further encouraged.

It already has the fourth-highest military budget in the world, and its SDF maintains land, sea and air divisions that are very well-equipped and highly-trained.

Japan is the key to bringing balance to the North East Asian region. It is becoming increasingly volatile, with North Korea's belligerence growing and China's spending on military increasing by double digits for the last 14 years, let alone what both countries are doing to their own citizens.

North Korea is blatantly working towards an advanced missile system, and China has stepped up naval activity near Japanese territorial waters.

The potential for the region to descend into conflict has been a long-held fear of the international

community, particularly in regards to the historic tension over the Taiwan Straits.

There have been fears of a resurgent militaristic Japan if it decides to become more proactive on the international stage.

I think these fears are unwarranted in today's climate. There have been growing calls for Japan to become a 'normal' country that meets its international responsibilities as a major economic power. It can do that without forgoing the pacifist social and legal norms it has adopted since the end of World War II, and has indeed proven its commitment to the ideals of peace consistently in the last 61 years.

Australia's relationship with Japan has thus far been based largely on our very successful trade, but our two countries will no doubt look to each other as very important partners, along with the United States, in regional security.

I make these observations because I think it is important to acknowledge the role Japan has played in security, but also to encourage it to deepen this role in its partnership with regional allies like Australia.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

THERAPEUTIC GOODS AMENDMENT BILL (No. 3) 2006

Second Reading

Debate resumed from 14 August, on motion by **Senator Ellison**:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (1.31 pm)—The Therapeutic Goods Amendment Bill (No. 3) 2006 is supported by the Labor Party. It is a procedural bill that encourages electronic transmission of various manufacturing licences for medicines, blood and tissues. I want to take the opportunity to alert the government to the fact that we are aware that these amendments were in train during the time that the ANAO report was being conducted, and the ANAO report made a series of recommendations, including a recommendation that the TGA operate in an e-business type environment.

However, subsequent to the ANAO report being received and the government agreeing with all of those recommendations, which is a fairly standard response to ANAO reports, the government commissioned Deloittes to review the implementation process of the various recommendations. I understand that the report from Deloittes, which was issued in June 2005, found that, although the TGA had planned activities to address all of the audit recommendations, none had been fully implemented at that time. I think it might be opportune for the government to revisit that report and advise the Senate, maybe through the process that we are going through today or at another time, of the progress of the TGA in implementing the recommendations made by the ANAO and also on whether or not those have been implemented in accordance with the recommendations from Deloittes. Labor will be supporting this bill.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.33 pm)—I commend the Therapeutic Goods Amendment Bill (No. 3) 2006 to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL AND QUARANTINE) BILL 2006

Second Reading

Debate resumed from 14 August, on motion by **Senator Ellison**:

That this bill be now read a second time.

Senator O'BRIEN (Tasmania) (1.34 pm)—The Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006 makes a number of sensible amendments to the Export Control Act 1982 and the Quarantine Act 1908 that will be supported by the opposition. The bill creates new offences that will apply to persons in control of the preparation of food products for export who fail to ensure that the goods are prepared in accordance with legislated requirements, especially food safety legislation. It also provides a legal basis for the recovery of fees for quarantine services provided under the Quarantine Act to other Commonwealth bodies. In addition, the bill extends the services for which fees may be charged under the Export Control Act to services provided by the Secretary of the Department of Agriculture, Fisheries and Forestry or by the secretary's delegate. Finally, the bill clarifies the use of certain terms and definitions in both the Quarantine Act and the Export Control Act and inserts a new definition of the word 'fish'.

Offences under the Export Control Act currently only apply to the persons actually exporting prescribed goods or to persons in possession of prescribed goods intended for export. This legislation will create new offences for persons in control of the preparation of food products for export who fail to ensure that those goods meet legislative requirements, especially in relation to food safety. Two of the four new offences apply strict liability to some of the physical elements of the offence. This is seen as necessary, as otherwise persons in control of establishments preparing food for export could avoid the consequences of noncompliance by claiming that they were not aware of what was occurring in their establishments. These measures will provide Australia's customers with an even greater degree of certainty that the food products they are importing from this country meet Australia's stringent standards and are safe to eat. The levels of penalties applying to the new offences are broadly consistent with existing penalties in the Export Control Act.

This bill makes some small changes to legislation that address some relatively minor problems that have been identified with Australia's existing quarantine regime. It does not, however, deal with the many major problems with the Howard government's management of quarantine that have been exposed by the committees of this chamber, by industry associations, by farmers and by the Labor Party.

It is important that we deal with the issues raised in this bill, but it is even more important that the government acts to deal with the major flaws in Australia's quarantine arrangements that have been highlighted by such cases as the Argentinean beef found on the Wagga Wagga tip, the introduction of citrus canker to Queensland, the flaws found in the import risk assessment for bananas and the Marnic case that I raised during the budget estimates hearings.

But it is not just me and not just the Australian Labor Party that have been drawing the government's attention to its mismanagement of quarantine. Close supporters of the government have lost confidence in the ability of the Minister for Agriculture, Fisheries and Forestry and of the government to maintain a quarantine regime that provides adequate protection for our great primary industries and our native flora and fauna. The New South Wales Farmers Association held its annual conference less than a month ago. The minutes record that on 19 July a motion requesting that a committee of this Senate inquire into Australia's quarantine system, as

a matter of urgency, was carried unanimously by the delegates.

This motion followed the release of a report into the state of quarantine in this country by Mr Tom Brennan, a respected barrister. The New South Wales Farmers Association has been so concerned about the state of quarantine under the Howard government that it commissioned Mr Brennan to write the report. Mr Brennan has identified a number of structural flaws in Australia's quarantine system and he has made a number of important recommendations. A number of these recommendations are similar to proposals that Labor took to the last election as part of our agriculture policy. Mr Brennan has produced a very well thought out and detailed report, and I recommend that all senators go to the New South Wales Farmers Association website and read it.

It is clear that our quarantine system is in need of a thorough review, and Labor has been calling for such a review for some time. The legislation we have before us today is worthy enough in itself and will have Labor's support, but it is yet another example of tinkering at the edge of a quarantine system that is in need of a thorough overhaul.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.39 pm)—This bill, the Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006, amends the Export Control Act 1982 and the Quarantine Act 1908. Both of these acts are crucial to the regulation of Australia's international trade in food and agricultural products. The key amendments to the Export Control Act create new offences relating to the preparation of goods for export and ensure that the act has sufficient authority to enable the regulation of the sourcing of fish intended for export. These amendments enhance the capacity of the Australian Quarantine and Inspection Service to maintain market access for Australia's agricultural food exports. The amendments to the Quarantine Act clarify the cost recovery arrangements from other Commonwealth bodies for quarantine services provided by the Australian Quarantine and Inspection Service. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

Sitting suspended from 1.41 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Broadband Services

Senator CONROY (2.00 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to the recent collapse of Telstra's plans to build a fibre-to-the-node network and the government's lack of an alternative plan. Is the minister aware of comments by a Telstra spokesman on Telstra's official Now We Are Talking website pointing out that, while outer suburbs and the bush will be the losers from the government's lack of leadership:

> Senator Coonan won't be missing out—you can be sure the leafy city suburbs that are home to the likes of her and Graeme Samuel will have an array of great fast landline broadband deals to choose from, as will anyone living within 1.5 kilometres from an exchange.

Does the minister agree with Telstra that those living outside 'the leafy city suburbs' will be losing out as a result of her lack of leadership?

Senator COONAN—Thank you to Senator Conroy for giving me an opportunity to talk about the government's $3 billion pack-

age to make sure that anyone outside metropolitan areas will have an opportunity to have the rollout of first-class telecommunications. The important thing about fibre to the node was that, whilst the government would have welcomed it—had Telstra made good its statements that it was interested not only in its shareholders but also in the broader Australian community in rolling out fibre to the node—it would only have been to the most populous areas of metropolitan centres and not to rural and regional areas. That of course is what mostly concerns the government with the rollout of its Broadband Connect package—ensuring that Australians, irrespective of where they live, will be able to access equitable services.

The interesting thing about fibre to the node is that, not only was it not going to be available to all Australians, as I think had been the expectation, but it was to be confined to just the populous areas of metropolitan centres. So the important thing is that, if Telstra were actually concerned about this, they could have, if they wished, proceeded with their investment. My understanding is that they had committed to doing that and had engaged in conversations with the ACCC for months—and in fact had admitted that they were, to all intents and purposes, satisfied with the talks that had taken place with the regulator that would have enabled competitors to have access to fibre to the node.

The interesting aspect of Senator Conroy's question on fibre to the node is that his proposal—or, indeed, it might be Mr Tanner's proposal, because we all know that Mr Tanner is really the one who is calling the shots on telecommunications on behalf of the Labor Party. It was interesting to see, just a few minutes ago, Senator Conroy faithfully reading out Mr Tanner's argument on operational separation. Senator Conroy is totally incapable of devising his own policy in relation to telecommunications—

Senator Conroy interjecting—

Senator Sherry interjecting—

The PRESIDENT—Order! Senator Conroy and Senator Sherry!

Senator COONAN—and, as the shadow shadow for communications, he certainly does not understand Telstra's proposal for fibre to the node or indeed any other proposal.

This government will continue to stand up for consumers and, with an investment of over $3.1 billion, will ensure that broadband is pushed out and made available in regional Australia. We have the funds committed to future-proof this nation so that, as new communication technologies become available, they will also be made available to Australians. And, for those in outer metropolitan areas who cannot and would not have been able to access fibre to the node, of course we have the metropolitan broadband policy: $50 million to ensure that those who would otherwise not benefit from the proposed fibre-to-the-node footprint will be looked after by this government.

The important thing for consumers is that they know that this government are committed to looking after their interests. We have put our money where our mouth is; we have $3.1 billion to ensure that that happens. And—whilst I would still encourage Telstra not only to invest in fibre to the node but also perhaps to turn up their ADSL 2 Plus technology that is also available—if Telstra are to be taken seriously, they will do more for consumers. *(Time expired)*

Senator CONROY—Mr President, I ask a supplementary question. Can the minister confirm that, 18 months after the Metropolitan Broadband Connect program was announced, there are no—not one—registered

infrastructure providers under this program? Can the minister also confirm that Telstra is not participating in this program, as the minister tried to claim last week? What does the minister have to say to Australians living outside 'the leafy city suburbs' who have no prospect of receiving world-class broadband under the Howard government?

Senator COONAN—What I would say to Senator Conroy is: he really needs to get out a bit more. Being stuck in the leafy suburbs of Melbourne, he would not have a clue what was available. I can say, on the program, that some 17 major broadband suppliers have either registered or expressed interest in registering. Two service providers are already fully registered, delivering Metropolitan Broadband Connect services via wireless technology. Four other providers are about to follow, and a further six companies are also applying for registration, while several others, including Telstra, have exchanged draft deeds of agreement with my department. Senator Conroy is so out of touch. He needs to get out a bit more, understand a bit more about his portfolio and take a few more briefings from Mr Tanner, and then he might have some idea of what he is talking about.

Skilled Migration

Senator BERNARDI (2.06 pm)—My question is to the Minister for Immigration and Multicultural Affairs, Senator Vanstone. Will the minister update the Senate on the results of inquiries made into the temporary skilled migration issues?

Senator VANSTONE—I thank Senator Bernardi for the question. Senator Bernardi understands that yesterday in this place there were matters raised in relation to the 457 visa, which is a temporary skilled migrant visa—otherwise described by the now nearly racist Labor Party as a 'foreign workers visa' with workers coming in to take the jobs of your children.

Senator Chris Evans—Mr President, I rise on a point of order. It seems to me that it has to be unparliamentary to accuse Labor senators of being racist.

The PRESIDENT—Minister, I think you were referring to everybody, but I would ask you to choose your language a bit more carefully in that area.

Senator VANSTONE—Mr President, I will. You are quite right: I made a general reference; it was not to individual people.

Senator Chris Evans—Mr President, I rise on a point of order. Mr President, I asked you to rule on whether or not the minister's reference to Labor senators as 'racist' was unparliamentary. Do I take it that you ruled that it was not, or do I take it that you did not rule on my point of order?

The PRESIDENT—I did not rule on it. I made the point that the minister used a term that may be seen as unparliamentary collectively rather than individually. It is when it is directed individually that she would have to withdraw it. I did ask the minister to choose her language carefully, which she has accepted.

Senator VANSTONE—Yesterday I was asked:

> Can the minister confirm information from her department on occupations filled by 457 visa holders that 43 waiters, 77 domestic housekeepers, 251 personal assistants and 1,594 elementary clerical workers entered Australia on the visa last year?

As a consequence of that, I asked Senator Evans, the Leader of the Opposition in the Senate: 'What are you talking about? Are you talking about visas granted? Are you talking about workers? Are you talking about flow? Are you talking about stock?' The answer I got was: 'It's off your website.' So I undertook to have a look at it. No wonder I got a bemused look from Senator Evans: he had none of the above. He actually had some

sort of flow data which shows how many people with a 457 visa have come in and gone out of Australia in any one year. They may have come in and out two or three times on a holiday. They are not necessarily the workers. They might be the wives and they might be the children. So they are the workers, the families and the children crossing the border in 2005.

Senator Carr—We have child labour as well now, do we?

The PRESIDENT—Order! Senator Carr!

Senator VANSTONE—Included on the list given to Senator Evans's office was 14,001 non-working children who were on the visa. Why? Because workers are allowed to bring their children in. But, wait, there is more! At the bottom of the last page of the material provided to Senator Evans there is in bold print and in capital letters: 'Figures marked with an asterisk are subject to sampling variability'—because this is a sample—'too high for most practical purposes.' Seven of the eight occupations selected by Senator Evans had the asterisk. So we have a leader of the opposition in the Senate who does not know what he is using. Furthermore, when he uses something and it has an asterisk that says, 'Watch out, this is unreliable', he chooses to use the unreliable data. But, wait, there is more! Remember that it was said by the job snobs opposite, 'You're letting in caravan park attendants'—and shame on you if you have a job as a caravan park attendant! We know where the shame now lies. Caravan park attendants and workers are not on the list. It would seem that, when it says 'caravan park managers' and you do not like it, you change it.

Senator Chris Evans—Rubbish!

Senator VANSTONE—That is what I am asserting has happened.

Senator Chris Evans—That is complete rubbish. You didn't know your own portfolio.

Senator VANSTONE—The assertion from the opposition is that I did not know how it worked, but what we have is a leader of the opposition in the Senate who brought in the information, who did not know what it was, who used the most unreliable stuff and who, it appears, changed the data for his own purposes. The caravan park manager on a 457 visa in Central Australia manages 16 staff and it was certified by the Northern Territory Labor government that he was required to fill the job.

Senator Wong is looking bemused. Yesterday, remember, she was angry. I can assure Senator Wong, through you, Mr President, that if she goes back to law and goes before a court and changes the words—as they were changed yesterday—she will not be practising for very long. It is considered inappropriate for an officer of the court to mislead the court—and it should be considered inappropriate for the Leader of the Opposition in the Senate to come in here and use data he does not understand and take no notice of caveats. *(Time expired)*

Skilled Migration

Senator CHRIS EVANS (2.12 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Will the minister confirm that the document I referred to yesterday, headed 'Department of Immigration and Multicultural Affairs: Arrivals by Visa Category 457 by ASCO occupation, financial year 2004-05' is her department's list, provided to the Parliamentary Library by her, that describes the 49,000 people who entered the country, most of whom were not on the list of skills required by Australia—a list also issued by her department? Will she confirm that these people—

Government senators interjecting—

Senator CHRIS EVANS—No, it is a question; so listen.

The PRESIDENT—Order! Senator Evans!

Senator CHRIS EVANS—Will she confirm that these people came into Australia and they are not on the list of skills required by the Commonwealth?

The PRESIDENT—Senator Evans, would you address your remarks through the chair!

Senator CHRIS EVANS—If she is going to call us racist, I will address her—because she was right out of order.

The PRESIDENT—Senator Evans, I ask you to address your remarks through the chair.

Senator CHRIS EVANS—I ask the minister: can she confirm that it is her department's document of the 49,000 who came in? I seek leave to table the document.

Senator Coonan—Mr President, I rise on a point of order. Listening to that supplementary—if that is what it was—it was impossible to tell from that harangue whether it was a statement or whether it was a supplementary question. Mr President, I would invite you to consider whether it should be ruled out of order.

Senator Chris Evans—It wasn't a supplementary question.

The PRESIDENT—It was Senator Evans's question.

Senator Conroy—Correct; you idiot!

The PRESIDENT—Senator Conroy, would you withdraw that?

Senator Conroy—I withdraw it.

The PRESIDENT—Senator Vanstone, did you hear the question? I am sure I did.

Senator VANSTONE—Mr President, yes, I heard the question, but I must say that I thought it was a point of order being raised, because Senator Bernardi wanted to jump and did not get the call. I assumed you took Senator Evans because you thought it was a point of order. But it does not matter; I will answer the question. To answer the question as to whether the document from which he was quoting yesterday was headed that, yes, it is.

Senator Chris Evans—Is it your document?

Senator VANSTONE—Yes, it is. The point being made, however, is that, when you get a document which is headed with something, you usually say, 'What does that mean?' When you see an asterisk at the bottom and you see that it says, 'Contains figures which are subject to sampling variability; too high for most practical purposes,' you usually say to someone, 'Could you tell me what this means?'

I will tell you what it means. This means that, of all the people who hold 457 visas in any one year, who might come in and out—there might be a number of years of 457 visas here—and who are travelling for one purpose or another, there is some sampling done. That is what that information at the bottom means. You understand what sampling means. There is some sampling done with passenger information cards. On passenger information cards people write down their occupations. It would be no surprise to me if the partner of a 457 worker had put 'Home duties'. It would be no surprise to me at all. It is perfectly acceptable for people to take those sorts of jobs. What this document shows you, Senator Evans, if you had bothered to ask—

Senator Chris Evans—I asked you!

The PRESIDENT—Order! Senator Evans, come to order. Senator Vanstone, address your remarks through the chair.

Senator VANSTONE—Mr President, Senator Evans, once given the document, should have bothered to ask of his staff: 'What is this about? I want to ask a question on this. I want to go into the Senate and make an accusation on the basis of this, so can you please explain to me what this is?' Instead of that, Senator Evans came in and asserted that this data is something other than what it is. This is not an indication of the principal applicants who have come in in any one year. It is not that. It is an estimate based on flow data derived from passenger cards. That is what it is.

Opposition senators interjecting—

Senator VANSTONE—I did hear some yelling from the other side that we would not give them the data and we would not tell them what came in. I can tell you this: in the 2005-06 visa grants to principal applicants—and if Senator Evans wants to be the leader, he has to know what question to ask; he cannot come in with data that he does not understand, ask a question about it and expect to get an answer that is meaningful when he does not understand the data—the occupation that came in in highest number was that of registered nurse, and 2,530 of them came in. Computing professionals came in. There were 2,270. There were business and information professionals—1,430; general medical practitioners—980; and chefs—960. On it goes.

If the opposition want to ask what visas have been given to principal applicants then that is the question they should ask in order to get the information. What they cannot do is come in with data that they simply do not understand and assert that these people are the primary applicants that are brought in for the purpose of working. Of course, it is true that someone's spouse is entitled to a job, and they may not work in the most highly skilled areas. But, more particularly, any leader ought to know, when there is an asterisk that says, 'Take care,' that that is what you ought to do.

I am tempted to misuse data myself. In 1996 some parliamentarians were on this list. They must have come in as spouses. You might think, 'What was the skills shortage there?' There is a skills shortage in a leader who understands the question. *(Time expired)*

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I point out that one of the families that came in was the Wright family. The minister has been asked these questions before in estimates and on notice. Yesterday I asked her if she could confirm the information on that list. If the minister claims that the information on that list is not representative then I do not know why her department produced it. Can the minister tell us today exactly how many people let into the country in 2004-05 under the so-called skilled 457 visas were caravan park workers, personal assistants, housekeepers, ticket sellers and waiters? How is it that they came in under that visa given that those categories were not listed as being skills shortages in this country?

Senator VANSTONE—It is an embarrassment. It has been explained to Leader of the Opposition in the Senate that a 457 visa worker has to have particular skills. But they are entitled to bring their partners with them.

Senator Chris Evans interjecting—

The PRESIDENT—Senator Evans, you are continually shouting across the chamber. If you do it again, I will warn you.

Senator VANSTONE—They are entitled to bring their partners in. No amount of bluster and bluff will escape the fact that the senator had flow chart information and he did not ask what it was. He did not ask if it

showed principal applicants. He did not take any notice of the fact that children were on there. Blind Freddy could tell you that, when there are 12,000 kids on there, it is not principal applicants. But you came in here and misused data—you know you did.

The PRESIDENT—Through the chair, Senator Vanstone.

Senator Wong interjecting—

Senator VANSTONE—And Senator Wong, you ought to know better, unless you were misled. If you try to mislead in this place you will never go back to law.

The PRESIDENT—Senator Vanstone, address your remarks through the chair.

Senator VANSTONE—You will never successfully go back to law.

The PRESIDENT—Order! Senator Vanstone, I have asked you continually to address your remarks through the chair. Pointing across the chamber is not a very good way of answering questions. And there is too much noise on my left. Senator Vanstone, you have one second left to complete your answer.

Senator VANSTONE—I have completed it.

Senator Chris Evans—Mr President, I raise a point of order. In terms of the list that I referred to, which has 49,000 people on it not including children and partners, I sought leave to table the list and I have not had a response from the government. Can I table the list or not?

Leave granted.

Australian Bureau of Statistics Wage Data

Senator LIGHTFOOT (2.21 pm)—My question is addressed to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Will the minister update the Senate on the latest Australian Bureau of Statistics wage data? What does the data say about the government's new Work Choices policy? Further, is the minister aware of any alternative policies?

Senator ABETZ—I thank the effervescent Senator Lightfoot for his question and I note his ongoing interest and longstanding commitment to ensuring that Australians have a place in which to work so that they can have more job opportunities and enjoy higher wages.

I am pleased to report to the Senate that, according to the Australian Bureau of Statistics, the take-home pay of Australian workers rose by 4.1 per cent in the past year—that is, at a rate above the annual inflation rate. In other words, wages are still increasing in real terms. More tellingly—and those on the other side might want to listen to this—in the June quarter, wages of Australian workers grew by an average of 1.1 per cent. That is, during the months of April, May and June, the wages of workers grew by 1.1 per cent. That figure is of more than usual interest to the people of Australia. Guess when Work Choices came into being? Work Choices came into being on 27 March.

Opposition senators interjecting—

Senator ABETZ—So the June quarter is the first full quarter of wage rises—

Senator Ferris—Mr President, I rise on a point of order. I am unable to hear a word of what is being said in this answer because of the noise coming from the other side. I feel sure that if an occupational health and safety measure were taken today it would fail on the basis of noise.

The PRESIDENT—I have continually called the Senate to order today. There is too much noise on both sides of the chamber and I would ask you to come to order so that Senator Abetz can complete his answer.

Senator ABETZ—I know that those on the other side do not want to hear that, in the

first full quarter after Work Choices came into being, real wages increased and that the wage increase was 1.1 per cent. I dare say that Mr Beazley's response to that will be as was his response to the Office of Workplace Services. When inconvenient—

Senator McEwen interjecting—

The PRESIDENT—Senator McEwen!

Senator ABETZ—facts are thrown on his lap, he will just call them a bunch of snivelling little liars. But I do not think that the people of Australia will accept that description of the Australian Bureau of Statistics, which has shown us that, under Work Choices, workers are getting real wage increases. So let us remember the mantra and let us have a 'who said it': 'The policy ... of this bill'—that is, Work Choices—'will lead to lower wages for Australians across the board'—

Senator McEwen interjecting—

Senator Wong interjecting—

The PRESIDENT—Senator Wong and Senator McEwen, come to order!

Senator ABETZ—None other than Senator Gavin Marshall said that. How wrong he was. But, even better: '... these changes are going to have a catastrophic effect on the wages of Australian workers'—that was none other than Senator George Campbell, and how wrong he was. Remember all the doom and gloom: under Work Choices, workers would face mass sackings. Instead of employment going down, it has gone up—159,000 extra workers. We were told that wages would be driven down; in fact, they are being driven up. So can I suggest to those opposite that they should discard their silly policy of ripping up Work Choices, because if they seek to rip up Work Choices they will be ripping up the 159,000 extra jobs that have been created; they will be ripping up the real wage increases that workers of Australia are now enjoying across the board, over the last quarter. I say this to Mr Beazley and the Labor Party—a bit of gratuitous advice: if you keep on with this silly policy of ripping up Work Choices, Mr Beazley will rip up any chance that he ever had of becoming Prime Minister of this great nation.

Bastard Boys

Senator MOORE (2.26 pm)—My question is to Senator Coonan, Minister for Communications, Information Technology and the Arts. Has the minister seen reports that senior government figures are concerned that *Bastard Boys*, a drama series being produced by the ABC on the 1998 waterfront dispute, will display a pro-union bias? Does the minister agree with her colleague Senator Fierravanti-Wells that *Bastard Boys* is part of 'an anti-government, pro-left agenda at the ABC'? Given that the series is still being filmed, is the minister aware of any evidence whatsoever to suggest that this program will be biased in any way? Isn't Senator Fierravanti-Wells just trying to enforce her own prejudices in flagrant disregard for the ABC charter? When will the minister defend the independence of our—that is, all of us—ABC against ill-informed attacks by her Liberal Party colleagues?

Senator COONAN—I thank Senator Moore for the question, in which she wrapped up many allegations and assumptions with which I do not agree. What I can tell the Senate is that the coalition government is committed to working with the national broadcasters—and by that I mean both national broadcasters—to ensure that they continue to deliver effective and high-quality services to the Australian community in accordance with both their legislative and their charter obligations. As an integral part of this service, there is an obligation, of course, to all viewers. And, as the government, we remain committed to ensuring that there is both

a robust and an independent process for handling complaints about the national broadcasters.

I have to compliment Senator Fierravanti-Wells and—prior to Senator Fierravanti-Wells taking a particular interest in these issues—Senator Santoro for having ensured—

Senator Wong—Condemning a program she hasn't seen.

The PRESIDENT—Order, Senator Wong!

Senator COONAN—that the national broadcaster's complaints handling process works appropriately. They are quite right to bring to the attention of the ABC issues that they perceive as being biased and otherwise not delivering on the ABC's charter. Both the ABC and, in fact, the SBS—because I think it is important that we deal with both for the purposes of Senator Moore's question—introduced changes during 2005 to improve their internal complaints handling processes. These changes are in fact welcome changes and are continually monitored by the government. The Howard government is further committed to expanding the Australian Communications and Media Authority's capacity to consider complaints about both national broadcasters in relation to specific cases of bias, lack of balance, inaccuracy or unfair treatment in respect of ABC and SBS broadcasts or publications. This process and the enhanced capacity of ACMA to deal with these issues will assist in providing a more complete, streamlined and responsive complaints handling process in respect of the ABC and SBS.

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy!

Senator COONAN—I note, seeing Senator Moore raised this matter, that Labor indicated in its election broadcasting policy that it supported strengthening the complaints handling mechanisms for the national broadcasters, so it is a surprise that somehow Senator Moore thinks that the process is subverted and that it does not otherwise work appropriately. I hope, when the time comes, that the opposition does not dump this policy along with just about everything else they ever espoused and took to the last election.

Senator Conroy—Mr Speaker, I rise on a point of order going to relevance. This was a very specific question about Senator Fierravanti-Wells attacking a program that they have not even finished making and an anti-government pro-left agenda at the ABC. The question is very specific; it has got nothing to do with ACMA. Could you ask the minister to go back to the question.

The PRESIDENT—I hear your point of order and I remind the minister of the question. She has a minute to complete her answer.

Senator COONAN—I can understand how Senator Conroy with his poor grasp of these issues does not appreciate that Senator Moore's question raises the complaints handling processes and the bias handling processes for allegations in the ABC. If somebody has a complaint, this is precisely the process that enables them to take that complaint forward.

When the opposition ask a broad-ranging question, I believe in putting it in context and dealing with the question in the most appropriate way. Having outlined the process, I believe it deals fairly and squarely with Senator Moore's question even though her question has rolled up allegations that I have not yet dealt with. If she asks a supplementary, I might have a go at that too.

Senator MOORE—Mr President, I ask a supplementary question—I will have a go at bringing the minister back to the question. Can the minister confirm that the Maritime

Union won the waterfront case in the High Court and that the government incurred more than $700,000 in legal costs? Does the minister accept that an accurate history of the waterfront dispute must and should reflect the fact that the union position was vindicated by that court? Will the minister tell her colleagues that the ABC cannot be asked to rewrite history just because the government is feeling political heat over its extreme industrial relations changes?

Senator COONAN—Thank you to Senator Moore for the supplementary. The answer to her question is no.

40th Anniversary of the Battle of Long Tan

Senator PAYNE (2.32 pm)—My question is to Senator Campbell, the Minister representing the Minister for Veterans' Affairs. Will the minister outline to the Senate the significant contribution made by the Australian Defence Force during the Vietnam War? Further, is the minister aware of any commemorative activities that are occurring to acknowledge these contributions?

Senator IAN CAMPBELL—Thank you to Senator Payne for what is a very important question for many thousands of Australians. Tomorrow marks the 40th anniversary of one of the most important and defining engagements of the Vietnam War—the Battle of Long Tan. During this battle, Australian forces performed with magnificent valour and very much against the odds. Nothing can attest to this more than the fact that many of their former enemies now admit that it was a major victory. Sadly, 18 Australians died in the Battle of Long Tan. They were part of a group of some 520 Australians from the Army, Navy and Air Force who lost their lives in the Vietnam War. Tomorrow we will stop to remember not just the people who died at Long Tan but those who died in the Vietnam conflict more broadly. It should also be remembered tomorrow that seven civilians lost their lives during that conflict.

Tomorrow, as we stop and remember the sacrifices made in Vietnam and at Long Tan in particular, we should also remember that many veterans have died in the years since then and many others carry deep physical and emotional scars of their wartime service. We should also thank and be thankful for the families around Australia and the many loved ones of the veterans who have given them so much well-needed and important support in that time.

Today is also a day when we should record—on behalf of the government, at least—an apology to those veterans and their families for the way they were treated when they returned from the Vietnam War. These people served their country. They served it well. They did their job and many of them died in the course of doing that job, and the way they were treated on their return is a great scar on Australia.

The Australian government has committed $4½ million to a range of activities right across Australia tomorrow. Tonight in the Great Hall, the Prime Minister will host a reception, which I know many are looking forward to, and they will be very welcome in Parliament House. Tomorrow morning there will be a stand-to ceremony at the Australian War Memorial followed by a further ceremony at the Australian Vietnam Forces National Memorial, a little down Anzac Parade, which will honour all Vietnam veterans. Some of the events occurring around Australia tomorrow include ceremonies in Brisbane, culminating in a ceremony during the afternoon conducted by 6RAR at the Enoggera military base specifically to commemorate the Battle of Long Tan.

Fuel Prices

Senator FIELDING (2.37 pm)—My question is to Senator Minchin, the Minister

representing the Treasurer. I refer the minister to Terry McCrann's response to the government's refusal to cut petrol tax by 10c a litre and its attempt to divert the public with promises to subsidise the installation of LPG; and, in particular, I refer to his statement:

> John Howard clearly believes that he—and the rest of us—have not yet returned to a 2001 future ... that's why you spend only $150 million or so pretending to do something about the price of petrol rather than the $3-4 billion that it would cost to actually cut the price at the pump.

Minister, given that Terry McCrann points out that only a few thousand drivers might benefit from the government's policy, why does the government pretend that this policy is an adequate response to spiralling petrol prices?

Senator MINCHIN—I did answer a similar question from Senator Fielding last week and I will, for his benefit, simply repeat that the government have made it clear from the outset that, while we are very concerned about the impact on Australian families of the rise in the price of petrol at the bowser, there is only so much that can realistically be done—and I think that is acknowledged on both sides of this chamber—and that anything that the government could do would be at the margin. The government, like every other government in the world, are dealing with the reality of the explosion in the price of crude oil and, as Senator Fielding would know, that is a result of the very significant economic growth in China, which is causing massive and unprecedented demand for crude oil right around the world. We have the Indian economy experiencing similar growth and putting similar pressures on demand for crude oil. We had a long period where crude oil prices were relatively low and that led to a decline and a vacuum in investment in refining capacity. So you had the combination of a significant increase in demand with inadequate supply capacity. That has caused a real spike in the price of crude oil. It is not possible for any government around the world to deal with that reality other than, in reality, at the margin.

The package that we announced earlier this week I think is a very good package. One of the critical things is to ensure that there is diversity in the supply and use of transport fuels in this country. It is no good just significantly damaging the revenues of the government by putting a $3 billion per annum hole in our revenues from excise on petrol, which, of course, would have the impact of affecting demand for petrol and do nothing to encourage diversity in the supply of transport fuels. What we are doing most sensibly, I think, is encouraging that diversity. We are doing what we believe to be appropriate to encourage the use of renewable fuels like biodiesel and ethanol.

I acknowledge the enthusiasm of my National Party colleagues for encouraging the use of ethanol and biodiesel, and commend them on their sterling efforts to encourage consumers to take up those alternative fuels.

Opposition senators interjecting—

Senator MINCHIN—We are also, as a result of our package, doing what we can responsibly to encourage the use of LPG. I think our initiatives on LPG have been very warmly received as sensible and responsible expenditure by the government to encourage the use of LPG.

Senator George Campbell—Except by politicians.

The PRESIDENT—Order! Senator George Campbell and other senators on my left, including Senator Sherry, Senator Carr and Senator Sterle, come to order.

Senator MINCHIN—I repeat for the sake of Senator Fielding that, with great respect to Terry McCrann, most economic

commentators do strongly support the government's position in not cutting the excise. As Senator Fielding knows, we did freeze Labor's indexation of the excise. We cut the excise twice, in 2000 and 2001, but any cut in excise that was going to have any impact on the cost of petrol to families at the moment would require a 10c cut. That is about $2½ billion to $3 billion of revenue forgone per annum. We do not think that is responsible and, as I have said in this place, we are pleased that the opposition acknowledges that that would not be responsible. We are doing what we possibly can to encourage diversity in alternative fuel supplies and, in this case, this week we announced a very significant initiative in relation to LPG.

Senator FIELDING—I ask a supplementary question, Mr President. Given that the LPG solution is a limited solution to the spiralling petrol prices and given that Terry McCrann points out that the government is raking in $15 billion in tax from fuel, why won't it help struggling families to cope with high petrol prices by cutting it by 10c a litre?

Senator MINCHIN—As a result of our ending of indexation, we are forgoing something like $2 billion plus in revenue—

Senator Forshaw—Oh!

Senator MINCHIN—This is your policy as well. You are saying that you will not cut the excise, so don't you moan about our policy. It is your policy as well. We have already cut the excise by over $2 billion a year—

Opposition senators interjecting—

The PRESIDENT—Order, Minister! Senators on my left will come to order! I remind the minister to address his remarks through the chair.

Senator MINCHIN—Mr President, we have already cut the excise effectively by over $2 billion a year by freezing it and, as a result of the magnificent cuts in income tax that we made in this year's budget, which we could only do because of our responsible fiscal policy, we are helping Australian families pay for higher fuel prices.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the United Kingdom, led by Mr Michael Clapham MP. On behalf of all honourable senators, I wish them a warm welcome to the Senate and also to Australia.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Family Policies

Senator SCULLION (2.43 pm)—My question is to Senator Kemp, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. Will the minister inform the Senate of the policy initiatives introduced by the Howard government to assist the economic wellbeing of age pensioners and self-funded retirees?

Senator KEMP—I thank Senator Scullion for that important question and his continuing interest in this matter. Through strong management of the economy, the Howard government has been able to deliver effective policies and initiatives to support age pensioners and self-funded retirees in Australia, and our record speaks for itself. The Australian government, as many senators will know, spends more on the age pension than on any other single program. In 2006-07, around $22 billion will be allocated to the age pension, which is up from just over $12 billion in 1995-96. In 1998 the coalition government legislated to have the age pension rates linked to the male total average weekly earnings. As a result of this initiative, single pensioners are now some $55.50 better off and couples are $46.70 better off each fortnight than they would have been under

Labor. Since March 1996, I am advised, pensions have increased by over 45 per cent, which represents an increase that is over 18 percentage points higher than inflation. This is a very important achievement of this government and one which has delivered very real benefits to age pensioners.

Mr President, you will recall that it was the coalition government that introduced the utilities allowance for pensioners in March 2005. This allowance pays $102.80 a year for singles and $51.40 a year for each eligible member of a couple. In addition, as part of a $192 million budget initiative, the coalition government provided a one-off payment of just over $102 to households in receipt of the utilities allowance—another initiative which was very much welcomed.

The coalition government has also a proud record in supporting self-funded retirees. In December 2004 it was the coalition government that introduced a seniors concession allowance for holders of the Commonwealth seniors health card. This payment is made in recognition that most state and territory governments do not provide the same concession to these groups as they do for pensioners. The seniors concession allowance is paid in June and December and the current annual rate is $208.80. In March 1996 some 33,000 older Australians held a Commonwealth seniors health card, and today it is worth recording that there are over 300,000 self-funded retirees receiving the benefit of this concession card. There is no doubt that the coalition has done more to support our older people than any alternative government. This is not only because of the commitment and priority we give to our senior people but also because we have managed the economy in a very effective way which is now delivering very real benefits to all Australians.

Defence: Equipment

Senator MARK BISHOP (2.47 pm)—My question is to Senator Minchin in his capacity representing the Prime Minister. Does the minister recall the Prime Minister's announcement on 19 December 2002 that the government would accelerate the project to acquire additional troop-lift helicopters? Wasn't this commitment the centrepiece of the Prime Minister's response to the Bali bombings in 2002? Is the minister aware that as a result of that announcement the helicopters were supposed to be fast-tracked and delivered by the end of this year? Can the minister confirm advice from Defence that makes it clear that the new helicopters will not be delivered until October 2009? Accordingly, hasn't the government failed to deliver a key antiterrorism capability that the Prime Minister said was essential for Australia's national security?

Senator MINCHIN—I am normally well briefed on these things, as Senator Bishop obviously knows, but on this occasion I do not have a full supply of every Defence contract with me. It is a great failing on my part and I regret that I do not have a file or brief on the additional troop-lift helicopters that were referred to, I gather—and I accept, as Senator Bishop says it—in 2002. I will endeavour to get the information to Senator Bishop as quickly as I can.

Indigenous Communities

Senator BARTLETT (2.49 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Abetz. My question follows on from one I asked the minister last week regarding the impact on some Aboriginal communities in Far North Queensland of the government's changes to the Community Development Employment Project and the way they are being implemented. In the minister's answer last week he stated that, with

CDEP funding, the government is concerned about the individual outcomes for individual participants. Does this mean that the government is not giving any consideration to the impacts and outcomes for the community? If so, does this mean that the community development component of the CDEP no longer applies? The minister also said that the competitive tender process was done on the basis of the normal sorts of qualities that are looked for: issues of governance, financial capacity and viability. Does this mean that those bodies that lost funding were assessed as not meeting those standards of governance, financial capacity and viability?

Senator ABETZ—I thank Senator Bartlett for the question. I said on the last occasion that the government is concerned about prioritising the needs of the individual. That does not mean that we do not take anything else into account, but our priority is for outcomes for individual members of the Indigenous communities as opposed to the more corporate outcome for particular organisations. I indicate to Senator Bartlett that the current reforms to the CDEP include a greater focus on helping Indigenous Australians use CDEP as a stepping stone to employment. The reforms will help to address the concerns raised through consultations and by Indigenous leaders, many of whom have called for further CDEP reform. If I recall correctly, on the last occasion I had a quote from a former distinguished Democrat senator, Aden Ridgeway, to help make that point. The reforms put a stronger focus on employment and employability skills and form part of the government's broader strategy to help Indigenous Australians to achieve true economic independence. In recent times we have increased the numbers of CDEP places available, and I am advised that Mr Andrews's department will continue to work closely with Indigenous communities and CDEP organisations to help them to adjust to the reforms.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for the answer. Is the minister able to confirm that, more than six weeks after being awarded the new CDEP contract for the Mapoon community on Cape York, the new provider did not have a continuing presence in the community and that CDEP workers were still receiving sit-down money? Is the same standard going to be applied for the awarding of future CDEP contracts in the region or, to ensure that there are more effective transition procedures in place, is the government going to agree to consult further with those other communities in the region—not just the service providers but the communities—that will have these contracts up for renewal at the end of this year?

Senator ABETZ—I have a specific brief in relation to Cape York, but I do not have one in relation to the particular program or corporation to which the senator refers. I will take that part of the question on notice and see if Minister Andrews can provide him with the details sought.

Perth Airport: Proposed Brickworks

Senator STERLE (2.53 pm)—My question is to Senator Ian Campbell, Minister for the Environment and Heritage and Minister representing the Minister for Transport and Regional Services. Can the minister confirm his support for the minister for transport's decision to approve the development of the proposed BGC brickworks at Perth Airport? Hasn't the minister supported this project despite serious concerns being raised with him by his department, including: the department cannot be confident that the proposal will not result in adverse health impacts; the proposal should not be approved until the long-term monitoring of five existing neighbourhood brickworks, which might

take several years, is completed; and the company had not conducted any surveys on the site to evaluate its use by threatened species? Isn't there also significant community opposition to the project going ahead? Given the minister's constant assertions about the importance of community opposition, and the health and environmental issues raised by his department, can he explain why he was happy to rush ahead and give the environmental tick to this project?

Senator IAN CAMPBELL—I thank Senator Sterle for the question. It is probably a good lesson for people, because if you do not know something you should ask questions; we encourage people to ask questions. It is quite clear from Senator Sterle's question that he knows very little about this process. I am happy to inform all senators about this project, because the Australian Labor Party in Western Australia seeks to mislead the people of Western Australia on a regular basis on this.

Senator Sterle correctly—and this is one of the few bits of correct information in the question—draws our attention to a serious deficiency in Western Australia: the lack of a monitoring regime for pollutants coming from brickworks in the Midland, Guildford and Hazelmere area. The environmental assessment report, which I released in full a few weeks ago, goes very much to the point that the Western Australian Labor government has totally failed the people of the Swan Valley, Guildford and Hazelmere because it does not have in place a monitoring regime. If Senator Sterle were smart enough to read the approval that Mr Truss gave to the brickworks proposal, which contained 60 stringent environmental conditions, he would see that the proponents—the Perth Airport Corporation—are required to put in place a monitoring regime because none exists in Western Australia under his state comrades' regime. I remind all senators that the Western Australian Labor state government—

Senator Sterle—Don't blame the state government.

Senator IAN CAMPBELL—Who regulates the pollution coming from brickworks in Western Australia?

Senator Chris Evans—Mr President, I rise on a point of order to do with relevance. I thought that the minister was interested in running in the House of Representatives, not in state parliament. He was asked a direct question about whether or not he approved this project as minister for the environment. Again, he wants to talk about anything rather than answer for his responsibilities. I would ask you to refer him to the question.

The PRESIDENT—I hear your point of order. I remind the minister that he has two minutes to complete his answer.

Senator IAN CAMPBELL—Can I respond to the point of order?

Honourable senators interjecting—

The PRESIDENT—Order! What is the point of order?

Senator IAN CAMPBELL—I am responding to the point of order. The point of order raised by Senator Evans says that I should not refer to state government processes. The reality is that brickworks—

The PRESIDENT—There is no point of order. The point of order that Senator Evans raised was on relevance. I remind you that you have two minutes to complete your answer. I draw your attention to the question.

Senator IAN CAMPBELL—The Commonwealth went through a robust and lengthy environmental assessment process that involved a public discussion period of no less than 90 days. Less than 1,000 yards away from the Perth Airport proposal, there are two kilns that were built and approved by—

Senator Chris Evans—Did you approve it?

The PRESIDENT—Order! Senator Evans!

Senator IAN CAMPBELL—the state Labor government with no public discussion process, no environmental approvals process and no monitoring. The point needs to be made that Senator Sterle's comrades in Western Australia—

Senator Chris Evans—Did you approve it?

The PRESIDENT—Order! Senator Evans!

Senator IAN CAMPBELL—approved two kilns less than a mile away from the proposal that Mr Truss and the Australian government have just approved. Those kilns will emit fluoride into the atmosphere at something like five times the allowable limit—with no monitoring. The brickworks proposal that Senator Sterle wants to play politics with will produce one-tenth of the fluoride. The challenge for the Australian Labor Party—

Senator Chris Evans—It is your challenge.

The PRESIDENT—Senator Evans!

Senator IAN CAMPBELL—is to say to their comrades back in Western Australia, 'You make sure that you impose the same standards on your brickworks that the federal government is imposing on the brickworks at the airport.' These are the strictest environmental standards anywhere in Australia—

Honourable senators interjecting—

The PRESIDENT—Order! Senators on my left will come to order. I remind the minister to address his remarks through the chair.

Senator IAN CAMPBELL—The challenge for the Australian Labor Party is this: if they care about the health of the people who live in the Swan Valley, Hazelmere and Guildford, they will go back to their comrades in Western Australia and say to them, 'The state Labor Party should impose—

Senator Chris Evans interjecting—

The PRESIDENT—Senator Evans, you are warned!

Senator Chris Evans—I rise on a point of order.

The PRESIDENT—There is no point of order. I am warning you to come to order. I have asked you all day today to come to order and you have refused to obey the chair.

Senator Chris Evans—Mr President, until you require ministers to give relevant answers, the place will get disorderly.

The PRESIDENT—I presume that you are not reflecting on the chair.

Senator Chris Evans—No, Mr President, I am raising the point that—

The PRESIDENT—I am on my feet.

Senator Chris Evans—You asked me a question.

The PRESIDENT—No. I believe that you are reflecting on the chair, and I would ask you not to do that. There is no point of order. I ask Senator Campbell to return to the question.

Senator Ferguson—Mr President, on a point of order: I raise standing order 184, which I think that many senators in this chamber should be aware of. It is one that to the best of my knowledge, when I first came to this place as an opposition member, was adhered to strictly—although it is only Senator Ray, Senator Faulker and Senator Sherry who were here at that time. That standing order says that when the President stands on his feet, a senator speaking shall resume his seat and shall remain silent so the President can address the chamber uninterrupted. It seems in recent times as though many new

senators are not aware of that standing order, and I draw your attention to it.

Honourable senators interjecting—

The PRESIDENT—Are we going to have a debate on the standing orders now? I call Senator Faulkner.

Senator Faulkner—Mr President, on the point of order: I noted earlier in question time today that you did not call Senator Vanstone to order as she was screaming and gesticulating across the chamber while you were on your feet. Fair enough: criticise Senator Evans by all means, but I am afraid a number of senators in question time today have remained on their feet while you have been on your feet. The standing order that Senator Ferguson refers to, in my memory, requires you, Mr President, to maintain order in the Senate.

The PRESIDENT—Thank you for that advice, Senator Faulkner. I will have something more to say shortly about that matter occurring earlier in the proceedings.

Senator STERLE—Mr President, I ask a supplementary question. Is the minister aware that, under the Airports Act, development at airports has to be incidental to the operation of the airport? Can the minister explain how the development of brickworks could possibly be described as being incidental activity? What other activities does the government now consider to be incidental developments? Would wind farms also be considered to be incidental?

Senator IAN CAMPBELL—The proposal for the construction of a brickworks at Perth Airport has been through the most rigorous environmental assessment by my department. It has been considered by Mr Truss. It has been approved with 60 of the most rigorous environmental conditions, way over and above those on any brickworks in Australia. That is in stark contrast to the fact that the state Labor Party has approved two new brickwork kilns less than a kilometre away. I table the Environmental Protection Authority process that basically says that neither of these kilns approved by Senator Sterle's comrades in the state parliament went through any public process. There was no environmental assessment and they are pumping pollution into the Swan Valley airshed with no approvals and no monitoring. The Labor Party are absolute hypocrites on this issue. I table the document.

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

PARLIAMENTARY LANGUAGE

The PRESIDENT (3.03 pm)—Earlier in question in time today Senator Vanstone referred to the Australian Labor Party as the 'now nearly racist Labor Party'. A point of order was taken by Senator Evans. I did not rule on the point of order, but on reflection I realise that former presidents have made rulings on that issue. I quote:

> ... offensive words against a group of members of either House may be regarded as a worse offence than directing such words to an individual member.

Under those circumstances, on reflection, I ask the minister to withdraw that comment.

Senator Vanstone—I withdraw, Mr President.

Senator Conroy—Mr President, I raise a point of order on that ruling. I was asked to withdraw calling an individual a hypocrite yesterday, and Senator Ian Campbell just called Labor a group of hypocrites.

The PRESIDENT—Take your seat, Senator Conroy. We do not need to have a debate on this. I have made my ruling, I have asked the minister to withdraw and she has withdrawn.

Senator Conroy—Mr President, my point of order was about Senator Ian Campbell's

comments just a moment ago, when he called Labor a pack of hypocrites. I was asked to withdraw the word 'hypocrite' yesterday.

The PRESIDENT—I am sorry, Senator Conroy. I did not hear that. If Senator Ian Campbell referred to Labor as hypocrites, I ask him to withdraw it, under that standing order.

Senator Ian Campbell—Mr President, I totally withdraw it.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Family Relationship Centres

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.04 pm)—Yesterday in response to a question from Senator Troeth I gave an answer outlining the outstanding results of the 15 family relationship centres which have opened since 3 July. I wish to clarify to the Senate that these outstanding results have been achieved during the first month of the opening of the centres.

ANSWERS TO QUESTIONS ON NOTICE

Question Nos 2039-2040, 2043-2047 and 2049-2063

Senator O'BRIEN (Tasmania) (3.05 pm)—Pursuant to the provisions of standing order 74(5), I seek an explanation from the Minister for Fisheries, Forestry and Conservation for the failure to provide the answers to questions on notice Nos 2039, 2040, 2043 through to 2047 inclusive and 2049 through to 2063 inclusive within 30 days.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.05 pm)—Due to the complexity and the number of questions raised, the department have taken longer than anticipated in collating the information to adequately respond to the questions. They have also had to liaise with other departments and agencies in sourcing some of the information for some questions. The department advise me that all efforts are being made to respond to the questions as quickly as possible, given these constraints. I understand in general terms—and Senator O'Brien might, with a polite interjection, correct me if I am wrong—that the categories of questions to which he refers fall into two broad categories. One relates to grants, and various clarifications are being sought in relation to that category of question. In relation to the other category, which is dealing with the illegal fishing issue and the money spent in our northern waters—no, Senator O'Brien is politely indicating to me that that is not the case. I invite Senator O'Brien to make contact with my office in relation to the other category, and I will seek to get him an explanation as expeditiously as possible.

Senator O'BRIEN (Tasmania) (3.07 pm)—I move:

That the Senate take note of the explanation.

The outstanding answers—there obviously are a number of them—all relate to an Australian company called Marnic Worldwide Pty Ltd and the Australian Quarantine and Inspection Service. My office has contacted the office of Senator Abetz in writing on two occasions seeking answers to these questions. My office also contacted Senator Abetz's office before question time today to advise that I proposed to seek an explanation for the failure to provide a response.

The responsibility for the preparation of answers to these questions rests with the Minister for Agriculture, Fisheries and Forestry in the other place, Mr McGauran. Nevertheless, Senator Abetz represents Mr McGauran in this place and cannot avoid his responsibility in this chamber under the Senate standing orders. The explanation we heard today for the failure to provide a response I find hardly satisfactory. The Prime

Minister's code of conduct refers ministers to the relevant standing orders and requires ministers to respond to questions in a timely manner. The code of conduct has been debased so many times that it probably has about as much credibility as the constitution of the old Soviet Union, but that does not mean that ministers should not be held to account for breaching it.

The unanswered questions I am concerned about relate to yet another major mistake by AQIS. Senators on both sides of the chamber are well aware of the unfortunate record of this organisation. There have been a number of inquiries by Senate committees into its performance over the years, some initiated by this side of the chamber and some by the other side. The approach taken by this chamber to AQIS's performance has, with few exceptions, been a bipartisan one. We have had the single aim of protecting the integrity of Australia's quarantine status. It is a status that is worth billions of dollars to Australia's economy.

The questions to which I seek answers relate to an application by Marnic Worldwide to import marine worms into Australia for use in the recreational fishing sector. In the main, the questions seek clarification of evidence given by senior AQIS officers to the Senate Rural and Regional Affairs and Transport Legislation Committee during the last estimates round. On the face of it, much of the evidence from these officers was confusing. Some of it was contradictory. I assume the officers knew what they meant, but some of it was unclear to me. Having read the *Hansard*, some of it is still unclear.

I do not think it stretches the bounds of accountability for me to seek clarification through questions on notice and to expect an answer to those questions within a month. I believe that it was not unreasonable to ask that the answers be available in a month, much less two. I regret that it has been necessary for me to seek an explanation in this chamber. I have just been given a note by the minister that those answers are now in the Table Office. Nevertheless, that is not good enough and it should not have come to this. I do not often seek an explanation in this way, notwithstanding the fact that many of the questions I ask are not answered within the 30 days provided for in the Senate standing orders. That I have done so on this occasion is an indication of my concern about the way the government has handled the Marnic Worldwide fiasco. It is no surprise to me that the government wants to avoid this scrutiny, but it is not acceptable.

Marnic Worldwide was—and I stress 'was'—a significant business. Its business involved a commitment to millions of dollars of investment in Australia and the countries where it sourced its marine worms. The company sought approval from AQIS to import these worms, as it was obliged to do. It appears that the company did everything it was asked to do. In some cases, it provided more information than was required. Having done what it was asked to do, the company received permission from AQIS to import marine worms. Importantly, Marnic Worldwide maintained meticulous records relating to its permit application. It appears to me that Marnic Worldwide was acutely aware of the need to protect Australia's marine environment.

There were considerable costs for the company associated with the approval process. Marnic Worldwide and the companies associated with it committed additional resources when the permit to import marine worms was granted. The company assumed, not unreasonably, that once it worked its way through the assessment process and received an import permit from AQIS it could confidently go about building its business. It is worth noting that it took AQIS four goes to

get the final paperwork right—that is, three amendments to the initial permit were required, due to errors by AQIS officers. If they were the only errors, the government would not be trying to avoid scrutiny of its actions.

Having provided Marnic Worldwide with a permit to import marine worms and having allowed the company to progress the development of its business on the basis of that permit, AQIS withdrew the import permit at the eleventh hour. In fact, the permit was withdrawn within hours of the first commercial shipment of worms arriving in this country. At this point, the situation became one of high farce. The withdrawal of the permit exposed significant problems in the whole import risk assessment process. Problems were exposed not only in AQIS but also in Biosecurity Australia and within Mr McGauran's department.

There are significant matters relating to the administration of our quarantine system at stake here. My unanswered questions on notice go to these matters. There is a separate matter related to Marnic Worldwide's compensation claim against AQIS. The compensation claim is important but it should not be used by government as a device to withhold from this chamber details of the process that led to this mess. As I have noted, the Senate has had a long interest in the administration of AQIS and Biosecurity Australia. I still have clear in my mind the process surrounding the compensation claim against AQIS by the Hewett brothers. The Hewett brothers were forced to fight for many years before justice was done. I do not intend to allow that farce to repeat itself.

AQIS has investigated this matter and has conceded it has been at fault. Marnic Worldwide and AQIS are now locked into the process of determining the extent of the financial loss caused by the withdrawal of the import permit. But that process does not disabuse the government of its responsibility in this chamber. It does not diminish the accountability of the executive of the parliament. I have previously pursued this matter through the estimates process. The answers to some questions that I have received to date have advised me that the information I seek is central to the fact-finding and quantum consideration process of the Marnic Worldwide compensation claim. I have been told that in some cases the answers I seek could prejudice the process of assessing damages and the quantum of the compensation. That response is of concern. I reject its premise. I have not sought to interfere in the process of assessing the extent of the damage to the company caused by AQIS. What I want to do is get an understanding of how this catastrophic failure of public administration occurred. This case involves the importation of marine worms. The bigger issue here is the confidence that Australia's business owners, primary producers and consumers alike can have in the government's ability to administer Australia's quarantine regime.

The Senate is entitled to have the facts put on the table. Confusing and contradictory evidence from officers is not acceptable, nor is obfuscation from the responsible minister and his representative in this chamber. I conclude with a plea to the government to lift its game with respect to accountability in this matter. I am pleased to hear—since I got to my feet—that finally the answers that I requested are at the Table Office. I hope that means the entirety of the answers that I mentioned are available; there were quite a number. I advise that I did place those questions on notice on 14 July and answers to those questions are well overdue as of today.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (3.15 pm)—It is always to be regretted when an-

swers come back after the time limits. I apologise to the honourable senator for that; but I respectfully suggest to him and to others in these circumstances: when you are told that the answers are available at the Table Office there is no need to read from a prepared script to say that the government is seeking to avoid scrutiny or that it is not providing answers to questions. The senator knows that the process has worked, albeit unfortunately in a delayed way, for which I apologise.

Question agreed to.

Question No. 1882

Senator MILNE (Tasmania) (3.16 pm)—Pursuant to standing order 74(5), I ask the Minister for the Environment and Heritage, Senator Ian Campbell, for an explanation as to why an answer has not been provided to question on notice No. 1882, which I asked on 6 June, 72 days ago.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (3.17 pm)—I am very happy to answer Senator Milne's question. In relation to the lateness of the answer, Senator Milne called my office before question time, and I thank her for giving us that notice. I asked my staff and my department for an explanation and, at short notice, I wrote a note and took it across to Senator Milne. Senator Milne was not here during question time, but I did leave it on her desk. I am not sure whether or not she found it on her desk. Her desk looked a bit like my desk; it is sometimes a bit hard to find stuff on it.

The question related to an article that appeared in the *Canberra Times* on 4 June or thereabouts where I had stated, in response to assertions that the Commonwealth was not investing heavily enough in solar energy technologies, that in fact on my latest check of the Commonwealth's investment in solar technology projects there were no fewer than 217 projects we were investing in. The time it will take to compile all of that is a little bit longer than I would have liked. If it were all within the Australian Greenhouse Office and the Department of the Environment and Heritage, I could have met the timeliness requirements under the standing orders. I do work very hard to meet those, and I thank the officers of my department for their hard work in responding to Senate questions in a timely manner.

In relation to this question: there are grants that come from a range of other organisations in the Commonwealth. There is the Australian Research Council, which funds an enormous amount of renewable energy research. There is also the CSIRO, which, contrary to assertions from the left of politics, also funds an enormous amount of activity in the area of renewable energy, particularly solar energy. We are trying to collate a comprehensive list in response to Senator Milne's question. I am very keen to get that to the Table Office and into the public arena, because it tells a magnificent story about the Commonwealth's activities in the area, particularly in promoting solar technologies.

I know that you take a close interest in these things, Mr Deputy President Hogg, and you would have noticed in the media that I held a joint press conference with Dr Harlan Watson, from the US State Department, where we announced a magnificent joint venture between two great companies—the Boeing Corporation of Seattle and Solar Systems, an Australian solar technology company. Solar systems will be using their world-leading technology to concentrate solar energy by turning solar dishes into a satellite shaped configuration to concentrate solar beams coming down from the sun onto a receival node. The technology that Boeing bring to the project is a photovoltaic cell which is used for satellites. We would all

understand that, if you are building photovoltaic cells for satellites, you need to ensure that, firstly, they are very robust; they need to be strong. Secondly, they need to be ultra lightweight, and, thirdly, they need to be very efficient. This is one of the projects that we will list as a project that has received support from the Australian government.

We believe that this collaboration between Boeing and Solar Systems will see a transformation in the way that solar energy is created in Australia. I believe, having seen the Solar Systems proposals, that this offers an enormous opportunity for very large-scale energy production from the sun. This is one of literally hundreds of projects we have under the Low Emissions Technology Demonstration Fund, and Ian Macfarlane, the Minister for Industry, Tourism and Resources, and I will be announcing the successful applications in a few weeks time.

There are some fantastic projects coming forward, some very large-scale renewable projects. The renewable energy development initiative, a $100 million program under this government, is seeing some fantastic investment in renewables in a number of solar projects. The $5 million Origin Energy sliver cell project, again, is developing world-leading technology down in Adelaide, as Senator Ferris will be interested to know. It is a breakthrough project funded by the Australian government. There is $3.254 million to Solar Heat and Power for a proof-of-concept solar-concentrating array project at Liddell Power Station. There is nearly $200,000 for a Perth based company, Solco, developing hot water systems particularly with application to remote and Third World countries. For example, this company builds, with the support of the Australian government, entire minifactories that will produce polyethylene solar hot water systems that can actually be made in Third World countries and develop an industry for Third World countries.

Senator Robert Ray—Mr Deputy President, on a point of order: I am finding this interesting but in fact not relevant to the requirements of the standing orders. Later on this afternoon, under ministerial statements, Senator Ian Campbell could make a statement on this. At the moment he is required to explain why the answer has not been provided. He did that at the start of his contribution. Now he has gone off to proselytise on a number of matters, all of which are interesting and, no doubt, very good initiatives. You cannot have a de facto ministerial statement at this time, even if someone gives you the opportunity to do so. You will be setting a precedent that we will all live to regret. I am not trying to be abusive to Senator Ian Campbell. I really think that, at this stage at least, he has to explain why the questions are not answered. If Senator Milne then moves that the answer be noted, it will give him far more scope and opportunity to inform the chamber about some of these projects.

The DEPUTY PRESIDENT—I draw the minister's attention to being relevant to the issue that was raised by Senator Milne.

Senator IAN CAMPBELL—I thank Senator Ray. He does make a good point. I will conclude. It is, I think, broadly speaking relevant because I am giving you an example of the enormous array—no pun intended—of projects that are funded by the Commonwealth to promote solar energy and of the fact that they are spread across a number of portfolios and agencies. That is one of the reasons for the delays. I am very enthusiastic about this stuff and very excited about what the government is doing in that space. I look forward to answering Senator Milne's question in great depth and detail as soon as possible.

Senator MILNE (Tasmania) (3.24 pm)—I move:

That the Senate take note of the explanation.

Whilst I am interested, as most people in the chamber are, in what the government is doing in recent initiatives, the point at issue here is that Senator Ian Campbell made a statement to the *Canberra Times* that the Australian government had committed $144 million over the past four years, to 2 June this year, through the Australian Research Council to 216 research projects associated with solar energy. The problem is that absolutely nobody I have spoken to in the solar industry can identify these 216 research projects that had supposedly been funded to that extent over the past four years. In fact, with all this discussion about investment in renewable and low-emission technologies, the vast and overwhelming majority of the funding goes to the coal industry for carbon capture and storage and coal to liquids, and in terms of transport fuels and energy the funding is going overwhelmingly to the oil companies.

I specifically asked Senator Campbell to tell me where these 216 research projects are, what their names are and how they account for the $144 million. It has been 72 days and I still do not have an answer to that question, and I look forward to Senator Campbell providing that kind of detail. What we have got is a whole lot of statements about how much the government love solar energy and how much they are doing, but we cannot find the detail. I was alarmed when I received Senator Ian Campbell's handwritten note that said that this information is on the website. I hope that I am not just going to get a note in the next few days saying, 'I refer you to the website.' I do not want to be referred to a website. I have asked a specific question on the specific projects and on how much money they have received over the last four years. I look forward to Senator Campbell providing the list of projects and the amount of money for each one.

I am making this kind of stand because earlier this week, as the senator mentioned, he stood up and made a big announcement about his solar project at AP6. What he did not say was that the Commonwealth allocated $100 million in January this year to low-emissions technologies and it turned out that, of that $100 million, only $25 million was to be for renewables. That is a quarter of it.

Senator Ian Campbell—That is not true. It was no less than $25 million.

Senator MILNE—All right, it was no less than $25 million out of the $100 million. But why specify $25 million? I will be delighted if it is the whole $100 million, but, either way, not a cent of that money has been allocated to date. So, whilst Senator Campbell stood up and made his big announcement that this has been delivered as a result of the AP6 partnership, not a cent of the $100 million has actually been allocated yet. I would argue that the deal that went down was already organised between these private sector companies and that the opportunity was taken to announce it at the meeting in Sydney—and that is entirely appropriate. But to claim that it had something to do with the Commonwealth's investment of $100 million, with that specified $25 million, is drawing a long bow.

Senator Campbell must be aware that there is a high level of scepticism in the community about the nature of the announcements. You try and find the detail of where the Commonwealth actually spent the money on these things that were supposedly done because of Commonwealth involvement and you are hard-pressed to find them. If Senator Ian Campbell responds to my remarks now, I would like him to tell me how

much of the $100 million had been allocated to this deal between the Australian company Solar Systems and the US company Spectrolab in relation to this project, because I do not think a cent has, and that gives some sense of what I am talking about. That is why I want the specific list. I do not want a website reference. I have been to the website and it is not clear.

Most people in the solar industry were shocked when they saw this reference to Senator Ian Campbell saying that $144 million had gone to 216 research projects associated with solar energy over the four years to 2 June. People want the specifics of how that occurred. I also asked how many of the research projects relating to fossil fuels and nuclear power had been funded over the past four years, including the title of each, and the amount that went to each.

We need to establish once and for all the government's priorities in relation to fossil fuel research, nuclear research and solar research. I would also bring to Senator Ian Campbell's notice that the announcements that have been made on geothermal and solar in the last week—and I certainly welcome the deal that has been done with this new technology—point out that these technologies alone can provide Australia's base load energy into the future and make a complete joke of the government's commitment to nuclear. In noting the senator's response, I note that in question time he gave me a piece of paper saying he would provide an answer soon. I thank him for reiterating that while on his feet, and I look forward to the detailed list of these 216 projects relating to solar energy, which amount to $144 million in the four years prior to 2 June this year.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (3.31 pm)—I genuinely welcome the opportunity that Senator Milne is creating in the parliament to focus attention on our renewable energy programs. They are world leading and quite phenomenonal, and they are something we should be proud of. The fact that Senator Milne is helping to create a controversy around them helps me. I spend a lot of my time trying to figure out how I can get the message out about what we are doing. Where we have a difference is that I happen to think that we need to use all of the clean energy sources available to us in Australia. I am not ideologically opposed to cleaning up coal or geosequestration in carbon or to finding more efficient ways to use coal or fossil fuels. I happen to believe deeply that that is going to be a large part of the solution. But I also believe equally strongly in having strong support for solar energy in this country, as well as a range of other technologies, such as hybrid technologies, where you link—for example, with the Newcastle CSIRO solar centre—the use of solar thermal concentrators to boost the energy coefficient of natural gas, getting the gas's energy coefficient up by 30 per cent, which is a breakthrough way of storing solar energy. I believe you have to have all of those technologies. I believe that, when it comes to addressing the climate challenge, if you care deeply about the environment, as I do, then you leave your ideologies parked at the door and back the technologies that can make a difference.

I think Senator Milne and I agree on a lot of those technologies. Where we disagree is that I do not have any ideological problems with pursuing clean coal technologies, or even nuclear technologies, because they will all make a difference to helping us pass on a much cleaner environment to the coming generations.

Question agreed to.

Bastard Boys

Senator LUNDY (Australian Capital Territory) (3.32 pm)—I move:

That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to questions without notice asked by Senators Conroy and Moore today relating to Telstra and to the Australian Broadcasting Association.

I would like to address my comments to Senator Coonan's answer to Labor's question about the comments by Senator Fierravanti-Wells in relation to criticism of the ABC. I think it is very pertinent and timely to take note of her answer because of the growing audacity of the Howard government in bullying the ABC into conforming and to seeing the world through its eyes. At least five examples come to mind of very blatant attempts to bully and interfere with the institution of the Australian Broadcasting Corporation, not least being the range of board appointments that have occurred. Clearly, friends and favourites of the Liberal Party have been appointed to the board on a consistent basis.

But that is not all. There is much more. The ongoing monitoring of allegations of bias against the government has imposed an extraordinarily onerous regime upon the ABC, which has many news and current affairs journalists living in fear that they are not conforming to this appalling structure of reporting that the minister referred to in her answer. But that is not all. It gets worse. Today we heard the almost amazing example of a Liberal senator criticising a drama production of the ABC before it has even been completed. Just how outrageous are these Liberal senators and this Liberal government in stating publicly that they are concerned about the ABC's bias when the series has not even been made? For the record, I think it is very important to note that with respect to the drama in question, *Bastard Boys*—a drama series being produced by the ABC on the 1988 waterfront dispute—the minister was asked to confirm that the Maritime Union won the case in the High Court and the federal government incurred more than $700,000 in legal costs. So let us get this clear. The government is afraid of the facts being told.

Senator McGauran—What did they win? It was an illegal strike.

Senator LUNDY—But that is not actually the point about this drama. I would like to go to comments made by the writer of the series, Sue Smith. She said:

My approach is this is a generation or two of men who haven't fought a real war and this is the closest many will get to fighting a war.

When you talk to many of the men involved, they cry because it was such an intense experience and tested their mettle so much.

I am quoting from an article in the *Weekend Australian*. She goes on to say:

In some ways, people probably expect it to be a piece of leftie-something, which is why we went to great pains to be not that.

Let it stand on the record that these allegations are just another attempt by Howard government members to try to bully and intimidate the ABC into conforming to their view of history. But there is more, as I said, such as the recent lies and cover-up relating to the *Jonestown* book, where the ABC board not only sought to have an employee of the ABC take full responsibility for withdrawing that book from sale but also embarked on a cover-up, as was exposed on *Media Watch*. The ABC board intervened to stop ABC Enterprises publishing distinguished journalist Chris Masters's biography on Alan Jones. That culture has really sunk in. Before making a few further comments, let me give one more example. On the Sunday arts program on radio ABC 774 there was criticism of board member Keith Windschuttle, who was

censored on air, much to the disgust of those involved.

So those examples—TV, books, audio, board appointments and the monitoring regime—all stack up to a regime of intimidation of the ABC. They come in the context of the Howard government today attempting to dictate what should be taught to our children. I remember very strongly the culture wars when National Museum board appointments David Barnett and Christopher Pearson led the charge to change exhibitions relating to Australian history. And now we have the Prime Minister, Mr Howard, claiming that history teaching was a 'fragmented stew of themes and issues'.

When you link all these things together, there is clearly a censorial campaign afoot from the Howard government, which has manifested itself in the board interference of many of our cultural institutions. It does constitute a cultural and historical war, with this government trying to reframe and reinterpret through its own ideological prism the history of this country, and that is disgraceful. *(Time expired)*

Senator McGAURAN (Victoria) (3.38 pm)—What we are debating today in taking note of answers is the forthcoming ABC drama on the waterfront dispute entitled *Bastard Boys*. They have got the title right to begin with, I suspect. It is a good way to start. We all know which group that title would be referring to—the union. I expect that would go directly to the heart of the union. In fact, I believe the union would wear that sort of title with honour. I do not think they would even object to the title. To that extent, I would suspect the ABC have already got their title right. But what Senator Lundy has not conceded in relation to this forthcoming drama is that the government encourage drama at the ABC. In fact, in our last budget we increased their funding for drama. The ABC would be incapable of making such a series, or one-off drama, without the extra government funding. Senator Lundy failed to give the government credit for that.

I will quote Senator Fierravanti-Wells extensively in a minute, but it is quite understandable for the likes of Senator Fierravanti-Wells, me and anyone in the public to question the ethics of the ABC before the drama is made. Why should we wait until it is made? We are simply sending out signals to an organisation that has form with such dramas to get the facts right. We do not object to such an issue being put down in drama form; in fact, we welcome it. We just want there to be a balanced approach. The producer has assured us that it will be a balanced approach. We want an honest assessment of the past because, if we get an honest assessment of the waterfront dispute, we will see who were the real bastard boys and who was trying to get it right. That is what the real assessment will find. Let us put that down on the record. The ABC cannot shirk the tag of having some form in the past—as recently as the disowning of the *Jonestown* book. If they are going to be honest, they ought to reflect the government's role, Patrick's role and the union's role as they were. I am informed that the producer, Sue Smith, has gone around and interviewed each person; so she should be able to extract the truth of the matter and it should not be one-sided.

I see that Peter Reith will be playing himself in film footage and that they have actors for Bill Kelty and Jennie George. I want to know who is playing Kim Carr. Kim Carr was seen there more times than any of those players in this dispute. He lived and breathed down at the waterfront during that dispute. There are pictures and old film footage of him. I think he would be happy to play himself. In fact, is he part of this particular drama? There was no-one more disgracefully

involved in the waterfront dispute, and he wears it as a badge of honour. He loves the tag anyway. He lived and slept there and linked arms down at the gates of the waterfront. It is an absurdity to say that that dispute—and history will show this—was not found in the courts to be illegal. The strike held out the front of the gates was deemed to be illegal.

Senator Fierravanti-Wells has sent out the signal that all she seeks is balance. She warned the ABC and so do all of us. Why shouldn't we? We have been given assurances by the producer, Sue Smith, who also has on her CV *The Brides of Christ* and *The Leaving of Liverpool*. I did not see *The Leaving of Liverpool*; I saw extracts of *The Brides of Christ*. They were not bad shows. I think *The Brides of Christ* was slightly tilted towards an anti-Catholic position, but I do not think anyone need be precious about it. It was a very popular show. *(Time expired)*

Senator WORTLEY (South Australia) (3.43 pm)—I rise to take note of the answer of the Minister for Communications, Information Technology and the Arts, particularly in relation to perceived—and I say perceived—bias of the ABC by members of the Liberal Party. In doing so, I refer specifically to the article published in the *Weekend Australian* where a Liberal senator complained about the ABC drama work-in-production *Bastard Boys*. It appears that members of the government are concerned that the drama of the 1998 waterfront dispute, in which the Patrick Corporation took on the Maritime Union of Australia over working conditions, will project a pro-union bias. Senator Fierravanti-Wells is quoted as saying:

> This smacks of another example of wasteful spending by the ABC being used to drive an anti-government, pro-Left agenda, conveniently timed to appear during an election year.

Here we have a miniseries based on an event of some historical significance being produced by and to be aired on the ABC. The filming only started in July. I do not think the senator has had special previews or read the script, but I will stand to be corrected on this. Perhaps the senator sees it as a historical drama based on real-life experiences and that what will be shown will not reflect positively on the government. Perhaps the senator has a better understanding of recent history than the minister, who answered 'no' today when asked if she could confirm that the Maritime Union won the waterfront case in the High Court and that the government incurred more than $700,000 in legal costs. The minister was asked if she accepted that an accurate history of the waterfront dispute must reflect the fact that the union position was vindicated by the court. Perhaps the minister could improve her knowledge of recent Australian history by watching the miniseries. The ABC website says about the production:

> BASTARD BOYS has been written with the co-operation and participation of all parties to the dispute. It is the first time participants such as former Patrick CEO, Chris Corrigan and ACTU Secretary, Greg Combet have agreed to tell their stories.

So here we have government members concerned about our Australian broadcaster producing a miniseries based on a recent historical event, with both sides agreeing to tell their stories. And we have a member of the Liberal government calling it biased, saying it is antigovernment and alleging it is being filmed specifically to highlight the government's industrial legislation and that it will influence the outcome of the next federal election.

Today we have the Prime Minister opening a history summit and calling for a return to a more disciplined approach to Australian history teaching in schools. In opening the summit, he said:

I want to make it very clear that we—

the government—

are not seeking some kind of official version of Australian history.

It may all sound politically correct. In 1995, the Prime Minister, who was the then Leader of the Opposition, made a statement about the ABC board. He said:

You not only must have a board that is completely politically neutral, but it must be seen to be neutral.

We all know what history will show with regard to this statement. On this report card, the Howard government has failed on both points. Once again we are dealing with a government out of touch with the people of Australia—the people it is supposed to represent. What will it take for this government to realise that the overwhelming majority of Australians do not agree with it about the ABC and the government's claim of left-wing bias?

The minister has seen the ABC annual report 2004-05 and so would be familiar with the research by Newspoll contained in it. This research revealed that 80 per cent of people believe the ABC provides quality television programming, while 84 per cent regard the ABC to be distinctively Australian and contributing to Australia's national identity. And, just for the record, 82 per cent of people believe the ABC is balanced and even-handed when reporting news and current affairs. But members of the Liberal government continue to make claims of bias.

So what do they do? They appoint some extreme right-wingers to the board. They remove the staff elected director's position from the board—the one position on the ABC board that the government could not fill, the government could not influence and the government could not control. Then the board intervenes to stop ABC Enterprises—*(Time expired)*

Senator PARRY (Tasmania) (3.48 pm)—I also rise to speak on the motion before the chamber—that is, to take note of the answer of the Minister for Communications, Information Technology and the Arts in question time today. I want to correct a couple of issues that have arisen during this debate so far. Firstly, Minister Coonan is extremely capable in this portfolio. It is unquestionable that the minister is very contemporary, is very up-to-date and has a handle on this portfolio. The criticisms from those on the other side of the chamber are totally irrelevant. It is a bit of padding and a very weak argument. To suggest that this government does not have a right to question on occasions, like you can question any portfolio, the performance of a department or the bias of a department if it comes to a media issue, is wrong. I think it is an important and valid position that we can take.

If it were true that there was some bias concerning favouritism of the Labor Party from a major media outlet, this government has policy direction through a board. While I am talking about the board, let us remember what a board of management does. It does not do editing and it does not run down to the cutting room floor of any particular area. The board of management does not just determine news content. A board of management is fair, looks at the entire company's operations and the fiscal responsibility of the corporation and appoints a CEO. The CEO runs the day-to-day aspects of the ABC, not the board of management. For Senator Wortley to suggest that the board of management is controlling the day-to-day operations of the ABC is ludicrous. It would not happen. It is impossible. A board of management would simply meet to discuss major policy directions, not day-to-day operations. That is very important.

Coming back to the possibility of the ABC showing a program biased towards the Labor

Party, that is something we have the right to question. There are procedures in place and issues in relation to the ABC so that, if we do have a genuine complaint, we can follow it through with the right process. This parliament has guaranteed, through legislation, that the ABC will be independent in all areas—and we accept that—to ensure that what is broadcast is free from political interference. As I have pointed out, we appoint a board of management. That board of management appoints a CEO and does not get involved in the day-to-day operations of the ABC. The government regard, as I am sure all Australians do, this independence to be a critical part of the ABC's role.

However, as a taxpayer funded national broadcaster, the ABC does have a responsibility to meet audience expectations and community standards. We reflect community standards, especially in the area of news and current affairs. It is certainly a statutory duty of the ABC board to ensure that the gathering and presentation of news and information is accurate and impartial according to the recognised standards of objective journalism. That is an oversight function the board of the ABC would certainly have.

Accordingly, where the government considers that the ABC has not met these high expectations, parliament and the community again have a justified reason to draw to the ABC's attention, openly and publicly, any criticism in this regard. Also, a key to responding to community expectations is a rigorous and independent complaints handling process—and this is the crux of the matter. The government is continuing to examine options for developing a strengthened independent complaints handling process, not only for the ABC but also for SBS, to supplement the existing internal processes.

The government is also committed to expanding the Australian Communications and Media Authority's capacity to consider complaints about the ABC and SBS and their services. This will certainly provide a more complete, streamlined and responsive complaints handling process, through which ACMA will be able to consider complaints alleging serious and specific cases of bias, such as that before the chamber today, and any lack of balance, inaccuracy or unfair treatment in respect of ABC and SBS broadcasts or publications. I am sure the Labor Party would want to support a program promoting Labor policies or Labor issues during an election campaign in an election year. But, after drawing it to the ABC's attention, we have to move forward with confidence that this will not occur and that it will be a balanced program. We trust that this will be the case, but we have the right on every occasion to draw to the attention— *(Time expired)*

Senator MOORE (Queensland) (3.53 pm)—In rising to speak in this debate, I also take note of answers given to my question today. My question was about the production of a new drama program and public statements that were linked to one of the government senators. I then went on to particular questions about the role in history that the particular drama program was covering. I thanked the minister for her responses. In fact, in her first round of responses, which did not refer to the program—nor to any parts of the question I asked—she raised a very strong defence of the independence of the ABC and the grievance and complaint handling mechanisms currently in place in the ABC, which are intended to be strengthened.

Indeed, in a way we have all acknowledged that the ABC belongs to all of us, to our community, and we remind the government that the ABC has never been—and was never intended to be—a government broadcaster. It is a national broadcaster. We know,

from years of Senate estimates questions, from years of questions in this place and from years of comments made throughout the community, that no organisation is subject to more scrutiny, more questions or more allegations than the ABC.

Senator Vanstone—No, actually that's the immigration department.

Senator MOORE—I acknowledge that interjection, Minister, because, as with good public sectors everywhere, including the Department of Immigration and Multicultural Affairs, the ABC must also be subject to scrutiny—and, indeed, the ABC is.

My question specifically asked the minister whether the same kind of defence that she made—the statements about independent scrutiny and the complaints mechanisms that are in place—could be made to the community and, in fact, whether the ABC could be defended. I ask whether her defence could also be directed to her colleagues who comment through other media outlets. I thank Senator McGauran because he clarified the role that Senator Fierravanti-Wells took. It was not a complaint, according to Senator McGauran, but a warning. So the role of government senators now, before having seen any product and before having any discussion, is to go into the public media and warn the national broadcaster that they have a strong history of left-wing bias, so they are being watched.

We have not only an established complaints mechanism, scrutiny within the Senate estimates process and an understanding by all employees of the ABC of their clear role to have independent coverage of events but also a role for government members of the parliament, including the Senate! In this piece of *Weekend Australian* journalism, a government member is proudly described as an 'ABC critic'. I have not had a chance to check that with Senator Fierravanti-Wells. I know that Senator Fierravanti-Wells has criticised the ABC in this place, but I am interested to see that the role of a government senator is to go into the public arena, to be proclaimed as an ABC critic and to warn the national broadcaster about their role.

I also thank Senator Parry for clarifying, again, the role of the ABC and its charter—which is something I think all Australians understand, Senator Parry. I know that the people who work in the ABC understand the charter; it is an integral part of their job to know what their role must be.

Sometimes it is important to remind the people in this place that there is a relationship between the community and the ABC. The Howard government was genuinely taken aback after it established the Mansfield review in its first term. It is a good thing to review any agency; no-one argues with that. But the number of Australian community members who wanted to have a say about their ABC genuinely took members of the government by surprise. The overwhelming volume and content of responses and the deep sense of trust with which so many members of the community viewed the ABC took them by surprise. That does not mean that organisations should not be subject to review and to genuine scrutiny about bias, but I question strongly whether we need to go out and warn them.

I am also overwhelmed, as Senator Wortley mentioned, by the response to a part of the question about historical fact—maybe the minister did not hear the specifics of the question—and whether the minister could tell her colleagues that the ABC cannot be asked to rewrite history just because the government is feeling political heat over its extreme industrial relations changes. The answer from the minister was, 'No,' so I thought that perhaps the opportunity could be taken again. *(Time expired)*

Question agreed to.

NOTICES

Presentation

Senator GEORGE CAMPBELL (New South Wales) (3.58 pm)—by leave—on behalf of Senator Murray and Senator Evans, I give notice that, on the next day of sitting, they shall move:

That Schedule 1 to the Parliamentary Entitlements Amendment Regulations 2006 (No. 1), as contained in Select Legislative Instrument 2006 No. 211 and made under the Parliamentary Entitlements Act 1990, be disallowed.

NOTICES

Withdrawal

Senator GEORGE CAMPBELL (New South Wales) (3.59 pm)—On behalf of Senator Crossin, I withdraw business of the Senate notice of motion for 4 September 2006, standing in her name, to refer a matter to the Environment, Communications, Information Technology and the Arts References Committee.

COMMITTEES

Australian Crime Commission Committee

Report: Government Response

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.59 pm)—I present the government's response to the report of the Parliamentary Joint Committee on the Australian Crime Commission on its examination of the annual report for 2003-04 of the Australian Crime Commission, and I seek leave to incorporate the document in *Hansard*.

Leave granted.

The document read as follows—

Proposed Government Response to Recommendations made by the Parliamentary Joint Committee on the Australian Crime Commission Examination of the Australian Crime Commission Annual Report 2003–2004

Recommendation 1

The Committee recommends that, to provide an opportunity for proper public debate, the government involve the Committee at an early stage of the development of legislation affecting important operational or civil liberties issues.

Response

Not accepted.

Current Government policy is that draft legislation is not normally made public before introduction into Parliament. Where appropriate, legislation may be released as an Exposure Draft prior to introduction. Once legislation is introduced, any referral of legislation for consideration by a Committee is a matter for the Parliament.

Recommendation 2

The Committee recommends that the ACC consider the release of public versions of key research, including a declassified version of the Picture of Criminality.

Response

Accept.

This matter is currently being considered by the ACC. Section 60 of the Australian Crime Commission Act 2002 provides for the Board to hold public meetings or to publish bulletins for the purpose of informing the public about the performance of the ACC's functions. The Board may conduct public meetings or publish bulletins as long as the meetings or bulletins do not disclose to members of the public matters that could prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence. The Government would support release of public versions of key ACC research in a form consistent with the requirements of the Act and the integrity of ACC investigations and intelligence operations.

Recommendation 3

The Committee recommends that the ACC review the legal and administrative arrangements governing information on its intelligence networks and provide the Committee with a briefing on the results. This should include both any current limits to the access to information, as well as access, accountability and control processes.

Response

Accept.

The ACC has provided a briefing to the PJC on this matter and is progressing legal and administrative arrangements in collaboration with the Attorney-General's Department and partner law enforcement agencies.

Recommendation 4

The Committee recommends continued refinement of the performance measures, including an explanation of the significance of quantitative and qualitative indicators.

Recommendation 5

The Committee recommends that the performance indicators relating to criminal intelligence operations include, subject to reasonable security considerations, how priority is allocated to matters submitted to the ACC Board for consideration.

Recommendation 6

The Committee recommends that information relating to the results of legal proceedings be refined to indicate more clearly the numbers of charges that proceed and are successfully prosecuted.

Recommendation 7

The Committee recommends further refinement of the reporting measures for 'Investigations into Federally relevant criminal activity', including more specific breakdown of information relating to forfeiture of the proceeds of crime, and the meaning of qualitative measures such as 'disruption of established criminal networks'.

Response (recommendations 4-7)

Accept.

The ACC is already working to refine its performance measures in response to the requirements of the ACC Board and the Intergovernmental Committee on the ACC. It will address the Committee's recommendations as part of the same process.

DOCUMENTS

Department of the Senate: Travel

The DEPUTY PRESIDENT—I table documents providing details of travelling allowance payments made by the Department of the Senate to senators and members during the period 1 July 2005 to 30 June 2006 and travel expenditure for the Department of the Senate during the same period.

DELEGATION REPORTS

Parliamentary Delegation to the Republic of Trinidad and Tobago and the United States of America and Official Visit to Canada by the President of the Senate

The DEPUTY PRESIDENT—I present the report of the Australian parliamentary delegation to the Republic of Trinidad and Tobago and the United States of America, which took place from 11 to 23 July 2006, including a report on the official visit to Canada by the President of the Senate, which took place from 23 to 28 July 2006.

INTELLECTUAL PROPERTY LAWS AMENDMENT BILL 2006

Report of Economics Legislation Committee

Senator McGAURAN (Victoria) (4.01 pm)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the Intellectual Property Laws Amendment Bill 2006, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Correction

Senator McGAURAN (Victoria) (4.01 pm)—On behalf of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Johnston, I present a correction to the report of the committee on reforms to Australia's military justice system.

Ordered that the report be printed.

Membership

The DEPUTY PRESIDENT—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (4.02 pm)—by leave—I move:

That Senator Marshall be appointed as a participating member of the Community Affairs References Committee.

Question agreed to.

TELECOMMUNICATIONS DETERMINATIONS

Motion for Disallowance

Debate resumed.

Senator CONROY (Victoria) (4.03 pm)—I would like to quickly rebut—and I am very disappointed that Senator McGauran did not participate in the debate except by interjection—a series of claims made by Senator Ronaldson in this debate. He did make a considered contribution, unlike Senator McGauran, who just made his usual unconsidered contributions from his chair.

Labor do, of course, support competition in the Australian telecommunications sector. Labor set the wheels in motion for the introduction of competition into the Australian telecommunications regime and we remain proud of this legacy. We also, of course, support regulations that will protect and strengthen competition in the Australian telco sector. To this end, we believe that there is a genuine need for effective operational separation of Telstra. However, the determinations being debated here do not achieve an effective separation.

These determinations are the worst of all worlds. They impose significant cost burdens on Telstra without achieving any measurable benefit for the Australian telco sector. As I noted earlier, if the government is not going to do operational separation properly, it would be better off not doing it at all. Labor believe that operational separation addresses a genuine policy problem. That is why we believe it is worth doing right.

It is not fair on the industry or on Telstra to implement a regulatory regime that no reasonable observer has any faith will actually achieve its goals. The Howard government should have learnt this from the accounting separation debacle. This accounting separation regime was introduced to address the very same issues that the operational separation regime that we are discussing today has been introduced to address. However, like these determinations, the accounting separation regime was nothing more than a public relations scam that skirted the issue.

Of course, as a result, the accounting separation regime was an unmitigated failure. The reason we are having this debate today is that the government's other, previous scam was such a dismal failure. The then Minister for Communications, Information Technology and the Arts, Senator Richard Alston, was forced to revisit the structure of the accounting separation on two subsequent occasions, implementing significant changes to the regime each time, because he continued to allow Telstra to dictate terms, just as has happened in this case.

I urge Senator Sandy Macdonald, a genuine grassroots National Party representative, to listen to his constituents, because they know the second-class service they have been getting. They know how they are being scammed and they know that this will not achieve any outcome that will deliver for their membership or their supporters. If you vote for this one, Senator Sandy Macdonald, Senator Joyce or Senator Boswell—if you are in the building, listening—you will have

been done over once again by the Liberal Party and its big end of town mates, feathering the nests of merchant bankers, and you will not be looking after your own constituencies.

However, even Senator Alston's two wholesale restructures of the program were not enough to remedy the fundamental flaws in the program. So not once, not twice but three times Senator Alston made a pathetic attempt to do something about Telstra's market power. Labor have no doubt that these operational separation determinations will meet the same fate. You will be back, Senator Sandy Macdonald. After having let Telstra off the leash you will be trying to catch the horse after it has bolted, and it will be a debacle out there among your own constituents. That is why we are opposing these determinations. It is not that the Labor Party have backed away from our strongly held belief in competition in the Australian telco sector but that we believe ineffective regulation can be worse than no regulation at all. In this case the intrusive but ineffective operational separation regime developed by the government will be a retrograde step for the regulation of telcos in this country.

It was only a few days ago that the minister requested that the ACCC and ACMA undertake a review of their regulatory responsibilities with a view to streamlining the regulatory reporting requirements they impose on the industry. Now the government are attempting to introduce the most complex maze of reporting requirements the Australian telco sector has ever seen. It as though they do not know what the other hand is doing. They run the rhetoric, 'Oh, we'll reduce red tape'—and where is the National Party when it comes to this issue?—and at the same time introduce a complex maze that they know will not work. It is costly, it is a joke and people are laughing about it, Senator Sandy Macdonald, just as you are laughing right now. The reporting requirements in these bills will do nothing to improve transparency in the Australian telco sector. At least, Senator Sandy Macdonald, you are not a 'Nat rat' like Senator McGauran, who has just slunk out of the chamber.

These determinations are an expensive sham. They are a product of an arrogant and lazy government that could not be bothered to get it right. The determinations need to be disallowed and the minister sent back to the drawing board to start again. As she has demonstrated time after time in question time, she has no grasp of her own portfolio. The minister needs to heed the calls from the ACCC and the industry to develop an operational separation regime that addresses Telstra's ability as well as incentive to discriminate anticompetitively against access seekers. That is what it is about. That is what we are trying to do, Senator Sandy Macdonald and the National Party senators who have an opportunity to step up to the plate today. The minister needs to heed Telstra's own call to develop an operational separation regime that is not simply a tangled web of bureaucratic plans and strategies that we have to wade through. The minister should then come back into this chamber and present an operational separation regime that will actually work. Until then, Labor will remain opposed to the government's operational separation regime and the determinations that comprise it.

But, once again, we have a minister demonstrating that she can have the wool pulled over her eyes—and not just by Telstra and her own department. Again, for the second time in a week, the minister came into this chamber and misled the Australian parliament. Last week she tried to claim that Telstra was a registered provider of infrastructure under the metro black spot plan for broadband. It took less than two hours to check, with the minister being found to have

made a fundamentally misleading statement. It is not true; Telstra is not a registered provider. A week has gone by and the minister has not had the courage to admit her mistake, her bumbling, and to come in here and correct the record. She has not done it. Seven days later, she has misled the public about the administration of one of her own programs and has not come in to correct the record. Today she tried to slide by. I asked her to confirm that Telstra was not registered. The minister then went on to say, 'We've exchanged information, papers, about it.' That is not the same as being registered. But I understand that even this is not true, and the minister has misled the parliament yet again.

It is time for Minister Coonan to come into the chamber, as is required under all parliamentary form and under the ministerial code of conduct, stand up and say: 'I was wrong. Telstra are not a registered infrastructure provider, as I tried to claim; they are not even a registered service provider, as I tried to claim; and they certainly have not engaged in an exchange of paperwork.' I do not know who is advising the minister. I do not know what the department are telling the minister. The minister should come in here now and come clean or be in breach of the ministerial code of conduct.

They are not breaches that are going to change the world, but at least have the courage to come in and admit you were wrong, Minister, because you are. Your own departmental website, your own departmental advice, is that they are not registered, they have not done an exchange of letters and there have been no expressions of interest. Telstra are not participating, although that is the minister's claim. That is exactly what has happened. Have some courage, Minister Coonan. Come in and admit you got carried away in the heat of a question time answer, you were not properly briefed and you just wanted to carry on and pretend the government were providing broadband in the metropolitan areas. Have some courage, come in and comply with the Prime Minister's own guidelines or stand condemned.

Question put:

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

The Senate divided. [4.18 pm]

(The Acting Deputy President—Senator MG Forshaw)

Ayes……	30
Noes……	33
Majority……	3

AYES

Allison, L.F.	Bishop, T.M.
Brown, B.J.	Brown, C.L.
Campbell, G. *	Carr, K.J.
Conroy, S.M.	Evans, C.V.
Forshaw, M.G.	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.
Ray, R.F.	Sherry, N.J.
Siewert, R.	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.
Campbell, I.G.	Chapman, H.G.P.
Colbeck, R.	Coonan, H.L.
Eggleston, A.	Ferguson, A.B.
Ferris, J.M.	Fierravanti-Wells, C.
Fifield, M.P.	Heffernan, W.
Humphries, G.	Johnston, D.
Joyce, B.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Nash, F.
Parry, S.	Patterson, K.C.
Payne, M.A.	Ronaldson, M.
Scullion, N.G. *	Troeth, J.M.

Trood, R.	Vanstone, A.E.
Watson, J.O.W.	

PAIRS

Bartlett, A.J.J.	Santoro, S.
Crossin, P.M.	Macdonald, I.
Faulkner, J.P.	Kemp, C.R.
Hogg, J.J.	Ellison, C.M.
Hurley, A.	Minchin, N.H.
Stephens, U.	Bernardi, C.

* denotes teller

Question negatived.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Reference

Senator O'BRIEN (Tasmania) (4.21 pm)—I move:

That the following matter be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by the last sitting day in March 2007:

The administration of quarantine by the Department of Agriculture, Fisheries and Forestry and its ministers, with particular reference to:

(a) the effectiveness of current administrative arrangements for managing quarantine, including whether the community is best served by maintaining the division between Biosecurity Australia and the Australian Quarantine Inspection Service (AQIS);

(b) whether combining Biosecurity Australia and the AQIS would provide a better structure for delivering the quarantine outcomes that Australia requires;

(c) the legislative or regulatory underpinning of the import risk assessment process, including the status of the current *AQIS Import Risk Analysis Process Handbook*;

(d) the methodology used by Biosecurity Australia for determining appropriate levels of protection;

(e) the role, if any, of ministers in making final decisions on import risk assessments; and

(f) any related matters.

One of the most important duties for any government, and certainly the most important duty for any agriculture minister, is to safeguard our primary industries and our native flora and fauna from incursions by exotic pests and diseases. To do this a government must always be watchful for the changing nature of threats to Australia's quarantine integrity and be prepared to review and modify, where necessary, our quarantine arrangements to meet these threats. When flaws in the system have been exposed a government should be prepared to make changes. It is not a government's role to merely defend the status quo. A government should welcome an opportunity for a thorough review of important policy areas, particularly one as important as quarantine.

A government should grasp an inquiry as a real opportunity to make improvements where they are needed and, in the case of the management of quarantine by this government and this minister, it is clear that improvements are needed. The performance of our quarantine agencies has been called into question through a series of incidents: the Brazilian beef found at the Wagga Wagga tip that, in the worst case, could have potentially exposed Australia to foot-and-mouth disease; the serious scientific flaws found in the import risk assessment for bananas; the Marnic affair I referred to earlier today in this chamber and exposed in budget hearings, which detailed numerous instances of poor practice by Australia's quarantine authorities that potentially could leave the Commonwealth and taxpayers with a substantial compensation liability; and the introduction of citrus canker to the Emerald region of Queensland and the subsequent mismanagement by AQIS of the investigation as to how it got there in the first place.

The list of quarantine failures is much longer than that and it continues to grow. Every time the list grows, Australian farmers become more and more concerned about the capacity of current quarantine arrangements to protect their industries and their livelihoods from the ravages of imported pests and diseases. No wonder farmers at last month's annual conference of the New South Wales Farmers Association voted unanimously to call for an inquiry into quarantine by a committee of the Senate. This is the motion supported unanimously by the New South Wales farmers:

> That the Association seek as a matter of urgency a Senate inquiry through the Rural and Regional Affairs and Transport Committee into AQIS, Biosecurity Australia and the Australian quarantine system including the accompanying legislation.

The minutes of the conference record 17 pages of motions that were considered by New South Wales farmers. The minutes record that that motion calling for a quarantine inquiry was one of only two motions that were carried with unanimous support of those present. I assume that those in this place who claim to be here representing the farming community are aware of the level of support for this motion from the farming community. Given the strong support from the farming community for an inquiry, farmers are entitled to expect that senators who claim to represent them will be supporting this motion, because it does just what the New South Wales Farmers Association calls on the Senate to do.

I will be interested to see how much support this motion gets from National Party senators and rural Liberal senators. If they need further evidence of the need for an inquiry, I would direct senators to the report commissioned by the New South Wales Farmers Association into Australia's quarantine arrangements. The report was prepared by respected barrister Tom Brennan. In this very detailed report Mr Brennan says there are structural flaws in the current quarantine system that are in need of remedy. According to Mr Brennan, these flaws include:

> Effective, efficient and transparent development of policy has been compromised by the failure to develop effective stakeholder relationships and the structural divisions between policy development and operational functions.

He says:

> The establishment of Biosecurity Australia ... as a prescribed agency under the Financial Management and Accountability Act has financially separated policy development (done by BA and the Department of Health) and operations (done by Australian Quarantine Inspection Service AQIS) leaving no capacity for flexible allocation of resources between the two.

He says that the:

> Quarantine Act does not support the policy mechanisms for AQIS control of the border as there is no recognition in the Act for the ICON database or Import Risk Analyses ... This exposes the Australian Government to extremely high levels of risk of legal challenge by an importer denied a permit and by Australian producers affected by an import. The lack of legal standing under domestic legislation for a scientific assessment which is required under the Sanitary and Phytosanitary agreement also leaves the Government exposed to challenge by members of the World Trade Organisation ...

That is not a report commissioned by the Labor Party. This is not a proposal that comes from some unknown and insignificant organisation. This is a report which was commissioned by the New South Wales Farmers Association. This is a report which supports the New South Wales Farmers Association's call for an inquiry. As I said, it will be very interesting to see how the government responds to a call made by an association which is normally a lot closer to the Liberal and National parties than it is to the Labor Party, the Democrats or, indeed, the Greens.

Senator Heffernan interjecting—

Senator O'BRIEN—Senator Heffernan interjects: 'What is their proposal?' I just put it on the record.

Senator Heffernan—The NFF opposes the proposal.

Senator O'BRIEN—The interjection apparently is that the NFF opposes this proposal. Frankly, it is interesting if that is the case, and no such indication has been drawn to our attention. If it is the case one wonders why the NFF opposes a proposal by a constituent part of that organisation and a very important one. I will be interested to hear from the National Farmers Federation—and I will be interested to hear it very publicly if that is the case, as suggested by Senator Heffernan—why they would oppose an investigation into quarantine when they have had many concerns about the quarantine system in this country and have submitted to inquiries a great many proposals critical of the current Biosecurity and AQIS system. It will be very interesting if we are going to get some bush law interpretation of a view about a particular proposal, as distinct from a proposal which is in line with the resolution of the New South Wales Farmers Association.

Senator Heffernan interjecting—

Senator O'BRIEN—The flavour that I am getting from the interjections of Senator Heffernan is that the coalition is not intending to support this proposition. Those senators who purport to represent the farming community will not be supporting this proposal. It is very interesting, because—

Senator Heffernan interjecting—

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! Senator Heffernan, refrain from interjecting.

Senator O'BRIEN—It is interesting that the letter that was emailed to me and a number of my colleagues from the New South Wales Farmers Association says this:

> Senator Marise Payne supports the Association's request for an Inquiry and a recent letter the Senator has written to the Federal Minister for Agriculture, Fisheries and Forestry Hon Peter McGauran states that, 'Senate Committees are an effective method of investigating matters of community concern, and I believe that the significance of this matter'—

that is, quarantine—

> 'requires the most accountable method of inquiry'.

It will be very interesting to see if Senator Marise Payne votes on this matter and, indeed, whether she supports the opposition's proposal. It will also be interesting to notice what other myths and legends are promulgated in support of a position which clearly does not have the support of farmers in the state of New South Wales and, I suspect, all around the country.

Maybe the administration of this portfolio is the reason that we can expect opposition from the government. You would have to say that this government is captive in terms of portfolio allocation to arrangements between the Liberal Party and the National Party, and I know that Senator Heffernan is privately critical of the fact that the National Party gets the primary industries portfolio despite the lack of talent—

Senator Heffernan—You're a troublemaker.

Senator O'BRIEN—Senator Heffernan suggests I am a troublemaker. I suggest that, if I am, it is certainly a case of the pot calling the kettle black, and Senator Heffernan's reputation precedes him in that regard. In terms of the jealousies between the two parties, I am not surprised that, given the allocation of the portfolio to Mr McGauran, the conservative side of this chamber wants to protect him from an inquiry, knowing the

lack of competence that exists in the portfolio. Even his brother, Senator Julian McGauran, had the decency to leave the National Party, noting that it was irrelevant. Of course, if Mr McGauran were to leave the National Party, there is no way he would be a minister, let alone the minister for agriculture, within the Liberal Party. There is no way that the Liberal Party would allocate the portfolio to him. There is no way that he would even be a parliamentary secretary. Senator Heffernan knows that very well, and I bet that is exactly what he is saying to his rural constituency as he goes around. That is another subject. One day we will have a debate about Senator Heffernan's role in undermining the National Party in seats in New South Wales, and it will be a very interesting debate, but it is not the debate for today. I fully realise that. According to Mr Brennan, there are substantial flaws—

Senator Heffernan—Another lawyer!

Senator O'BRIEN—'Another lawyer,' he says. There are substantial flaws—

Senator Heffernan interjecting—

Senator O'BRIEN—I cannot help but take that interjection. I would have thought that there were two or three or more lawyers who sit in front of Senator Heffernan on the government ministerial benches and who ought to be gotten rid of, so perhaps we will start there. Mr Brennan has, quite differently, a very good reputation, an eminent reputation, and there is no indication from reading his report that he brings any particular bias to it. His report, independently commissioned by the New South Wales Farmers Association, clearly depicts problems that need rectification, but we should not take his word for it. I am suggesting not that we take his word for it but that that should form the basis of a decision to make our own inquiry and for this chamber to authorise the Rural and Regional Affairs and Transport Legislation Committee—there will be only one committee shortly, so it does not matter which one we refer it to, but we are proposing to refer it to the legislation committee—to conduct an inquiry into these matters and to give members of the public, the farming community, academics, lawyers and farmers the opportunity to express their points of view.

Why would the government oppose that? Why would the National Farmers Federation oppose an inquiry to get at the facts? I do not believe that they would, but I do believe that, if someone said to them that there is a witchhunt going on and that they want to go after people rather than the issue, they might be opposed to that. That is the reason we have couched our proposal in the language that we have and the reason that we want a thorough investigation of these issues, which relate to the department, Biosecurity Australia and AQIS, how the system is working, what breakdowns are occurring within the system, whether that is causing a problem, what those problems may be and how they are manifesting themselves, and what we should do to correct those problems. Frankly, this is an opportunity that the Senate ought not miss. This is an opportunity where the Senate has a chance to pick up an issue, to do its job, to take this issue to the people who are concerned about it, to conduct hearings here and in other parts of the country, to take written submissions, to hear evidence and to present a report.

This committee has a history of presenting unanimous reports. This committee goes beyond the politics of an issue on more occasions than not. This committee examines the issues relevant to the areas of its portfolio, if I can put it that way, and presents a united view to the parliament. So why not support it? I will be interested to hear the answer to that question when listening to the submissions against this reference so that I can understand, if I take the tenor of the interjec-

tions the way that I do—that is, that the government will be opposing this reference—just why that opposition occurs. It seems to me that the only logical basis for opposing this is that you have something to hide or that you have a minister you have no confidence in. It is probably the latter; it may be both, but we will judge that on the comments that are made in this debate. I thank the Senate for the opportunity. I look forward to hearing from those who are interested in this matter. I will be watching the vote very carefully.

Senator FERRIS (South Australia) (4.37 pm)—I have listened very carefully to Senator O'Brien's contribution today, and some of the points that he raised I agree with. The Rural and Regional Affairs and Transport Legislation Committee is very much a committee that takes its work seriously and looks at the overall range of issues that apply to regional and rural Australia, including the transport issues. In the past there have been a number of inquiries carried out by this committee that have had bipartisan support, and this is one of the rare occasions on which the government disagrees with an opposition motion. I think it is important to say at the outset that the National Farmers Federation does not support a Senate inquiry into quarantine such as Senator O'Brien has outlined today. The National Farmers Federation, of which I was once a very proud staff member, is the peak farm body in this country. As a matter of fact I had discussions with the National Farmers Federation about this matter just yesterday to clarify why they were not supporting the call by New South Wales farmers for an inquiry, and I am led to believe that the president of the New South Wales Farmers Federation does not support the call for the inquiry either. So I do not think it is fair or true to say that the New South Wales farmers support this inquiry. The government also does not believe that a Senate inquiry is needed to bring about further improvements to our quarantine and biosecurity arrangements.

Australia's strong and consistent quarantine policies have been vital in maintaining our high standard of animal and plant health, and it is critical that this situation continues. Australia already has one of the most scrutinised quarantine systems in the world. In fact, since 2000, elements of the system have been subject to several Senate committee inquiries of which I and Senator O'Brien have been members. There has also been scrutiny of the system as a whole, including two audits by the Australian National Audit Office and a review by the Joint Committee on Public Accounts and Audit. All of these inquiries have been thorough; they have examined matters of policy and operations beyond the issues at hand. The government is working closely with the National Farmers Federation and other industry organisations to identify improvements to our quarantine and biosecurity arrangements. These improvements can and should be achieved without a lengthy Senate inquiry.

The National Farmers Federation hosted an industry forum on biosecurity just last month, on 14 July 2006. It was held in Canberra, and it included representation from 35 industry organisations. That forum provided an opportunity for the government to hear industry views on the quarantine system, particularly the import risk analysis process. The majority industry view presented at the forum was that, while improvements can and should be made, Australia's quarantine system is fundamentally sound and is serving our national interests well. The National Farmers Federation is currently analysing the outcomes of the forum and will advise the Minister for Agriculture, Fisheries and Forestry of the priorities that are determined by the forum.

Over recent years the government has made progressive increases to quarantine funding. Since 1996 these increases have totalled more than $1.3 billion and have been directed towards maintaining and, where necessary, strengthening our stringent quarantine regime. Nevertheless, the system is not perfect. We found that during the inquiry most recently into the outbreak of citrus canker in Queensland, and the committee made some very stringent recommendations as a result. The government has made, and continues to make, changes that will strengthen its operation of the quarantine structure and build stakeholder confidence. The government has commenced a process to deliver more refinements to our quarantine system, drawing on industry views of what needs to be done to continue to deliver high-quality, science based quarantine policy for Australia.

Let me reiterate and emphasise some of the more interesting facts about the government's commitment to quarantine. Since 1996 the government has made progressive increases to funding which, as I said before, have totalled $1.3 billion to maintain and strengthen our regime. What could be clearer than that? Since 2001 AQIS has employed an additional 1,200 staff. It has deployed new technologies and significantly increased intervention levels across import pathways, including international mail, from less than five per cent to 100 per cent; containers, from five per cent to 100 per cent; airports, from 35 per cent of passengers to 95 per cent of passengers; and seaports, from 30 per cent of passengers and 70 per cent of vessels to 100 per cent intervention in both. It is a very strong record of increased scrutiny at our borders. Biosecurity Australia has received $6 million from the budget to strengthen arrangements for assessing quarantine risks through on-the-ground inspections in overseas countries and to develop systems to improve data and information management.

Senator O'Brien made some comments before—and I said I agreed with them and I know that other members of the committee do as well—about the system still not being perfect. While ever we have a high number of visitors and ships coming in and out of our country—and we are an island continent—of course it is going to be difficult to maintain perfect quarantine arrangements. We agree that the system is not perfect.

The government has and will continue to make changes to improve stakeholder confidence. Of course, industry views are a key input into this process. There have been a large number of them, as recently, as I said, as last month. We are working with industry to make sure that those views are presented and considered. The government is also investigating other options for reform but, importantly, we will do nothing that compromises the integrity of our system.

I will take Senator O'Brien's proposed reference points one at a time. In response to the first point, the Joint Committee on Public Accounts and Audit, the JCPAA, conducted a review of Australia's quarantine function and delivered its report in February 2003. The terms of reference were broad ranging and encompassed the issues identified in this reference. The review took public submissions and held public hearings in a number of locations. The review followed the report of the Auditor-General, *Managing for quarantine effectiveness*. Given the nature of this and earlier reviews and the ongoing scrutiny of the quarantine system, another inquiry along these lines is unnecessary at this time.

It is also important to note that the JCPAA found that Australia's quarantine function 'is in good shape and the additional funding is being appropriately used'. Any areas identified for improvement have been, and are be-

ing, followed up by the government. The Auditor-General conducted a follow-up report as recently as December 2005 and concluded that overall, since the last audit, the Australian Quarantine and Inspection Service and Biosecurity Australia have made substantial improvements in the area and in the administration of quarantine.

In response to Senator O'Brien's second point, the government is aware of a view that Biosecurity Australia and the Australian Quarantine and Inspection Service should be merged, again, into one institutional structure, such as a statutory authority. We understand that this view is currently a minority one in industry circles, and the government, like most stakeholders, believe it is more important to get on with improving the delivery of our overall quarantine system than to tinker unnecessarily with institutional structures.

During the last election the government gave an undertaking to reinforce Biosecurity Australia's independence by making it a separate agency within the Department of Agriculture, Fisheries and Forestry. Biosecurity Australia became a prescribed agency in December 2004. While Biosecurity Australia has financial autonomy as a prescribed agency, it remains part of the department in an administrative sense. Consultative structures between Biosecurity Australia and the Australian Quarantine and Inspection Service ensure that close communication occurs.

The 1996 report *Australian quarantine: a shared responsibility*, known as the Nairn report, recommended a statutory authority model. The government rejected this recommendation in 1997 on the basis that quarantine policy and programs are essential elements of the business of government and should operate under the framework of ministerial responsibility and departmental accountability. The government did not want to sever links with other parts of government that are central to the operation of an efficient and effective quarantine service. These arguments, first expressed in 1997, still stand today. We are also not persuaded that the significant cost, disruption and delay in the progress of Biosecurity Australia's work that would result from the restructure of Biosecurity Australia and the Australian Quarantine and Inspection Service into a statutory authority are warranted at this time, particularly since the benefits that a statutory authority might provide to our quarantine system are not clear.

In response to Senator O'Brien's third point, the government is currently reviewing the import risk analysis process, including an examination of whether the process could be improved or enhanced through existing legislation. Expert government legal advice is being drawn upon in this review process. It is worth noting that the full bench of the Federal Court recently found that Australia's import risk analysis system is not legally flawed.

In response to point 4, Australia's appropriate level of protection, known as ALOP, is expressed as 'providing a high level of sanitary and phytosanitary protection aimed at reducing risk to a very low level but not zero'. All Australian governments, through the Primary Industries Ministerial Council, have agreed that Australia's needs are met by this definition of the ALOP. Biosecurity Australia's role is to undertake risk assessments and recommend measures to the Director of Animal and Plant Quarantine that achieve Australia's ALOP. Biosecurity Australia does not determine Australia's ALOP. Recent Senate committee inquiries into the draft risk analyses for apples from New Zealand and bananas from the Philippines both examined BA's risk assessment methodology in some detail.

In response to the fifth point raised by Senator O'Brien, Australia's quarantine regime reflects a system of managed risk based on science. This approach is universally supported. Final decisions on imports are made under the Quarantine Act 1908 by the Director of Quarantine or the delegate. Tens of thousands of decisions on import permits are made every year. Direct ministerial involvement in import risk analysis decision making is impractical. Assessment of risk and the recommendation of measures on imports to meet Australia's conservative quarantine policy outcomes must be science based in accordance with our international WTO obligations and therefore can only be made or overturned on that basis. That role sits more appropriately with Biosecurity Australia, an independent, science based organisation.

Let me reiterate some of the points I have made this afternoon in opposing Senator O'Brien's motion. Australia's quarantine decisions will continue to be based on robust scientific assessments and will not be influenced by trade considerations. Let us use the information and views gathered in the numerous inquiries, consultations and reviews that have already been held, including some that have been held by the committee on which Senator O'Brien and I serve, and let us get on with the job of delivering a science based quarantine system that, to the best extent possible, protects us from human, animal and plant disease incursions.

Senator MILNE (Tasmania) (4.52 pm)—In recent years, the conference of the parties to the convention for the protection of biodiversity concluded that the two greatest threats to global biodiversity at the beginning of the 21st century are habitat loss and alien invasive species, both accelerated by human induced global warming and globalisation—in particular, globalised trade. We know, as Tim Low said in his book *Feral Future*, that people and their products are crisscrossing the world as never before and, on the new global highways so created, plants and animals are travelling too. On top of this, domesticated plants and animals are escaping our control on an unprecedented scale. A globalisation of ecology is under way, with profound implications for us all. Just as American pop music, blue jeans, burgers and coke have displaced Indigenous cultures and foods in every land, so too are vigorous, exotic invaders overwhelming native species and natural habitats. Some biologists warn of a 'McDonaldisation' of world ecology. The earth is hurtling towards one world culture and maybe one world ecosystem.

That is the context in which I rise today to support the motion by Senator O'Brien to refer for inquiry this matter to the Senate Rural and Regional and Transport Legislation Committee to look at the effectiveness of our administration arrangements for managing quarantine and to look specifically at whether it is appropriate to split up the people who are looking at keeping alien invasive species out of Australia and others who are looking at trying to contain and eradicate within Australia's borders. Also, we are trying to look at whether we have the right legislative and regulatory unpinning of import risk assessment. We should be looking at the whole issue of appropriate levels of protection and the role, if any, of ministers in making final decisions.

I am not in any way influenced by the New South Wales Farmers Federation, the National Farmers Federation or any other particular interest group. I am motivated by the fact that week by week we see scientific and media reports of yet more species in Australia—the mix of Australia's biodiversity—going to extinction because of the impact of alien invasive species. I talk to farmers who are really worried about the spread of alien invasive species and the seeming inability of authorities to control them. That

is why we should be having another look at it, because circumstances have changed dramatically. There is no doubt about world trade and globalisation. That is obvious to all. You only have to look at the number of containers on Australian wharves to see the bulk freight that is going around, not to mention a whole range of other pathways into the country.

But, also, the situation has changed. My view is that at the moment we have a system which is too reactive. We need a much more precautionary approach, a much more preventative approach, an approach based on biointelligence. We talk about security intelligence—that is, that we need to be out in the world and the region looking for intelligence. Yet we do not have the same approach with our whole biosecurity quarantine system. I would argue that the system as it currently is focuses way too much on a trade and primary industry priority when it should be looking at the whole of biodiversity conservation, because in that context you will capture primary industry as well. We also need the capacity for cost-effective and timely intervention. We have seen, as I will outline in a moment, that that has not occurred with a number of issues.

I will start by talking about fire blight and Tasmanian apples and the threat to the apple industry in that state if we import apples from New Zealand. The issue is that it has been going on for so long that we are now into the third review and there is no analysis yet of the submissions that have been put in—or at least no consideration of those submissions, at this point, has been made public. But the point is that this has been going on for a very long time, and it has been up to growers to point out the problems with the modelling. Time and time again, what has emerged is that there has been a failure to take into account regional differences in a country the size of Australia. That is an issue that the growers are incredibly frustrated about. My colleague Senator Siewert will take that up in a minute, because the same thing applies in her state of Western Australia. A combined effort between growers and industry groups, particularly in Western Australia and Tasmania, has got it to the point that it is at now.

But I also want to talk about the fact that we have a situation where in April 2005 the Taiwanese announced that they would not be taking Australian fruit because of the Queensland fruit fly and that all Australian fruit would be banned from export to Taiwan in the period after that. Australia secured an exemption from that—or at least a delay until January 2006—in which time our quarantine authority, AQIS, were meant to provide the technical information to Taiwan to demonstrate those areas that should be exempted from the ban. It did not happen. We have growers all over Australia frustrated that it took so long to get the technical information to give Australian growers—who ought to have still had access to the Taiwanese market—that ability.

Tasmania since then has been able to get the exemption. But there are growers in other areas in Australia, apart from the Riverland and Tasmania, who would desperately like to access the Taiwanese market. They complain that there has not been a proactive effort to secure access to that market, because the response was not timely and certainly has not been cost effective for the growers. There are many growers out there who are concerned at the moment that they still will not be able to get their harvest into the Taiwanese market this year, and that is weighing heavily upon them. They not only have to deal with the worst drought we have had in a very long time, with issues about water and other matters, but also do not feel that they have been adequately responded to on their demand that this matter be expedited.

We also have the situation at the moment of the closure of the wild abalone fishery in Bass Strait as a precautionary measure. That is because of the discovery in Victoria of a particular herpes virus. And this is where I come to this issue of biointelligence. We know that in 2003 this virus was particularly bad in the southern part of China, in Taiwan and in California. Why, at that point, did we not look at whether we were importing into Australia, as fish food, bycatch from those areas that could well have been affected by this virus? Now we are in the situation where quarantine authorities are saying, 'We cannot be sure whether the virus came to the fish farms from the wild or vice versa.' But what we ought to have done, after seeing that this disease had broken out—recognising that we farm abalone and that we bring food into this country for those abalone farms—was preempt this issue and get out there with some proactive what I would call biointelligence.

We had the same issue with the mass mortality of pilchards when bycatch from overseas was brought in and fed into the tuna farms at Port Lincoln. From there it escaped into the wild fishery. As a result of that, we now have a situation where every few years there is a mass death of pilchards. In Tasmania, we are seeing our amphibian population wiped out by chytrid fungus. We think that that most likely came into Tasmania from the mainland on bananas. And now our green and gold frog and probably another two species in Tasmania are endangered and facing extinction because of that chytrid fungus.

It may shock the Senate to know that our quarantine arrangements are working. For example, a cane toad was found in Devonport. We know that they are in northern New South Wales, but we know that the bioclimatic changes occurring will make it possible for them to survive much further south than previously. So we need to really strongly consider climate change, and I do not see that happening as a preventative approach, in the manner that I am speaking about. We need to recognise that the climatic zones have changed so that, for example, diseases that previously could not survive in Tasmania or southern Australia, because of weather patterns, now can. We need that kind of assessment to be worked out between Biosecurity Australia, AQIS, the CSIRO, the Bureau of Meteorology and so on. We need to start looking at the impacts of climate change. We are seeing it already in Tasmania: the sea urchin, which previously could not live in Tasmanian waters, is now moving strongly into the east coast of Tasmania, eating into the giant kelp beds which are the nursery for our rock lobster fishery.

So we have all sorts of problems because of alien invasive species coming from either outside the country or other parts of Australia, plus we have that expanded habitat range for disease that we can now expect because of climate change. That is why I am suggesting that we strongly need to look at this issue again—because, as times change, the focus has to change.

The Tasmanian devil is likely to be extinct in the wild in Tasmania in the very foreseeable future, which is an absolute tragedy. No-one ever thought that, after the thylacine, that would be the situation with another iconic creature, but it has occurred in relation to the Tasmanian devil. That comes around again to the lack of an adequate surveillance pattern, a lack of adequate communication between the federal and state authorities, and a lack of adequate funding. We have differential processes between the states and we do not have adequate surveillance.

Overseas, for example, you have to have evidence of absence of disease. Because of cutbacks in funding in recent years, we have shifted to a focus where, if there is an absence of evidence that a disease exists, that is

enough to say that you are disease free—and that is completely the wrong way of looking at it. If we had had evidence of absence of disease as a priority in Tasmania, we would have had public testing and public awareness of the devil disease back in the mid-nineties and we would not have had the delay that we have had in recognising the severity of the disease. That is the difference that has occurred in recent years.

That devil disease is going to have a major impact, because it comes with proof of the introduction of the fox into Tasmania. Again, this is where science and politics come together. We know that a fox escaped from Agfest in 2001—there were two people who came forward with a statutory declaration saying they saw it—and one was seen on the Illawarra Road, five kilometres from the Agfest site, at the time. The action that was taken then was to almost dismiss that as proof. Whatever you want to say about the introduction of the fox into Tasmania, it is a failure of our quarantine service. And now we have a situation where the Tasmanian devil is in decline. The devil was previously a predator and has, one would hope, been a predator of baby foxes. Now, with the devil being wiped out, the fox is likely to breed up as a predator. That would go hand in hand with feral cats, which not only are predators of our small mammals but also carry toxoplasmosis into the wild, and we are finding more and more native animals that are blind because of that toxoplasmosis.

We have a report—we know it is true—of feral ferrets in the penguin community on the Neck at Bruny Island. We have tourists turning up to the Neck at Bruny Island and we know that we have a feral ferret population there. The thing I cannot understand is why we cannot eradicate them. There is a defined penguin colony area; I do not see why we cannot go in and eradicate that feral ferret population right now. But that is not happening.

My motivation in supporting this reference is to be able go back and have a look at what is going on and say, 'What is it that leads us to be too slow and to not look at the cost-effectiveness of investment in this area in terms of a preventative approach so that we do not lose millions of dollars in lost exports, animals, plants, crops and so on?' That question—the big picture—is not being considered a lot of the time.

I think we need to be identifying new pathways. Antarctica is a new pathway for the introduction of disease to Tasmania. We are going to see more and more people coming via Antarctica into Tasmania because of the air link and more cruise ships. Cruise ships are another pathway that has not really been looked at as seriously as it might be. A few years ago a lettuce aphid came into Tasmania from New Zealand. At that time, a cruise ship was docked in Devonport, having come from New Zealand. Many of us believed that the aphid came from the kitchen refuse from that cruise ship. The official explanation at the time was that it had come here on the wind from New Zealand. The problem is that the wind blows in the opposite direction—and I doubt the ability of an aphid to fly against the prevailing winds all the way from New Zealand to the north-west coast of Tasmania.

That is what I mean about science and politics. Sometimes the threat of trade sanctions and the worry about the impact on trading partners may well prevent the publicity, the public education and so on that are needed. We need to have a much greater public awareness of the importance of alien invasive species in destroying our biodiversity and our primary industry sector. I do not think we are well served by the split that has occurred with Biosecurity Australia and

AQIS. I would really like to hear evidence about that split and any effect there may have been since those changes. I do not think we are acting quickly enough. I think that has been demonstrated by the Tasmanian example with fire blight, by the case of the Queensland fruit fly and by the impact on growers around Australia of the Taiwanese ban. Those examples show me that we are not reacting quickly enough.

But, overwhelmingly, my issue is that we need a bigger picture approach. We need a biointelligence approach. We need to be out there looking at where the possible threats are coming from. We need to be assessing changes due to global warming and the likely changed habitats of disease and invasive species. That is why I think it would be a really good thing if this Senate committee had a look at the big picture once again and the Senate stopped taking a very defensive approach. I am disappointed that the government has taken a defensive approach. If there is one thing that this parliament ought to be doing it is protecting Australia's biodiversity as much as possible by having a risk assessment process that is rigorously science based but takes into account the new science, the new threats, the emerging disease threats and the new pathways and looks at whether our processes are adequate to the task.

You only have to look at this week's *Weekly Times* cover, headed 'Diseases slip through lapsed quarantine nets', to see the kind of concern that is out there in the farming community. I urge the government to reconsider its position on this matter. This is not about playing politics; this is about making sure we protect Australia, Australian primary producers and our biodiversity—both marine and terrestrial—into the future in the face of one of the greatest drivers of extinction and loss, and that is alien invasive species.

Senator SIEWERT (Western Australia) (5.11 pm)—I would like to take a few minutes to look at this issue from a Western Australian perspective and to support the referral of this issue to the Senate Rural and Regional Affairs and Transport Legislation Committee. I think there are a number of problems with the current situation both in terms of the structures and the implementation of biosecurity in Australia, particularly as it relates to Western Australia. In Western Australia, our agricultural industry is relatively free from pests and diseases. In fact, our agricultural industry is one of the cleanest industries in the world. In Western Australia we take quarantine very seriously.

I understand the issues of sensitivity around maintaining our high standards and our international trade relationships. However, the Agreement on the Application of Sanitary and Phytosanitary Measures and the International Plant Protection Convention provide that countries may exercise their sovereign right to impose appropriate sanitary and phytosanitary measures. The SPS agreement, as it is commonly known, recognises that risk may not be evenly distributed across the country. This is very important in Australia, as there are a lot of regional differences across this huge country.

When Australia joined the WTO an MOU was entered into between the Commonwealth and state governments. However, this is a relatively small document and it does not give any consideration to the necessary working principles used in the new and now standard practice of the so-called scientific import risk analysis determined by Biosecurity Australia. Of particular concern is the lack of adequate recognition of the significant variation throughout Australia—that is, the freedom from particular pests and diseases and the different level of risk depending on whether important regional agricultural produce is involved.

I will turn to how this applies specifically to Western Australia and Western Australian apples. In Western Australia we are free from three of the most major pests and diseases affecting apples—those being codling moth, fire blight and apple scab. It is said that we in Western Australia have the cleanest apples in the world. Because we have the cleanest apples in the world, we need stronger quarantine protocols than, for example, other eastern states. This is in fact permissible under WTO rules in general and, in particular, the SPS rules.

In Australia, as Senator Milne outlined, we are up to the third import risk assessment on apples. It has been a very frustrating process for us all, with the first and second IRAs missing and ignoring regional differences or not dealing properly with regional differences. We are dealing with an irreversible biological threat to the cleanest apples in the world. We believe that the precedents being set under the new system will probably determine the outcome with regard to countless pests and diseases from which we are currently free.

The first IRA was torn up, basically, after a nationwide uproar in regional communities because of its inadequacies on the problem of fire blight, which is often referred to as the worst apple problem in the world. In the second IRA the additional biosecurity problems faced in WA from New Zealand apples in particular at the time—and we are talking about codling moth and apple scab, which are already present in the east—were ignored to all intents and purposes. Our triple freedom in Western Australia was at risk of being lost. It was the most extraordinary denial of WA's regional difference. And that was just several weeks after WA had signed an agreement with the Commonwealth on quarantine controls and handed over 230 quarantine controls to the Commonwealth. I understand that, at the time, WA agencies had not even been consulted prior to the release of the second IRA.

Now, of course, we are on the third one. That, as Senator Milne pointed out, is just being assessed. The point here is that this was after we ran a huge campaign across the country and in Western Australia to get regional differences considered. From my point of view, the protection of our quarantine standards in Australia should not be dependent on us—the community—having to run such a strong campaign.

There is a tension between science based quarantine arrangements and the least restrictive trade measures, and this is of concern to growers. Growers are concerned that the science based quarantine decisions may be subordinated to the requirement to resolve trade related quarantine disputes. Growers are concerned that, in effect, reports are being written so that they will not be challenged. The concern is that perhaps they are being too cautious in the application of our quarantine rules.

As I said at the start, this points to some concerns about our current structures and the way they are being implemented. That is why from a Western Australian perspective we strongly support a review of the way that our quarantine measures are being implemented and of the structures which support them in order to ensure that they are protecting the cleanest agriculture in the world.

Senator O'BRIEN (Tasmania) (5.17 pm)—As there are no more speakers, I will now exercise my right to close the debate. I thank Senator Milne and Senator Siewert for their support in this debate. I really have to say that I am most disappointed with the contribution of Senator Ferris. I am disappointed that Senator Heffernan's contributions were not on the record, as they were interjections. There are some matters in that disappointing contribution by Senator Ferris

that I want to address. I am disappointed because I know that Senator Ferris does not believe what she said.

Senator Joyce interjecting—

Senator O'BRIEN—Those opposite can take objection, but my experience of Senator Ferris is that she is much more concerned about quarantine than her contribution today reflected. Sometimes we have obligations to present arguments in this place that we may not be altogether comfortable with. I do not say anything more than that this was not a contribution that I found consistent with the strong position that Senator Ferris has taken in relation to quarantine in many debates and in the many committee proceedings that I have been involved in. But I understand the process. Senator Ferris was charged to represent the government view, and she did.

What I found very interesting was that references to the involvement of the minister and to new staff, more staff and more money in this process did not allow Senator Ferris to talk about things being right. On at least two occasions, Senator Ferris said, 'Nevertheless, the system is not perfect.' Perfection is something that we probably ought to aspire to. But I thought that in the context of the presentation it was interesting that Senator Ferris was prepared to concede that there were problems in the system.

Senator Ferris did try to introduce what I regard as a confusion into the argument when she talked about the fact that, because we are an island nation and people travel here, there is necessarily risk. Of course, there is inherent risk for any nation. Our risk is greater because we have fewer of the pests and diseases of the world and therefore we have more to lose. So what should we be aspiring to—what we have, the less than perfect or the best system that we can have?

Our proposal for an inquiry was to test just how good our system is. It was not on the basis of a whim but on the basis of a request from an important farming organisation. That request was based on an independent report which made significant criticisms of the existing system. We did not come here on a whim to propose an inquiry; we came here at the request of an important farming organisation and based upon an important report into deficiencies in the system.

Another committee in 2003 were prepared to make a finding generally in favour of the quarantine arrangements that we have. I very much doubt that they were not in some way critical of the quarantine arrangements given that this committee—the committee we are proposing to refer this matter to—has been critical of a number of aspects of the performance of AQIS and Biosecurity Australia since that time. Be that as it may, even if they were totally uncritical, the fact is that four years would have elapsed since the conducting of that inquiry and from the time the inquiry concluded. That, in my view, renders the JCPAA findings obsolete.

They are obsolete in terms of some of the events that have occurred since that time. They are obsolete in terms of the observations of this committee regarding the performance of AQIS and Biosecurity Australia in relation to citrus canker. They are obsolete in terms of the performance of AQIS and Biosecurity Australia in the importation of Philippine bananas. Indeed, they are obsolete in relation to the problems we have perceived with Brazilian beef being dumped at the Wagga Wagga tip. If the article in the *Weekly Times* is any indication, there are other matters that render the findings of the JCPAA obsolete.

I did not think that the office of the Auditor-General looked at scientific issues in its inquiries but, rather, at economic and procedural performance in accordance with the guidelines set down, so I would not have

regarded the Auditor-General's findings relevant as to whether the inquiry that we propose should be conducted. I am surprised that that matter was raised.

The fact that the government decided back in 1997 that it did not want to have a statutory authority in the quarantine area is entirely irrelevant to whether the Senate thinks we should look at that proposition again now. What the contribution of Senator Ferris suggested to us is that, because the government and the minister have decided that that is what they decided back in 1997 and they do not want it explored, we should not have an inquiry. Frankly, that is not a basis for the Senate to make a decision. It might be the basis for government senators directed on this matter, but it is not a basis for this chamber to make a decision.

When it all boils down, what do we have as the basis for the proposal that the government will not support this inquiry? It is the suggestion that the National Farmers Federation are opposed to the conduct of the inquiry. I find it remarkable that that was suggested to be the case, given that there has been no communication to anyone else in this parliament that they are opposed to it. I just wonder at what level such a decision was taken within the National Farmers Federation. They are an organisation with many constituent parts. I wonder whether someone has taken authority beyond their power and acquiesced perhaps to a request from government for the NFF to say that they do not support the inquiry. I would be very interested in the answer. I will be asking the National Farmers Federation just how it came about that they were in the ear of government, acquiescing to what was no doubt a government proposition that they disagree with the proposition that we hold an inquiry. I would be very interested to know who was involved in that decision and how widely consultation was taken before the decision was made.

What I do know is that the New South Wales Farmers Association took their decision at a properly constituted meeting to request the Senate inquiry. They put it to a vote. The minutes of that meeting, copies of which I have been given, indicate that the proposition that there be an inquiry was supported unanimously. That was one of only two motions at that conference—which lasted a couple of days—which were supported unanimously. To me, that indicates that there is widespread concern, at least in the New South Wales farming community, about the issues which we propose be examined in this inquiry.

So all that I can conclude is that the government has decided that it must shield its minister, its agencies and its department from such an inquiry because it could be embarrassing. That is what government senators will be voting to support. We are under no illusions. There are not many motions for inquiries that succeed in this chamber now that the government has the numbers, but I really think that government senators ought to have a hard look at themselves in the context of this inquiry. This is an inquiry about an important issue for Australia. This is not an inquiry about politics, but if it is defeated it will be defeated because the government politically does not want it, not because it is not needed.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—I remind honourable senators that, if a division is called on Thursday after 4.30 pm, the matter before the Senate must be adjourned until the next day of sitting, at a time to be fixed by the Senate. The debate will be adjourned accordingly.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.27 pm)—I move:

That the vote be taken at the time for the discovery of formal business on the next day of sitting.

Question agreed to.

COMMITTEES

Legal and Constitutional References Committee

Reference

Debate resumed from 15 August, on motion by **Senator Ludwig**:

That the following matter be referred to the Legal and Constitutional References Committee for inquiry and report:

(a) the general efficiency and effectiveness of the visa;

(b) the safeguards in place to ensure the integrity of the system;

(c) the Government's performance as administrator of the visa system;

(d) the role of domestic and international labour hire firms and agreements;

(e) the potential for displacement of Australian workers;

(f) the difference between the pay and conditions of visa holders and the relevant rates in the Australian labour market;

(g) the Government's labour market testing required before visa approval;

(h) the Government's requirements of Regional Certifying Bodies for visa certification;

(i) the interaction of this visa with the Work Choices legislation; and

(j) any other related matter.

Senator LUDWIG (Queensland) (5.28 pm)—I indicated when I first started this debate some time ago that I would not take very long, but it has taken a few days—but I certainly have not been on my feet for all that time. In conclusion—and I will come to the issue rather than continue on—this matter should be referred to the Legal and Constitutional References Committee. The regime of 457 temporary visas to address a skill shortage is a mechanism for the destruction of wages and conditions of every Australian worker. It is an area in which there is certainly a cogent reason for this matter to be referred, not only with regard to the issue of 457 visas themselves but also with regard to the procedures and mechanisms that underpin them, and they are detailed in the reference that I moved when I started this debate some time ago.

This matter should be referred but, when you look at the broader mechanisms that are available, you will see that the government might argue that it is a matter that has already gone to COAG and that officials of COAG are looking at the 457 visa. The department has a task force underway. We already know that the minister has had a report into the T&R meatworks' practices. We are unaware of whether or not that will be made public. We are also unaware of when the task force from the department will report and whether that will be made public.

Similarly, we do not know whether the COAG findings will be made public, although I expect they may be. This reference is a broader reference than all of those because it not only looks at future but also looks at past. The government might argue that there is already sufficient scrutiny, but that is not true. The argument simply cannot be sustained, because the references in this instance allow for the public to have an input, submissions to be called for and made, and the Senate to travel to and call for evidence from a range of capital cities and regional areas to see the impact of 457 visas—both good and bad, as the case may be. There may be some positive benefits.

Labor has always said that the use of the temporary skilled visa is worth while for the purpose for which it was originally designed. This reference would also highlight that purpose and give the government the opportu-

nity to highlight it. It would also allow those matters, where the department is not ensuring compliance, to be exposed. The reference also allows for the department to be called to account and have sufficient scrutiny in the way of questions and answers through the Senate committee process. This process is not available to COAG or the departmental officials in the same way or manner, which is why I argue strongly for this reference. I recognise that I do not have the numbers in this place. I recognise that I will not get this reference up but I still urge the government to look carefully at it.

Senator FIERRAVANTI-WELLS (New South Wales) (5.32 pm)—I rise to oppose Senator Ludwig's motion to refer this matter to the Senate Legal and Constitutional References Committee. Senator Ludwig should not be surprised at this, because, quite frankly, this is a political stunt which demonstrates the lack of seriousness of the ALP position. The ALP is not serious about a critical examination of the 457 visa program. Instead, it is running the agenda of its union constituency, to which it is so beholden—not surprisingly, given the millions of dollars that the union movement have given and continue to give to the ALP. Sadly, the ALP is concerned only with pursuing a short-term political agenda rather than a long-sighted review of the visa class, which is important for Australian businesses and communities. This is especially the case in many regional areas.

The government opposes the motion because it overlooks Australia's significant economic growth over the decade of the coalition government. The government opposes the motion because Australia's unemployment rate is down to 4.8 per cent. I remind the Senate—and especially those opposite—that this is the lowest in 30 years. I know that there are those who may not be happy about this, because they prefer to perpetrate doom and gloom. They want to peddle in negative news. They do not like good news. It does not suit them.

Skilled unemployment is even lower. Labor constantly overlooks this. Recently commissioned research by the Department of Employment and Workplace Relations, published in a report entitled *Workforce Tomorrow: adapting to a more diverse Australian labour market*, predicts that Australia faces a potential shortfall of 195,000 workers over the next five years due to the ageing of the population. Labor seems to overlook this reality. It should be noted that the Australian government has introduced a range of reforms to address this issue, including the recent Welfare to Work reforms. These reforms will increase participation of people who have traditionally been locked out of the labour market, such as sole parents, mature age people, people with disabilities and the long-term unemployed. But there are pressing skills shortages that need to be filled now.

In the absence of Australian workers, skilled workers from overseas have been brought in to keep Australian businesses working to ensure that productivity is maintained. Many of the claims by the ALP and the unions have been that Australian workers are being displaced from the labour market by foreign workers. You cannot displace those who are not there. Labor and the unions also claim that foreign skilled workers have been brought to Australia at the expense of training Australians. This is false: there has been record growth in the take-up of Australian apprenticeships. There are now over 389,000 Australian apprentices in training—a 151 per cent increase from March 1996.

Senator Ludwig's motion also overlooks the cooperation between the Australian government and state and territory governments

on 457 visas. If federal Labor were serious about making valuable contributions to the 457 visa program, they would listen to and take a lead from their state and territory counterparts. COAG considered the matter of 457 visas in July 2006 and asked the Ministerial Council on Immigration and Multicultural Affairs for a report by 15 November 2006. The ministerial council also considered the matter on 14 July and referred it to the Commonwealth-State Working Party on Skilled Migration. The ministerial council, which includes state and territory Labor ministers, noted that:

> The critical role of sub-class 457 visas in addressing national and regional skill shortages in some areas and the importance of further developing measures that, while improving protection for temporary skilled migrants, would not materially add cost and delays for employers.

The Commonwealth-State Working Party on Skilled Migration met on 31 July 2006 to further improve cooperation between jurisdictions on 457 issues. The working party will report to COAG at the end of the year and focus on and go beyond the matters of interest raised by Senator Ludwig. It is important the Senate notes that the working party will inquire into a range of matters. They are: state and territory cooperation to investigate breaches, protocols, sanctions and fines; wage levels for 457 visas; increased use of labour agreements; labour market testing; information exchange on 457 visas; training requirements; improved communications with 457 visa holders and sponsors; the role of regional certifying bodies; regional definitions of 457s; labour hire firms; and English language requirements. This is hardly lack of scrutiny, as alleged by Senator Ludwig.

Against this background, it would be both a waste of time and a waste of public money for the Legal and Constitutional References Committee to run a concurrent inquiry. It is also important to underline that state and territory governments are the primary users of the 457 visa subclass. State governments constantly tell us how important the 457 visa subclass is to them. But this is a fact that federal Labor completely ignores. Sadly, it is content to undertake a lazy, xenophobic, misleading and negative campaign against skilled foreign workers.

One of the biggest users of the 457 subclass program is the New South Wales Department of Health. During the last 12 months, the New South Wales Department of Health nominated 1,030 nurses and doctors—the majority being nurses. On 1 January 2006, the Commonwealth and the New South Wales Department of Health entered into a second three-year labour agreement, providing for the entry of around 1,000 nurses per annum to address the needs of the New South Wales hospital system. But Labor is out of touch with business, is out of touch with regional Australia and, most intriguingly, is out of touch with its colleagues in the states and territories.

As further evidence of how unnecessary Senator Ludwig's proposal is, I would like to offer the following responses to the recurring criticisms of the 457 program. Criticism 1: allegations of rorting and exploitation—wrong. The Department of Immigration and Multicultural Affairs is currently investigating allegations against 56 employers. This represents about 0.5 per cent of employers currently in the scheme. Of the 13 DIMA investigations completed since December 2005, there were no findings against employers in nine cases. Over the two-year period 2004-05, DIMA referred 35 cases to the Western Australian Department of Consumer and Employment Protection—out of 1,000 employers in Western Australia using the scheme. In 12 cases there was a finding of salary underpayment, but the level of underpayment was significant in only one case.

These employers are on the DIMA watch list should they seek to sponsor further overseas workers.

Criticism 2: taking jobs of Australians—wrong, again. Research has consistently found skilled migrants create as many jobs as they take, and there is no difference if they are on a temporary visa. The impact is most positive where skilled migrants go straight into jobs, as they do with 457s, rather than have a period of unemployment, as is the case with independent skilled migrants. I remind those opposite that traditional labour market testing in 457 visas was progressively abolished following recommendations of an industry-union committee set up by former Labor immigration minister Bolkus in 1994. The committee found labour market testing created lengthy delays and costs for employers without adding any value, as employers rarely failed labour market testing.

Criticism 3: 457 visas are a source of cheap labour which is driving down wages—wrong, again. A 457 visa is not a cheap option for employers, given the costs of recruiting from overseas. A survey by Professor Peter McDonald found 457 employers emphasised that, 'Austra1ian workers would be preferred because of the higher costs and time involved in sponsoring an overseas employee.' I remind the Senate that the average salary of a 457 worker is $65,000. Furthermore, 457 visa holders regularly move from one employer to another in order to bargain for higher salaries. The market will not allow their salaries to be held down or be used to drive down wages.

Criticism 4: 457 visas are undermining training efforts—wrong, again. Employers sponsoring under a 457 are assessed for their commitment to training Australians. Of 650 employers refused in 2004-05, around 75 per cent were refused because of lack of commitment to training. The Howard government's commitment to vocational education and training has grown strongly, with apprenticeships and traineeships completed in 2005 standing at 134,900.

Criticism 5: 457 visas are a guest worker scheme contrary to Australia's traditional approach to migration—wrong, again. There are key differences between the guest worker schemes of Europe and North America and the 457 visa system, and I would like to point these out. The skill levels of 457 visas are much higher, with around 85 per cent being professionals, managers or semiprofessionals. At an average salary of $65,000, 457s receive higher salaries. A 457 can move from employer to employer in search of better pay and conditions. And 457s have open pathways to permanent residence.

I would like to conclude by pointing out that just a couple of days ago leading academics applauded the operation of the 457 visa system. New research by leading academics has further demolished the myths concerning the 457 visa that the trade unions and the federal Labor Party trumpet as facts to the Australian public. Labor has falsely claimed that the 457 visa brings cheap, unskilled foreign labour into the country to take jobs from Australians. A report entitled *Temporary skilled migrants' employment and residence outcomes (2006)* by Professors Peter McDonald and Graeme Hugo and Dr Siew-Ean Khoo was released the other day by the Minister for Immigration and Multicultural Affairs, Senator Amanda Vanstone. As the minister has stated:

> Some critics want to go back to 'fortress Australia' and keep out skilled workers from overseas ... But with an unemployment rate of 4.8% we can't afford to take such a blinkered approach to attracting skilled migrant labour in a highly competitive international labour market.

I have referred to criticisms being peddled by those opposite. It is clear from this report

that these myths have been comprehensively debunked.

Myth No. 1: 457 visa holders are being used as unskilled labour to drive down wages. Fact: 93 per cent of those surveyed in the report were in managerial, professional, associate professional or skilled trade occupations. Fact: employers utilising 457 visas must pay the award rate or the minimum salary level stipulated in the migration regulations—whichever is the higher. The average salary of 457 visa holders, as I have previously said and as has been reiterated, is $65,000 per annum. Like all Australian workers, 457 visa holders are able to move from one employer to another and bargain for higher wages in accordance with market movements. Table 2 of the report shows that, in a 12-month period, 16 per cent of 457 visa holders changed employers and 28 per cent of visa holders progressed to higher incomes.

Myth No. 2: 457 visa holders take jobs from Australians and are a substitute for training. Fact: past research has consistently shown that skilled workers create jobs for Australians by allowing businesses to access the skills they need when they need them. Fact: the report recently released adds to this picture and demonstrates that 98 per cent of 457 visa holders in their original jobs are passing on their skills to Australians, which means, in turn, training of Australians.

Myth No. 3: the 457 visa is just another name for 'guest worker'. Fact: the Australian government has consistently rejected proposals for guest worker programs. Holders of 457 visas are able to apply for permanent residence, and they represent a significant and growing part of the annual skilled permanent migration program. The research in the report shows that 87 per cent of 457 visa holders surveyed have applied or intend to apply for permanent residence, which contradicts the myth that they are indentured guest workers with no security of tenure. As the minister has stated:

> There is an overwhelming body of research that says that 457 visa holders are young, well qualified and highly skilled people who bring many economic benefits to Australia.

This includes the Access Economics report *The impact of sponsored temporary business residents on Australia's living standards (2002)*, which found that 457 entrants raise the productivity of Australian workers, alleviate skill shortages, raise employment and average earnings, and make a major contribution to Commonwealth and state budgets. The only surprising thing about all of this evidence on the value of 457 visas is that federal Labor and the trade union movement do not understand it.

It is clear that state Labor governments are working closely with the federal government to try and maximise the benefits the 457 visa can bring for their states. As I have already stated, the New South Wales government is the biggest single user of the 457 visa program. As the minister has repeatedly stressed:

> Given our demand for skilled workers, we should be putting out the welcome mat for these people, not trying to white ant or demonise them.

In conclusion, given the work that the Commonwealth-state party looking into the issues has raised—the terms of reference of which I have quoted—the government believes this inquiry will comprehensively cover pertinent issues regarding 457 visas without the need for the reference suggested by Senator Ludwig.

Senator KIRK (South Australia) (5.50 pm)—I rise this afternoon to support Senator Ludwig's motion to refer the matter of 457 visas to the Senate Legal and Constitutional References Committee. This week, over the last two or three days, we have heard so much about the 457 visas—about the way

that they are being used, or perhaps I should say misused, by employers to the detriment of those persons who are coming into this country wishing to work. They are really just being abused. The concerns that we have expressed this week in relation to 457 visas include the facts that they are being used to displace Australians from jobs, they are being used as an excuse to cut training opportunities and they are being used in a way that is simply driving Australian wages down.

What has been the response of the Minister for Immigration and Multicultural Affairs to what we have raised this week in the Senate? As Senator Fierravanti-Wells has just referred to, the minister has used as her 'defence', shall we put it, the report *Temporary skilled migrants' employment and residence outcomes (2006)*. Senator Fierravanti-Wells quoted extensively from that and the minister's media release. I will not attempt to deal with each and every item that she referred to but, rather, make the point that has been made by Labor in relation to this report. Our argument about this is pretty simple—that is, the report that Senator Vanstone and Senator Fierravanti-Wells have referred to was prepared and the research done prior to the Work Choices legislation coming into place. As we all know, the new industrial relations laws have now been in effect since March, for the last three months or so. But all the research for this report was done prior to the new industrial relations laws coming into effect.

It is pretty obvious, I would have thought, that the impact of the industrial relations laws makes for a new capacity for these temporary worker visas, the 457 visas, to be used in a way that simply drives wages down. The reason why that has happened is quite simple. It is because the new industrial relations laws have opened up a huge gap between what the market rate was and what the new legal minimum rate could be. So what does the minister do in order to refute this? She puts out this academic study dated August 2006 but does not mention the fact that all of the research that was done to prepare this report was conducted under the old industrial relations system.

So all of what Senator Fierravanti-Wells referred to, the various myths that she pointed out and the various percentages that she referred to—like 93 per cent of those surveyed in the report were in managerial, professional, associate professional or skilled trade occupations—have to be taken with a grain of salt because this does not represent the current law, given that Work Choices is now in place and the scenario has changed considerably. As Labor has said, there is not one sentence in the document that the minister released that actually undermines what Labor has been claiming during the course of this week. The only way that the minister appears to be able to defend the temporary worker visas, the 457 visas, is to go to this data that predates the current industrial relations regime.

What I do want to point to this evening is research that has been conducted under the existing industrial relations laws. There was an article published quite recently in the journal *People and Place* by an academic, Mr Bob Kinnaird, who is an immigration analyst. The work that he has done actually was conducted during the operation of the Work Choices legislation, which is the current law. I want to draw the attention of the Senate to a number of his findings, because I think that they are a lot more relevant than the report that Senator Fierravanti-Wells referred to and the one that the minister is using as her defence for the operation of these visas.

One statistic is that the growth in these 457 visas has been so rapid in the last year that for the first time there will probably be

more temporary skilled 457 visas granted than skilled permanent residence visas. I think that is a pretty alarming statistic. Why is it that we are bringing in these temporary skilled 457 visa holders? Why are we not bringing in skilled permanent residents and granting them appropriate visas? In fact, it is the case that in the year 2005-06 the number of 457 visas that were granted was 40,000—a very large number, especially when you compare it with the number in the previous year. As I understand it, in that year some 28,000 visas were issued, so the number rose from 28,000 to 40,000 in the course of just one year—an increase of 43 per cent.

In his research Mr Bob Kinnaird also referred to the fact that some 457 visa holders are being paid below market rates. This is something that is emerging and becoming really quite apparent, but it is very difficult for us to get exact figures because the government does not even collect data on the actual salaries that are paid to these workers. Another trend that is emerging, and this is something that Senator Lundy referred to in the chamber a couple of days ago, is that 457 visas are adversely affecting jobs and training for young Australians, particularly in the IT industry.

In the time that I have remaining I want to focus on one of the most concerning aspects of the way this visa is operating and highlight to the chamber just why it is so essential that we do have a Senate inquiry into the operation of the 457 visas and the government's mismanagement of them. Firstly, I refer to the data that indicates the actual incomes that are being received by persons on the 457 visas. It is shown than 25 per cent of 457 visa holders in the trades reported average incomes of less than $35,000. One third of 457 professionals reported incomes under $50,000, including three per cent below $35,000. You would have to compare this with what is being received out there in the marketplace. The median starting salary for new graduates with a bachelor degree was $38,000 in 2004, so it is clear that a huge number of these people are being paid considerably below the market rate. As I said, it is very difficult to compare because the government does not collect any data on the actual salaries paid to these workers.

Another thing that is emerging is the number of hours that these people on 457 visas are being required to work. Some are being required to work in excess of 40, 45 and even 50 hours a week to receive this minimum salary. The point that I wish to emphasise is the way that the 457 visa minimum salary is actually setting a benchmark for low wages for all Australians. It is setting a low, low benchmark against which salaries for all other Australians are eventually going to be measured.

I will briefly touch on the way that 457 visas are now essentially attracting semi- or even unskilled workers into Australia, with very low English requirements. Given that there is no labour market testing, there has been, as I said, this move towards semi- or even unskilled workers. For example, in Western Australia McDonald's has confirmed that a Filipino 457 visa holder was transferred to Karratha and that his duties included doing shiftwork as an assistant manager and serving food. We really have to wonder why it is that the minister can say, and actually verify, that there is a shortage of McDonald's staff in Australia. Why is it that we need to be using people coming in on these 457 visas to take up employment in McDonald's?

There have also been a number of references to the fact that the program does not appear to be used for the purpose for which it is meant to be used—namely, to target critical skills shortages in Australia, particularly in the building trades. The Australian Truck-

ing Association has also reported that it is close to having the government approve 100 truck drivers under the 457 visa. This week we have also referred to investigations in South Australia where meatworkers have not been working in jobs relating to the skill that was stated on their visa application. We have to wonder whether or not the government is aware of these breaches. Something that has also come to light during the course of this week is that, because of the compliance measures—or, rather, lack of compliance measures—that the government has in place, the department currently visits only 25 per cent annually of employers who employ 457 workers. It is very difficult to know whether or not the conditions of the visa are actually being complied with.

I think what emerges out of this is that the government is expanding the 457 visa system to include semiskilled and unskilled labour. This obviously has nothing whatsoever to do with the skills shortage that we clearly do have in Australia and everything to do with driving down wages and conditions not just for the people on 457 visas but, essentially, for all Australians who are looking for work.

In conclusion, I would like to mention something that Labor senators have said numerous times in this chamber this week—that is, Labor of course supports the 457 visa. It is a very good concept and, if it were to be used properly—that is, to bring in people to work in areas where there really is a skills shortage—then clearly it is a very good program and naturally Labor would support that. But there are many concerns that have been raised during the course of this week that make it quite clear that there is an urgent need for an inquiry into this. It is pretty clear that employers are not required to show that there is a skills shortage in a particular area before taking on an individual. It allows employers to import semiskilled or even unskilled workers onto wages and conditions that bear no resemblance whatsoever to accepted Australian minimum standards. Most concerning is the fact that this visa is having the effect of reducing job and training opportunities for Australians. It is for this reason that I support Senator Ludwig's motion that this matter be referred to the Senate Legal and Constitutional References Committee, and I urge all senators to support the motion.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—The question is that the motion moved by Senator Ludwig to refer a matter to the Legal and Constitutional References Committee be agreed to. A division having been called, I remind honourable senators that if a division is called for on Thursday after 4.30 pm the matter before the Senate must be adjourned until the next day of sitting at a time to be fixed by the Senate. The debate is therefore adjourned accordingly.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (6.03 pm)—I move:

That the vote be taken at the time for the discovery of formal business on the next day of sitting.

Question agreed to.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! It being 6.03 pm, the Senate will move to consideration of government documents, which can be found on page 13 of the *Notice Paper*.

Consideration

The following orders of the day relating to government documents were considered:

> Department of Defence—Report for 2004-05. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Human Rights and Equal Opportunity Commission—Report for 2004-05. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Aboriginal Land Commissioner—Report for 2004-05. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

North Queensland Land Council Aboriginal Corporation—Report for 2004-05. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Torres Strait Regional Authority—Report for 2004-05. Motion of Senator Bartlett to take note of document debated. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Human Rights and Equal Opportunity Commission—Report—No. 31—Inquiry into a complaint by Mr Zacharias Manongga, Consul for the Northern Territory, Consul of the Republic of Indonesia that the human rights of Indonesian fishers detained on vessels in Darwin Harbour were breached by the Commonwealth of Australia. Motion of Senator Bartlett to take note of document agreed to.

S*uperannuation (Government Co-contribution for Low Income Earners) Act 2003*—Quarterly report on the Government co-contribution scheme for the period 1 July to 30 September 2005. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Prohibition of Human Cloning Act 2002 and *Research Involving Human Embryos Act 2002*—Legislation Review Committee—Report on the review of the Acts, December 2005. Motion of Senator Bartlett to take note of document agreed to.

Aboriginal Legal Rights Movement Inc.—Report for 2004-05. Motion of Senator Bartlett to take note of document agreed to.

Australian Rail Track Corporation Limited (ARTC)—Report for 2004-05. Motion of Senator Webber to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Multilateral treaty—Text, together with national interest analysis and annexures—Amendments, done at Nairobi, Kenya on 25 November 2005, to Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals, done at Bonn on 23 June 1979. Motion of Senator Bartlett to take note of document agreed to.

Natural Heritage Trust—Report for 2004-05. Motion of Senator Milne to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Centrelink and the Data-Matching Agency—Data-matching program—Report on progress 2004-05. Motion of Senator Stott Despoja to take note of document agreed to.

National Native Title Tribunal—Report for 2004-05. Motion of Senator Stott Despoja to take note of document agreed to.

National Rural Advisory Council—Report for 2001-02, including a report on the Rural Adjustment Scheme. Motion of Senator Stott Despoja to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

National Rural Advisory Council—Report for 2002-03. Motion of Senator Stott Despoja to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Private Health Insurance Administration Council—Report for 2004-05. Motion of Senator Stott Despoja to take note of document agreed to.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Government response to the Commonwealth Ombudsman's reports 003/05 to 013/05 and 015/05, 7 February 2006. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 003/05, 4 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 004/05, 21 November 2005. Motion of Senators Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 005/05, 4 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 006/05, 21 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 007/05, 21 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 008/05, 21 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 009/05, 25 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 010/05, 25 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 011/05, 4 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 012/05, 4 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk

debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 013/05, 25 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 015/05, 4 November 2005. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

National Environment Protection Council and NEPC Service Corporation—Report for 2004-05. Motion of Senator Stephens to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Social justice—Report for 2005. Motion of Senator Crossin to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Native title—Report for 2005. Motion of Senator Stephens to take note of document agreed to.

Human Rights and Equal Opportunity Commission—National inquiry into employment and disability—Final report—WORKability II: Solutions – People with disability in the open workplace, December 2005. Motion of Senator Stephens to take note of document agreed to.

Indigenous Land Corporation—Report for 2004-05. Motion of Senator Stephens to take note of document agreed to.

Wreck Bay Aboriginal Community Council—Report for 2004-05. Motion of Senator Stephens to take note of document agreed to.

Native Title Act 1993—Native title representative bodies—Cape York Land Council Aboriginal Corporation—Report for 2004-05. Motion of Senator Stephens to take note of document moved called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Native Title Act 1993—Native title representative bodies—Ngaanyatjarra Council (Aboriginal Corporation)—Report for 2004-05. Motion of Senator Stephens to take note of document agreed to.

Customs Act 1901—Customs (Prohibited Exports) Regulations 1958—Permissions granted under regulation 7 for the period 1 July to 31 December 2005. Motion of Senator Stephens to take note of document agreed to.

Commonwealth Grants Commission—Report—State revenue sharing relativities—2006 update. Motion of Senator Watson to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Australian Political Exchange Council—Report for 2004-05. Motion of Senator Bartlett to take note of document agreed to.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 014/05, 1 December 2005. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Report by the Commonwealth Ombudsman—Personal identifier 016/05, 1 December 2005. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk

debate was adjourned till Thursday at general business.

Migration Act 1958—Section 91Y—Protection visa processing taking more than 90 days—Report for the period 1 July to 31 October 2005. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003—Quarterly report on the Government co-contribution scheme for the period 1 October to 31 December 2005. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Australian Meat and Live-stock Industry Act 1997—Live-stock mortalities for exports by sea—Report for the period 1 July to 31 December 2005. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Queensland Fisheries Joint Authority—Report for 2003-04. Motion to take note of document moved by Senator Ian Macdonald. Debate adjourned till Thursday at general business, Senator Ian Macdonald in continuation.

Indigenous Business Australia—Corporate plan 2006-2008. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Multilateral treaty—Text, together with national interest analysis and annexures—Agreement Establishing the Pacific Islands Forum, done at Port Moresby on 27 October 2005. Motion to take note of document moved by Senator Ian Macdonald. Debate adjourned till Thursday at general business, Senator Ian Macdonald in continuation.

Migration Act 1958—Section 440A—Conduct of Refugee Review Tribunal (RRT) reviews not completed within 90 days—Report for the period 1 July to 31 October 2005. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Government response to the Commonwealth Ombudsman's reports 017/05 to 019/05 and 020/06 to 048/06. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Reports by the Commonwealth Ombudsman—Personal identifiers 017/05 to 019/05 and 020/06 to 048/06. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

National Rural Advisory Council—Report for 2004-05. Motion to take note of document moved by Senator Ian Macdonald. Debate adjourned till Thursday at general business, Senator Ian Macdonald in continuation..

Wheat Export Authority—Report for 1 October 2004 to 30 September 2005. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Australia-Indonesia Institute—Report for 2004-05. Motion of Senator Stott Despoja to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Telecommunications (Interception) Act 1979—Report for 2004-05 on the operation of the Act. Motion of Senator Stott Despoja to take note of document agreed to.

Australian Agency for International Development (AusAID)—Australian aid: Promoting growth and stability—White paper.

Motion of Senator Stott Despoja to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Government response to the Commonwealth Ombudsman's reports 049/06 to 055/06, 9 May 2006. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Reports by the Commonwealth Ombudsman—Personal identifiers 049/06 to 055/06. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 440A—Conduct of Refugee Review Tribunal (RRT) reviews not completed within 90 days—Report for the period 1 November 2005 to 28 February 2006. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Australian Livestock Export Corporation Limited (LiveCorp)—Report for 2004-05. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Interactive Gambling Act 2001—Report for 2005 on the operation of the prohibition on interactive gambling advertisements. Motion of Senator Bartlett to take note of document agreed to.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003—Quarterly report on the Government co-contribution scheme for the period 1 January to 31 March 2006. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Local Government (Financial Assistance) Act 1995—Report for 2004-05 on the operation of the Act. Motion of Senator Bartlett to take note of document agreed to.

Roads to Recovery Act 2000—Roads to recovery programme—Report for 2004-05 on the operation of the Act. Motion of Senator Bartlett to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Northern Territory Fisheries Joint Authority—Report for 2004-05. Motion of Senator Siewert to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Australian National University—Report for 2005. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Government response to the Commonwealth Ombudsman's reports—Personal identifiers 056/06 to 066/06. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Reports by the Commonwealth Ombudsman—Personal identifiers 056/06 to 066/06. Motion to take note of document moved by Senator Kirk. Debate adjourned till Thursday at general business, Senator Kirk in continuation.

Aboriginal and Torres Strait Islander Commission—Report for the period 1 July 2004 to 23 March 2005. [Final report] Motion of Senator Bartlett to take note of document called on. On the motion of Senator Ian Macdonald debate was adjourned till Thursday at general business.

Criminal Code Act 1995—Preventative detention and control orders—Reports for 2005-06. Motion of Senator Ludwig to take note of document agreed to.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 067/06 to 069/06—Commonwealth Ombudsman's reports—Government response. Motion of Senator Ludwig to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 067/06 to 069/06—Commonwealth Ombudsman's reports. Motion of Senator Ludwig to take note of document called on. On the motion of Senator Kirk debate was adjourned till Thursday at general business.

General business orders of the day nos 44, 45, 47, 48, 50, 53, 55 to 62, 64, 66, 67, 84 to 87 and 91 to 106 relating to government documents were called but no motion was moved.

COMMITTEES

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Intelligence and Security—Joint Statutory Committee—Report—Review of administration and expenditure: Australian intelligence organisations: Number 4—recruitment and training. Motion of Senator Ferguson to take note of report agreed to.

Appropriations and Staffing—Standing Committee—Report—Annual report for 2005-06. Motion of Senator Ray to take note of report agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Report—National Animal Welfare Bill 2005. Motion of Senator Bartlett to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Community Affairs References Committee—Report—Beyond petrol sniffing: Renewing hope for Indigenous communities. Motion of the chair of the committee (Senator Moore) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Expanding Australia's trade and investment relations with North Africa. Motion of the chair of the committee (Senator Ferguson) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Australia's defence relations with the United States. Motion of the chair of the committee (Senator Ferguson) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Community Affairs References Committee—Report—Workplace exposure to toxic dust. Motion of the chair of the committee (Senator Moore) to take note of report agreed to.

Electoral Matters—Joint Standing Committee—Report—Funding and disclosure: Inquiry into disclosure of donations to political parties and candidates. Motion of Senator Carr to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Intelligence and Security—Joint Statutory Committee—Report—Review of the listing of the Kurdistan Workers' Party (PKK). Motion of Senator Ferguson to take note of report agreed to.

Community Affairs References Committee—Report—Response to the petition on gynaecological health issues. Motion of the chair of the committee (Senator Moore) to take note of report agreed to.

Foreign Affairs, Defence and Trade References Committee—Report—China's emergence: Implications for Australia. Motion of the chair of the committee (Senator Hutchins) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Mental Health—Select Committee—First report—A national approach to mental health—from crisis to community. Motion of the chair of the committee (Senator Allison) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Environment, Communications, Information Technology and the Arts References Committee—Report—Living with salinity—a report on progress: The extent and economic impact of salinity in Australia. Motion of the chair of the committee (Senator Bartlett) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Treaties—Joint Standing Committee—72nd report—Treaties tabled on 29 November 2005 (2). Motion of Senator Wortley to take note of report agreed to.

Community Affairs References Committee—Report—Poverty and financial hardship—A hand up not a hand out: Renewing the fight against poverty—Government response. Motion of Senator Bartlett to take note of document agreed to.

Legal and Constitutional References Committee—Report—Administration and operation of the *Migration Act 1958*. Motion of the chair of the committee (Senator Crossin) to take note of report called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Community Affairs References Committee—Reports—Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children—Protecting vulnerable children: A national challenge: Inquiry into Australians who experienced institutional or out-of-home care—Government responses. Motion of Senator Murray to take note of document called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

AUDITOR-GENERAL'S REPORTS

Report No. 49 of 2005-06

Debate resumed from 10 August, on motion by **Senator Moore**:

That the Senate take note of the document.

Senator WONG (South Australia) (6.10 pm)—I want to make a few brief comments about the Auditor-General's Audit report No. 49 of 2005-06, which by my count is the fifth into the Job Network and the fifth in which there has been quite a number of significant criticisms made of the government's Job Network by the Auditor-General. For senators' information, we had reports in May 2000 in which there were criticisms of the management of the Job Network contracts; in April 2002 on the management of the provision of information to job seekers; in June 2005 on DEWR's oversight of Job Network services to job seekers; and in August 2005 on the implementation of contract No. 3. Then we currently have this report—as I said, the fifth in a fairly short space of time into one particular sector of the government—and that is on job placement and matching services.

The first point I would make is that it seems quite apparent from the plethora of Job Network investigations by the Auditor-General that this is an area where the government really needs to improve its game. It is very good at fudging the figures, giving good figures and giving a good headline—certainly the Job Network gives Minister Stone a number of media releases for her website—but the reality is there have been some very substantial criticisms by the Auditor-General of a whole range of matters associated with the Job Network and of Minis-

ter Stone's and Minister Andrews's department's oversight of the Job Network. We are still waiting to see the extent to which the government acts to remedy those.

In respect of this particular report, the Auditor-General shows the way this government has fudged the figures of the Job Network. It also demonstrates that there has been poor management of taxpayers' funds and it questions the design of the system. I want to briefly speak on a number of issues in the report. The first point I make is that record job placement outcomes claimed by this government, including the so-called doubling of placements in one year, were actually a result of a change in the way placements were recorded. So you change the parameters and get an improvement in the results, and then you put out a press release—just another example of the way the Howard government governs by spin and rhetoric rather than actual results. The fact is the placements would actually have dropped without the changed measurement.

The second point I make, and this is one that a number of constituents and people involved in this area say themselves, is that many placements are the results of people finding their own jobs; nevertheless, the government is still happy to take the credit for that. The report confirms that around $487,000 in placement fees may have been paid incorrectly by the government and, perhaps more worryingly, only 10 per cent of the $4.67 million in recoverable suspect payments are recovered. This is a concern; this is a substantial amount of public funds which is put into that network. Much of that money is used for useful purposes, but there is obviously a significant amount of money that the Auditor-General had identified as being, perhaps, poorly managed. We urge the government to improve its management, particularly in relation to recoverable suspect payments.

The Auditor-General also pointed out that, on average, placements are costing 40 per cent more than they did previously and, further, that each month around 47 per cent of vacancies are duplications and almost one in five vacancies advertised is eight weeks old and out of date. The Auditor-General also commented that there was no systematic compliance checking through site visits of job placement organisations to check compliance with service commitments.

In summary, the Auditor-General's report demonstrates that there has been an inflation of the job figures and the success of the Job Network and that the government is guilty of taking false credit for getting people jobs when people have actually got the jobs themselves. The reality is that there is a lot of money spent each year on job placement services. It is an important service provided by government, but the government ought to do far more than it is doing to manage it properly. I was reminded of this just a few days ago when I saw yet another media release from Dr Sharman Stone lauding the Job Network's success. I wonder whether Minister Stone is going to ensure that the various problems identified by the Auditor-General not only in this report but perhaps also in the four preceding it are actually remedied and focused on, because they clearly need to be—this is not the opposition saying this; this is the Auditor-General saying this—rather than the minister simply putting out self-congratulatory media releases.

My suggestion to the Senate is that yet again we have another Auditor-General's report critical of many aspects of the Job Network. I hope the government will see fit to remedy some of the criticisms made, because this is an important area for both job seekers and the taxpayers, who fund these services. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CHAMBER

Report No. 47 of 2005-06

Debate resumed from 10 August, on motion by **Senator Siewert**:

That the Senate take note of the document.

Senator SIEWERT (Western Australia) (6.17 pm)—I am continuing my comments from last week when I was talking about Audit report No. 47 of 2005-06, the Auditor-General's review of funding for communities and community organisations. I had got to the point where I was expressing my concern about the government's attack on NGOs, non-government organisations, and their legitimate role in our democracy. I had been looking at this report and had found some concerns. The report indicates some concerns with some of these funding programs.

On page 58 the report notes that one-third of the interviewed service providers had difficulty with the timeliness of payments from government. We know that NGOs are often very reliant on such payments. Again, it is cause for concern. On page 82 they point out that 10 per cent of respondents to their survey expressed concern that FaCSIA did not analyse the performance reports that they submitted. With the exception of the programs relating to Indigenous services, the ANAO was advised by FaCSIA staff that performance reports were immediately filed upon receipt, with no detailed analysis of the service providers' performance being undertaken. How on earth do we know if these services are meeting the needs of the community?

We also know that community groups are increasingly critical of the burdensome bureaucracy and red tape that they feel are being imposed on them. They have only just finished one report when they need to fill out another one. It is extremely disturbing that these reports are, it appears, just being filed and not even looked at. One wonders why the organisations are being made to fill out these reports if they are not being reviewed. A cynical, suspicious mind would think that they are being required to fill out these reports because it binds them up in red tape and prevents them doing other things.

On page 81 we find that FaCSIA would have difficulty determining from these indicators whether grant recipients were achieving an adequate level of activity to justify funding. On page 21 the report suggests that the absence of an effective performance information framework restricts FaCSIA's capacity to demonstrate the extent of these contributions and effectively target the allocation of resources. If that is the case, I am deeply concerned that NGOs are being required to jump through hoops and are being criticised for their work—and yet there does not seem to be any foundation for this, as their reports are not being analysed. They are filling out information on which they think their performance is being assessed, but they are not being checked. So (a) they are not getting performance feedback and (b) they are being bound up in red tape without people paying adequate attention. There appears to be no foundation for the criticisms that are being levelled at them.

I would think that these sorts of reports are also important to effectively target the allocations of the agency's resources and that effective allocation was a large part of their role. What is more, we have government accusing NGOs of being unaccountable, but here they are being very accountable and agencies and the government are not paying attention. How can they be claimed to be unaccountable when the government and the responsible agency are not even reading their reports? One wonders on what basis the government keeps making these unfounded criticisms.

In light of these issues and what I see as the government's constant undermining of

non-government organisations, I believe there is an urgent need for the development of a new relationship between government and non-government organisations—or the third sector, as it is commonly known—that acknowledges the massive contribution the sector makes to the economy, which is now argued to be over $30 billion per annum. More importantly, it strengthens the wellbeing of our community and the health and vibrancy of our democratic processes.

I believe that the nations that do get it right in terms of fostering the education, personal development and wellbeing of their citizens and giving them the opportunities for meaningful work and a decent life—which are the cornerstones of creativity, productivity and innovation—will ultimately be those that are best able to face the challenges of the 21st century. Nations that do get it right and foster that personal development are those that also have a very strong framework for non-government organisations, which play a vibrant part in the debates about and the promotion of the wellbeing of a nation.

It is time we looked at developing—and perhaps legislating, if it is decided in dialogue with the community that that is what needs to happen—a new relationship between the government and the third sector that ensures equity, sustainability and justice and that separates these issues from those of public funding for core functions and contracts for service delivery. We need a process that enshrines the legitimate role of advocacy for the marginalised, the disadvantaged or the oppressed.

At this stage I am not advocating a particular model, as this is ultimately something that needs to be debated, discussed and developed with the third sector and the community in all its diversity. We could look at the compact in the UK and the accord in Canada as some interesting starting points but ultimately we need something for our own unique situation in Australia that meets our needs and circumstances and that sustains and helps develop a vibrant and sustainable third sector in this country—one that is unafraid to advocate for those who are disadvantaged and marginalised and for the environment.

I believe our nation is better for the diversity of non-government organisations. I find deeply depressing the constant attacks that our NGO sector faces, when all the NGOs are interested in is the rights of others and the environment. They are not self-interested. They do not have vested interests, other than the broader health of our community and our environment. Therefore, I strongly believe that this government should change tack in its approach to the third sector and, in fact, direct resources to sustain it.

Question agreed to.

Report No. 52 of 2005-06

Debate resumed from 10 August, on motion by **Senator Moore**:

That the Senate take note of the document.

Senator CONROY (Victoria) (6.24 pm)—I rise to speak on the Auditor-General's report into the management of selected Telstra social bonus 2 and telecommunications service inquiry response programs. You should stay, Senator Fierravanti-Wells; you might learn something. This report from the Audit Office offers a useful insight into the way in which the Howard government—and the Department of Communications, Information Technology and the Arts, in particular—spends government money. This report is timely, given the government's plans to begin allocating money under its most recent telecommunications program, the $800 million Broadband Connect plan. On top of this, in the not-too-distant future the government will begin spending the earn-

ings of the $2 billion Communications Fund. So this report could be expected to provide a good indication of the value for money that Australian taxpayers can expect from these programs.

Unfortunately, the verdict is not good. The report investigated seven programs that directed $250 million to high-speed networks, mobile phone towers and technology ventures. The ANAO found accountability weaknesses in all seven of the programs that it examined. Specifically, the ANAO found risk management problems and inadequate reporting procedures in six of the seven programs. It also found mistakes in setting clear objectives and performance measures in four of the seven programs.

The worse example of mismanagement in this report was the $78 million Building on IT Strengths initiative. This program was ostensibly designed to fund technology ventures in Australia. However, the ANAO report found that, despite a series of warnings on a number of occasions, the initiative directed funding to venture capital groups shortly before they collapsed due to financial mismanagement. In totality, the program was a shambles. Money was spent on projects for which there was little genuine need. Public funds were allocated with inadequate accountability measures in place to ensure that the programs achieved their objectives.

The reason for the accountability shortcomings of these programs should be obvious to anyone who has paid even the most cursory attention to the Howard government's telco policies over the past 10 years. It was not long ago that this chamber was discussing a report by the Auditor-General into the administration of the government's Networking the Nation program. The Auditor-General's report on the Networking the Nation program was similarly scathing. The reason for the inadequate accountability mechanisms in both the Telstra social bonus programs and Networking the Nation was that the government never had any intention of these programs achieving anything. These programs were never designed to respond to genuine needs in the community. These programs were only ever designed to pork-barrel for rural and regional Liberal and National Party MPs. These programs were only ever designed to fund National Party photo opportunities, not to produce real outcomes for rural and regional Australia. The only objectives of these programs were to provide a cover for a press release from the local National Party member or senator claiming to have delivered X million dollars of government funding for their region.

For 10 long years, the complacent and arrogant Howard government has wasted hundreds of millions of dollars on pork-barrelling in telecommunications. What do we have to show for it? A series of Auditor-General reports for one; that is for sure. But, when it comes to results on the ground for programs like this, the government's record is as patchy as broadband coverage west of the divide. After 10 long years of the Howard government's largesse, rural and regional Australia is still years behind the city. Rural and regional Australia needs a government that is interested in outcomes for the communities, not shameful, vote-buying exercises. That is why rural and regional Australia needs a Beazley Labor government, a government that will deliver real telecommunications outcomes on the ground, not pretend products on the paper of press releases designed to just give a cover for some more traditional National Party and rural Liberal MP pork-barrelling.

Question agreed to.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 36 of 2005-06—Performance audit—Management of the Tiger Armed Reconnaissance Helicopter Project—Air 87: Department of Defence; Defence Materiel Organisation. Motion of Senator Bishop to take note of document called on. On the motion of Senator Kirk debate was adjourned till the next day of sitting.

Auditor-General—Audit report no. 40 of 2005-06—Performance audit—Procurement of explosive ordnance for the Australian Defence Force (Army): Department of Defence; Defence Material Organisation. Motion of Senator Bishop to take note of document agreed to.

Auditor-General—Audit report no. 46 of 2005-06—Performance audit—Commonwealth State Housing Agreement follow-up audit: Department of Families, Community Services and Indigenous Affairs. Motion of Senator Carr to take note of document agreed to.

Orders of the day nos 6 to 10 and 12 to 14 relating to reports of the Auditor-General were called on but no motion was moved.

COMMITTEES

Environment, Communications, Information Technology and the Arts Legislation Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Marshall)—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (6.30 pm)—by leave—I move:

That Senator Scullion be appointed as a participating member of the Environment, Communications, Information Technology and the Arts Legislation Committee.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! There being no further consideration of committee reports, government responses or Auditor-General's reports, I propose the question:

That the Senate do now adjourn.

Musicoz

Senator FIERRAVANTI-WELLS (New South Wales) (6.30 pm)—I rise tonight to speak about Musicoz, which is a valuable program based in the Illawarra region for new and emerging musical talent. I hope to be able to attend the national Musicoz Awards at the end of this year in Wollongong, which no doubt will showcase a wide range of young musical talent from across Australia. Musicoz is a non-profit organisation dedicated to developing the music industry. The Musicoz Awards are a major incentive to inspire the development of Australian original music and in turn generate employment opportunities and form valuable partnerships and networks.

Musicoz is open to all songwriters, bands, singers and musicians and is dedicated to promoting independent Australian artists. It is an initiative of Wollongong City Employment Training, having been established as a Work for the Dole project in 2001. Indeed, Musicoz is a great example of the success of Work for the Dole projects. Its primary aim is to create opportunities for new and emerging artists in the Australian music industry. Musicoz also provides valuable work experience for people who are undertaking training in the industry or who are unemployed.

Musicoz is dedicated to developing the music industry at the grassroots level by identifying, recognising and encouraging the

talents of unsigned and independent artists and by providing them with opportunities as they establish their careers. Musicoz creates opportunities for unsigned bands and musicians by offering services such as helping artists get a gig, providing recording advice, helping artists find management, and promotion.

The Musicoz program covers a number of commendable initiatives. The annual national Musicoz Awards are probably the most well known initiative of the Musicoz organisation. These awards cover 18 genres of music, with 1,432 artists having submitted over 5,000 songs. Previous winners of Musicoz awards include Blue King Brown, who later reached No. 1 on the indie charts, and Bliss N Eso, who later reached No. 6 on the ARIA urban charts. Local Knowledge, Sunpilots and Steve Romig are also previous winners of Musicoz awards that have gone on to be recognised at higher levels.

I recently wrote to all my federal colleagues, both members of parliament and senators, urging them to encourage local talent from their electorates to send in their entries for Australia's biggest awards for unsigned artists. In the information that I forwarded to my colleagues, I provided detailed information about the Musicoz Awards, including the very impressive booklet for last year's awards. Last year's entries for the awards came from all over Australia, showcasing some of the nation's best upcoming musical talent. Entries were received from places such as Rockhampton in Queensland, Joondalup in Western Australia, Nairne in South Australia and Lindisfarne in Tasmania, just to give a few examples of the extent of support that the Musicoz Awards enjoy. I hope that interest this year will be even greater.

The Musicoz Awards recognise the significant effort that artists put in and the contribution that they make to the Australian music industry. Each year, over $100,000 in cash and prizes is given as part of the awards. More importantly, opportunities with professionals are available through the exposure via Musicoz which new and emerging artists might not otherwise receive. Through Musicoz, young unsigned artists are given the opportunity to be seen and heard by the heavyweights of the music industry. Senior managers from Sony, Mushroom Records and MGM Distribution were all part of the judging panel for the 2005 awards, giving them a first-hand view of some of the new talent being developed in the Australian music industry. Artists such as Lee Kernaghan, Deni Hines, Sarah McLeod from the Superjesus and former Bardot member Tiffani Wood have all expressed support for Musicoz and the valuable opportunities it creates for young artists.

At the local level in the Illawarra, Musicoz provides a wide range of benefits and opportunities, including valuable work experience for students at Wollongong City Employment Training and the local TAFE campus, as well as opportunities for the unemployed through Work for the Dole. The annual Musicoz Awards also create significant economic and tourist benefits in the Illawarra region. The success that Musicoz currently enjoys can be attributed to the wide-ranging benefits of the Work for the Dole program.

The Australian government is committed to helping unemployed Australians find a job and to step away from welfare dependency and into a better life. A post-program monitoring survey of job seekers conducted earlier this year by the Department of Employment and Workplace Relations found that 42 per cent of respondents who participated in Work for the Dole last year were employed or in education or training three months after leaving the program. Furthermore, after par-

ticipating in Work for the Dole, 75 per cent of job seekers said that participating had improved their self-esteem, 85 per cent said it improved their desire to find work and over 90 per cent said they had increased the number of jobs they had been applying for.

Work for the Dole is working and is a valuable weapon in the Howard government's extensive approach to tackling long-term unemployment. The success of Work for the Dole is evident when looking at the achievements of an initiative like Musicoz, but it is more importantly reflected in the record low levels of unemployment and the significant falls in long-term unemployment. Job seekers are recognising the valuable role that work experience plays in finding a job. I find it encouraging to see an increasing number of job seekers who have volunteered to participate in Work for the Dole.

In 2005 over 4,400 activities provided nearly 50,000 opportunities for job seekers across Australia to obtain quality work experience while providing services and facilities to their communities. Work for the Dole enables community organisations to bring forward project ideas to be undertaken by Work for the Dole teams. This program not only brings individuals back into the workforce but also helps strengthen our local communities—just as the success of Musicoz has benefited the Illawarra region. I would encourage the Australian Labor Party, the Democrats and the Greens to recognise the success of Work for the Dole and the benefits it provides in helping the unemployed gain the confidence to get back into the workforce.

In closing, I would like to congratulate Musicoz for their success in assisting young Australian musical talent. This has indeed been a very successful Work for the Dole project. It has been innovative and it has certainly helped many young people in their quest and desire to be part of an increasing music industry in Australia. I wish the team every success in preparing for the 2006 awards.

Human Rights: Philippines

Senator MARSHALL (Victoria) (6.39 pm)—I am taking this opportunity in the adjournment debate tonight to alert the Senate to a report launched at Parliament House yesterday. The report, entitled *Getting away with murder: impunity for those targeting church workers in the Philippines*, was produced by the Uniting Church in Australia's Justice and International Mission Unit. This report serves to highlight the numerous cases of murders and death threats perpetrated against the citizens of the Philippines and provides a detailed description of 14 cases of Uniting Church of Christ members who have been murdered in the past two years.

The Philippines has a well-documented past of political unrest, with the suppression of workers, unionists, social justice advocates, political activists and, indeed, church members. I, along with many other Australians, can vividly recall the toppling of the disgraced Marcos regime. Following that, most of us could have easily assumed that democracy is alive and well in the Philippines; however, this is simply not the case. Since Gloria Arroyo came to power in January 2001, over 600 civilians, including trade union leaders, environmentalists, lawyers, municipal councillors and journalists, have been killed. As this report reveals, amongst the dead are pastors, priests and lay members of the various churches in the Philippines. In addition to this, many more activists have had threats made against them or assassination attempts made on their lives.

The common factor in all of these cases is that the victims have been outspoken on issues of poverty and justice. They have advocated for poor and oppressed people in the

Philippines, for workers' rights, for civil liberties and for human rights, and some have been directly critical of the government. Most notably and perhaps most tragically, the common link between these deaths is that they could have been prevented through government intervention. In almost all of these cases, the prime suspects are government military intelligence units. As a consequence, very few of them have been adequately investigated and the perpetrators of these heinous crimes have not been brought to justice.

These themes are corroborated by Amnesty International, who on Tuesday released their report into human rights abuses in the Philippines. The Amnesty International report states that:

> The common features in the methodology of the attacks, leftist profile of the victims, and an apparent culture of impunity shielding the perpetrators, has led Amnesty International to believe that the killings are not an unconnected series of criminal murders, armed robberies or other unlawful killings. Rather they constitute a pattern of politically targeted extrajudicial executions taking place within the broader context of a continuing counter-insurgency campaign. The organisation remains gravely concerned at repeated credible reports that members of the security forces have been directly involved in the attacks, or else have tolerated, acquiesced to, or been complicit in them.

Human rights abuses in the Philippines are further backed up by other international organisations.

Despite the Philippines being a signatory to a number of international treaties protecting human rights and having the protection of human rights enshrined in legislation, this report affirms that since President Arroyo came to power:

> ... a national human rights organisation has documented 4,207 cases of human rights violations, which include killings, enforced disappearances, illegal arrests and unlawful detention, indiscriminate firings and forcible evacuation.

In launching the report, Reverend Gregor Henderson, President of the Uniting Church in Australia, remarked that it was with a great sadness and solidarity with which he presented the report. He informed us of his visit last year to an indigenous village in the highlands of the Philippines which, prior to his visit, had suffered from two weeks of occupation by the Filipino army. During his time there the reverend had met with 14 members of the village who had told him of the suffering and devastation they had experienced at the hands of the army who, in an attempt to force out Communist guerrillas, had shot at civilians and had forced them to be relocated.

The most heart-wrenching story Reverend Henderson relayed to the members and senators who were present at the launch yesterday was that of a nine-year-old from the same village. This young boy told the story of how during the occupation a soldier had stood over him with a rifle pointed at his head. The Filipino soldier told the boy that he may as well kill him immediately because if he grew up he would turn into a communist guerrilla and they would kill him then anyway. The soldier then forced the boy to dig a grave in the ground with his bare hands—a grave that would be for himself, his father and his mother. Fortunately for this young boy, a military officer intervened and his life was saved. But this story serves to highlight the sad and tragic threats that the poor and oppressed people of the Philippines face daily at the hands of the military.

As I indicated earlier, the report documents cases of murder in the Philippines. Amongst them is the case of Reverend Edison Lapuz. Reverend Lapuz was an advocate in both the church and his local community. His pastoral work exposed him to the issues facing the marginalised in the community. At

the time of his death he was the convenor of a civil liberties group made up of lawyers. This group focused on investigating cases of murders and human rights abuses, with the goal of pursuing legal avenues to resolve them.

His involvement in this group brought him to the attention of the local military authorities and the police, who surveyed his activities. Prior to his death, the commanding officer of the local military detachment visited the home of Reverend Lapuz's father on several occasions to find out information on the whereabouts of Reverend Lapuz. Reverend Lapuz was murdered on 12 May 2005. He and a friend were shot by two masked assailants who later fled on motorbikes. No-one has ever been arrested for this murder.

Tragically, this story is typical of the other 13 cases compiled in the report and so many other cases of murder in the Philippines. From the cases cited in the report, its authors have come to conclude that the most likely perpetrators are the security forces in the Philippines. This conclusion is supported by the Commission on Human Rights in the Philippines itself.

In response to the recurrent murders, President Arroyo has made numerous public statements condemning them. However, there is not yet any evidence of action. This lack of tangible evidence of a commitment from the government to protecting human rights has resulted in the report concluding that the killings have received tacit approval from the government of the Philippines.

What can we learn from a report like this? The report identifies a need for strong institutional reform. It calls for an adequate witness protection program and a properly resourced human rights commission within the Philippines. We as senators also need to look at the role that Australia plays in providing support to the Philippines. The Philippines is currently the sixth largest recipient of Australian development assistance. In the last financial year Australia provided the Philippines with over $21 million in official development assistance. As an economic donor to the country we have an obligation to ensure that our financial assistance to the Philippines does not support or promote these atrocities in any way whatsoever.

We also have a moral obligation to continually raise our concerns with the government of the Philippines. The report goes further and recommends that Australia offer financial assistance to the Philippines government that is conditionally directed to the Commission on Human Rights of the Philippines. It also suggests that Australia provide assistance to NGOs that are working to promote the protection of human rights in the Philippines. These are positive recommendations that we as leaders in the region should heed.

In summing up, I would like to congratulate the authors of this report. Whilst the release of a report like this is always marked with sadness and regret, I congratulate Ms Caz Coleman, Dr Mark Zirnsak and Ms Kerryn Clarke for bringing these abuses to the attention of the Australian community. I would also like to take this opportunity to acknowledge that the launch of the report was attended by His Excellency Ernesto de Leon, the Philippine Ambassador to Australia. I welcome the ambassador's willingness to listen to our concerns on this issue and I am grateful for his enthusiasm for meeting with members of the Australian community. He has been gracious enough to agree to meet with me tomorrow morning. I embrace this as an opportunity to further discuss my concerns about breaches of human rights in this region.

Australia and the rest of the international community have a moral obligation to make

sure that democracy in the Philippines does not die. President Arroyo has to act to stop the political persecution and physical attacks upon people who advocate for civil liberties and human rights. I encourage her to continue with her statements and back them up with positive, reinforced action. I encourage all Australians to show their opposition to the ongoing attacks on democracy and human rights in the Philippines. I commend this report to the Senate. I seek leave to table the report.

Leave granted.

Marine Environment

Senator SIEWERT (Western Australia) (6.50 pm)—I rise tonight to speak about our oceans—again. We are often reminded that more than 80 per cent of Australia's population lives within 50 kilometres of the coast, and that our love of the beach is deeply ingrained in our national character. Australia is legally responsible for an area of nearly 11 million square kilometres of ocean. That is significantly larger than our land area. From these waters we draw around a quarter of a million tonnes of sea life every year. This feeds into an industry worth more than $2.2 billion annually, one which is literally the lifeblood of some coastal communities.

The main agencies, state and federal, dealing with our marine environment try to paint the picture that we are enjoying a golden age of abundant sea life, that we have coordinated management plans and that healthy oceans are brimming with life. In some quarters it is well understood that this is, unfortunately, a long way from the truth in many areas.

On 1 August the managing director of the Australian Fisheries Management Authority gave a lecture at ANU. The transcript quickly disappeared from the website, but the title of the talk was 'Turning a financially failing and environmentally struggling industry around: policy and resource management development in the Australian fishing industry'. As has been fairly well publicised, there was a significant revelation in his speech. It was the confirmation that up to 40,000 tonnes of southern bluefin tuna is finding its way onto the Japanese market each year, when the international quota is around 15,000 tonnes. That quota is headed for a reduction over the next year or two.

I say that it was confirmation because, as long ago as February of this year, at least one member of the Australian tuna industry was reported as demanding government action on the huge amount of illegal tuna being dumped on Japanese markets. The official response was nothing. I put a question about this to the Minister for the Environment and Heritage on Monday. Unfortunately, he dodged the issue and managed to turn it around into an attack on the Greens, saying we wanted to shut down Australian fishing operators who are obeying the law.

For the sake of clarity, Australia has several clear-cut options for action that would tackle the overfishing without shutting down Australian operators. My point was that, if we do not take some action now, the southern bluefin tuna will be gone for good. We need to act now to conserve this industry and this species. Last September, the minister for the environment ignored the advice of his Threatened Species Scientific Committee, which urged him to list the southern bluefin tuna as threatened under the Environmental Protection and Biodiversity Conservation Act. This is just the tip of the iceberg. This was a sad example of blame-shifting, wilful failure to take action and scientific ignorance. Unfortunately, it is just a microcosm of what has been collectively happening around the planet.

A key paper printed in the journal *Nature* in 2003 estimated that large predatory fish

biomass was only about 10 per cent of the pre-industrial level. For some species it is in fact much lower. It can take as little as 15 years of industrial fishing to reduce a fishery to 20 per cent of its original biomass, which means that unsustainable operations can impact pretty quickly. Hence my oft-repeated concern about the unregulated high seas fishing industry.

It is sad to note that, earlier this year, IUCN released its latest list—which it calls its red list—of threatened species around the planet. It found that 20 per cent of the shark and ray species it looked at are threatened with extinction, and I suspect that many others are very close. We have a precedent for this, with 300 years of whale hunts that brought species after species to the brink of extinction. Most of the whale species hardest hit have still not recovered, which magnifies the tragedy of Australia's rather limp response to Japanese fishing. Let me remind you that last week we had reports that 90 per cent of the whales taken by the Japanese during the last season were killed in Australia's Antarctic whale sanctuary. In some ways, overfishing is the easiest of the marine issues to face up to, because most fishing communities should understand full well that you have to protect the source of your livelihood.

We are also facing a range of other abuses of our shared seas. Seismic testing and naval sonar are flooding the oceans with noise, leading to mass whale strandings and cetacean mortality. Just last month a US court stopped naval exercises in the US because of its potential impact on whales and the link between this activity and strandings. We still treat the sea as though it were the world's largest waste dump. We dump plastics, sewage and hypersaline discharges from desalinisation plants, and there is nutrient run-off. This run-off is leading to oceanic dead zones that are growing year by year. Encompassing all these linked abuses is the most important and intractable abuse of all. Global warming from carbon pollution is changing the way the oceans work, from the flow of large-scale currents to the distribution of species and the patterns of migrations.

Looming large over all that is the phenomenon of ocean acidification. Nearly half of the CO_2 we emit is being absorbed by the oceans, which is rapidly making the oceans more acidic. This inhibits the shell-making activity of many creatures, including corals and the smallest phytoplankton at the very foundation of the food chain. I think that anybody hearing this will be automatically aware of the repercussions of this. By mid-century, the creatures that build the Great Barrier Reef and Ningaloo—the two great reefs of our nation—may no longer be able to do so. That will impact directly on the number of shells that we see every day at the beach. If bleaching, due to rising temperatures, has not done the job of destroying the reef, basic chemistry may well do so. Contemplate the fact that we are having increasingly frequent episodes of coral bleaching. If the shell-building by shells and accumulating carbonates is impossible, how can we possibly repair the reefs?

Unfortunately, we are continuing to hear a lot of talk about whales and tuna but we are seeing little real action. Researchers say we need a lot more work in many areas. In particular, a large caseload of work is needed in order to address the acidification issue. Australians now want less conversation and more action—for example, more legal action taken over whaling, more sanctions and stronger legal frameworks, with criminal penalties for the kind of piracy that was revealed this week. The community is ready for solid action on climate change, whaling and many other issues that relate to oceans. Above all, we actually need some leadership.

The same scientists and NGOs that are documenting this catastrophic slide to extinction in many of these areas are fortunately also suggesting solutions. Intelligently designed sanctuary zones are a part of this. We need to set aside a minimum of 30 per cent of the marine environment as no-take areas to allow the kind of recovery that will sustain our marine environment and our fisheries into the future. I note with interest today that the Minister for the Environment and Heritage issued a release that talked about the effectiveness of the sanctuary zones on the Great Barrier Reef. We applaud that and encourage the minister to try and extend this thinking on protection and recovery to other areas around our great nation.

We are still behind the recognised standard for the protection of our oceans and for the setting aside of marine protected areas and sanctuary zones. It is essential that we address these issues with a sense of urgency because, with all the issues that I have listed, we do not have time to sit by and let years go by. In my own state of Western Australia, in 1994, a list of recommendations for marine protected areas was released. That was 12 years ago, and yet since that time we have had one new marine park. We have seen no action in 12 years. It is time to put inaction behind us and move with a sense of urgency to work both nationally and internationally to protect our oceans and our marine environment.

Exercise RIMPAC 2006

Senator ADAMS (Western Australia) (6.59 pm)—Tonight I rise to speak on Exercise RIMPAC 2006. Last month I was given the opportunity of a lifetime as a participant in the Australian Defence Force Parliamentary Program Exercise RIMPAC 2006. It was an amazing experience and I consider it to have been a great honour and privilege to have participated in a major maritime exercise involving seven Pacific rim nations being held in waters off Hawaii.

RIMPAC 2006 brought together maritime forces from Australia, Canada, Chile, Japan, Peru, the Republic of Korea, the United States and the United Kingdom to practice a wide array of combined operations at sea from 26 June to 28 July 2006. Australia's contribution to RIMPAC 2006 included the Royal Australian Navy ships HMAS *Stuart* and HMAS *Manoora*, the Collins class submarine HMAS *Rankin* and two AP-3C maritime patrol aircraft.

HMAS *Manoora* had a key role in the exercise as the multinational force sea combat commander, Australian Commodore Rick Shalders CSC, coordinated all sea assets from his joint operations room on board. This is the first time an Australian has held this important role from an Australian ship. The Australian contingent worked with 34 other ships, six submarines, over 160 aircraft and 19,000 personnel during the exercise.

The aim of RIMPAC 2006 was to enhance the interoperability and proficiency of maritime and air forces operating in combined force arrangements. In addition to exercising traditional maritime war fighting skill sets, RIMPAC 2006 will contribute towards the Regional Maritime Security Initiative and the Proliferation Security Initiative.

My fellow parliamentary colleagues taking part in the program were: Peter Lindsay MP, member for Herbert, Queensland; Don Randall MP, member for Canning, WA; Luke Hartsuyker MP, member for Cowper, New South Wales; Michael Danby MP, member for Melbourne Ports, Victoria; and Kim Wilkie MP, member for Swan, WA. We were accompanied by Lieutenant Jillian Brownlie RANR, manager of programs and events from Navy Headquarters in Canberra—Lieutenant Brownlie did an excellent job, and her organisational skills were absolutely

wonderful trying to control six members of parliament.

On arrival in Hawaii, we were met by the Australian Consul General John Quinn and Wing Commander Steve Kennedy, consul defence liaison officer. These two gentlemen and their respective spouses, Alison and Susan, made us all very welcome during our stay in Honolulu and their hospitality was very much appreciated.

Our first official day included a visit to the National Memorial Cemetery of the Pacific—Punchbowl—where 40,000 American servicemen are buried. For anyone visiting Honolulu, this cemetery is most impressive and well worth visiting. One of its main features is a wall of murals depicting each theatre of war in the Pacific.

The Australian consulate organised briefing sessions for us from the US Pacific Command, PACOM, and the Asia-Pacific Centre for Securities Studies as well as briefing us on the role of the Australian consulate in Hawaii. These briefings were given on the day North Korea launched its missiles, so we were kept well up to date with all current activities.

On day 2, we joined HMAS *Stuart* and HMAS *Manoora* at Pearl Harbour to begin our four-day attachment to the Royal Australian Navy. We sailed at 7.30 am, and the trip out of Pearl Harbour was quite incredible with so much activity—navy ships, tugs, submarines, aircraft and helicopters all obviously preparing for the next three weeks of exercises. As we sailed out to our allocated exercise area south of Hawaii, we were all given personal safety briefings on fire extinguishers, fire protection, toxic hazards and life jackets. We were shown how to get into thermal protection suits and cope in an emergency evacuation of the ship with liferafts and we also inspected our leaving ship station.

Commodore Rick Shalders gave us a confidential briefing on the Australian ships' role in Exercise RIMPAC. This included a very detailed program of the expectations of the four-week exercise. We would like to thank Commander Charles McHardie and his crew very much for the hospitality they showed to us. Our role on HMAS *Manoora* included working shifts with defence personnel at working level to gain an insight into the conditions of service and a greater understanding of their current responsibilities.

We were rostered on seven-hour shifts and then a five-hour roster, so it meant that there was very little sleep had by any of us. We rotated through the aviation deck and communications, worked in the galley and observed on the bridge. I was fortunate enough to be able to steer the ship for a considerable amount of time and spent time with the engineers down in the engine room.

As there were six of us, two of us went each day to the *Stuart*. I had had a sea ride on the *Stuart* before, so I enjoyed being back with people I had not seen for a long time. This ship is affectionately known as the 'Tartan Terror'. When Admiral Bill Goodwin from the *Abraham Lincoln* went to inspect both our ships and the Canadian ship *Regina*, which was also involved in the exercise, he commented on the exceptional readiness of our ships for the upcoming exercise.

We had a Squirrel helicopter transfer over to the *Stuart*. Later that evening, because it was too rough for the Squirrel to come back and get us, we did a transfer in a rigid hull inflatable boat. Unfortunately, someone fell from the ladder going onto the *Manoora* and damaged her knee. I was rather fortunate and was hoisted up in the inflatable onto the ship, so I did not have to climb up the 50-foot ladder, which I was quite relieved about at that stage. I want to thank Commander Peter Leavy and his crew for their hospitality.

On our final day, we were taken by helicopter to the *Abraham Lincoln*. As most people would know, this is a very large US nuclear-powered aircraft carrier. It has capacity for 5½ thousand people on board. It was an absolutely fantastic visit. The bridge is 22 storeys high. We arrived on the flight deck, which is 14 storeys high. The ship cruises at 30 knots. It was absolutely fascinating to see it. It has 4½ acres of deck space and has 75 jets on board. Over the day, we were able to watch aircraft go and were involved in a number of activities on the ship. Because of my interest in medical areas on all ships, I was able to speak to the doctors and the medical staff. I was also very interested to see where the junior sailors slept and to look at their mess to compare it with what is available on our ships. I think this is a very important issue to look at as far as future recruitment is concerned. All in all, the grand finale was probably leaving the *Abraham Lincoln* on a COD flight—we were in a fixed-wing aircraft, which did 186 miles an hour in 100 yards after shooting off a catapult. That was quite an exceptional trip. We then had a 1½-hour flight back to Hawaii.

I would like to say how impressed I was with our junior sailors. They really worked hard. The ones on the *Manoora* had had a day's leave in all this. They had come back from New Caledonia to prepare for RIMPAC and were sent back off to Timor. They had a day to prepare for their trip to RIMPAC. They were very good and did not complain about it. It was great working with them, especially because a lot of them were much younger than me. I would like to close with some comments from Peter Leavy, the commander of the *Stuart*:

> All up it was a very good exercise and a good experience for most of my crew who had not worked with the Americans before. Due to their size and the capability of their ships, aircraft and submarines, working with them is another dimension on top of what we normally do, so the experience is fantastic.

For us to be involved in such an exercise was a wonderful experience, and I thank the Australian Defence Force Parliamentary Program and Senator Sandy Macdonald, Parliamentary Secretary to the Minister for Defence, for allowing me to go. It was really good.

Senate adjourned at 7.10 pm

DOCUMENTS

Tabling

The following document was tabled by the Clerk:

> Commonwealth Authorities and Companies Act—Notice under paragraph 45(1)(c)—Membership of National Australia Day Council Limited.

Unproclaimed Legislation

The following document was tabled pursuant to standing order 139(2):

> Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 31 July 2006, dated August 2006.

Departmental and Agency Contracts

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

> Departmental and agency contracts for 2005-06—Letter of advice—Communications, Information Technology and the Arts portfolio.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Employment and Workplace Relations: Consultants
(Question No. 599)

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 4 May 2005:

With reference to the department and/or its agencies:

(1) For each financial year from 2000-01 to 2004-05 to date: (a) how many, and what was the cost of consultants engaged by the department and/or its agencies to conduct surveys of community attitudes to departmental programs; and (b) for each consultancy: (i) what was the cost, and (ii) who was the consultant, and (iii) was this consultant selected by tender; if so, was the tender select or open; if not, why not.

(2) Were any of the surveys released publicly; if so, in each case, when was the material released; if not, in each case, what was the basis for not releasing the material publicly.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The Department of Employment and Workplace Relations was created in November 2001 and information is available from the 2002-03 financial year onwards.

Financial Year	Consultant	Cost	Tender	Released Publicly
2002-03 2003-04 2004-05	Wallis Consulting Group Pty Ltd	$30,932 GST Inclusive (02-03 FY) $33,286 GST Inclusive (03-04 FY) $36,113 GST Inclusive (04-05 FY)	Chosen via selected tender in 2002-03 to undertake the survey. The tender was select so the Office of the Employment Advocate (OEA) could ensure that the market research consultants submitting a quotation were sufficiently well resourced to meet the OEA's requirements and timeframes. In devising a list of research consultants for select tender, the OEA consulted the Government Communications Unit of the Department of Prime Minister and Cabinet for recommendations. The Wallis Consulting Group Pty Ltd quotation was selected from among a total of four quotations received.	Where survey responses measure performance against OEA Strategic Plan and Service Charter indicators, these are provided in the OEA Annual Report. Survey data not released publicly. Is used internally to inform the development of OEA products and services.
2004-05	The Social Research Centre	$189,430 GST Inclusive	Selected through a selective tender process	The consultancy has been finalised. The findings are expected to be made available on the DEWR website in the near future.

Employment and Workplace Relations: Consultants

(Question No. 614)

Senator Chris Evans asked the Minister representing the Minister for Workforce Participation, upon notice, on Friday, 4 May 2005:

With reference to the department and/or its agencies:

(1) For each financial year from 2000-01 to 2004-05 to date: (a) how many, and what was the cost of consultants engaged by the department and/or its agencies to conduct surveys of community attitudes to departmental programs; and (b) for each consultancy: (i) what was the cost, and (ii) who was the consultant, and (iii) was this consultant selected by tender; if so, was the tender select or open; if not, why not.

(2) Were any of the surveys released publicly; if so, in each case, when was the material released; if not, in each case, what was the basis for not releasing the material publicly.

Senator Abetz—The Minister for Workforce Participation has provided the following answer to the honourable senator's question:

Please refer to the answer to Question No. 599 provided by the Minister for Employment and Workplace Relations.

Communications, Information Technology and the Arts: Programs and Grants to the Bass Electorate

(Question Nos 1501 and 1506)

Senator O'Brien asked the Minister for Communications, Information Technology and the Arts and the Minister for the Arts and Sport, upon notice, on 18 January 2006:

(1) What programs and/or grants administered by the department provide assistance to the people living in the federal electorate of Bass.

(2) When did the delivery of these programs and/or grants commence.

(3) For each of the financial years 2002-03, 2003-04, and 2004-05, what funding was provided through these programs and/or grants for the people of Bass.

(4) For the 2005-06 financial year, what funding has been appropriated for these programs and/or grants.

(5) For the 2005-06 financial year, what funding has been approved under these programs and/or grants to assist organisations and individuals in the electorate of Bass.

Senator Coonan—The answer to the honourable senator's question is as follows:

(1) and (2) The Department of Communications, Information Technology and the Arts administers numerous programs and/or grants that potentially could provide assistance to organisations and individuals in the federal electorate of Bass, if they meet eligibility requirements. Funding details are sometimes able to be apportioned on an electorate basis. In many instances, no electorate-specific funding details are available as the program may fund State or national organisations.

Details of the Department's current administered items can be found in the DCITA Annual Report 2004-05 available at www.dcita.gov.au.

(3) to (5) Please refer the Department of Communications, Information Technology, and the Arts annual reports for the years 2004-05 and 2005-06.

Forestry Workers

(Question No. 1803)

Senator Nettle asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 22 May 2006:

(1) On what basis has it been determined that forestry worker is an occupation in short supply.

(2) (a) How many forestry workers are currently employed in the forestry region of each state. (b) How many are considered necessary for the industry in each state.

(3) (a) What proportion of the shortfall is for work in the plantation sector; and (b) What is in the native forest sector.

Senator Abetz—The answer to the honourable senator's question is as follows:

Note: Senator Nettle also directed part (1) of the question to Senator the Hon Amanda Vanstone, Minister for Immigration and Multicultural Affairs (as Question No 1804). Senator Vanstone's portfolio administers the Working Holiday Maker visa scheme and the following answer has been provided by the Department of Immigration and Multicultural Affairs (DIMA) following clearance by Senator Vanstone.

(1) The changes allow Working Holiday Makers (WHMs) who have done 3 months 'seasonal work' in an expanded range of primary industries, in regional Australia, to apply to stay for a further 12 months on a second WHM visa. To assist regional Australia to overcome temporary labour shortages, it was decided, following consultations on proposed enhancements to the WHM programme, to extend the definition of 'seasonal work' beyond horticulture to include other primary industries - forestry, pearling, livestock maintenance and processing, and aquaculture.

(2) (a) The Australian Bureau of Statistics gathers information according to Labour Force Dissemination Regions. It advises that the average annual employment for 2005-06 is:

State/Territory	Employed total ('000)
New South Wales Total	3.1
Richmond-Tweed and Mid-North Coast Statistical Regions	1.2
Murray-Murrumbidgee Statistical Region	1.1
Other regions	0.8
Victoria Total	2.1
Barwon-Western District Statistical Region	0.5
All Gippsland Statistical Region	0.7
Other regions	0.9
Queensland Total	1.3
Wide Bay-Burnett Statistical Region	0.5
Darling Downs-South West Statistical Region	0.5
Other regions	0.3
South Australia Total	1.1
Southern and Eastern SA Statistical Region	1.0
Other regions	0.0
Western Australia Total	1.0
Lower Western WA Statistical Region	0.7
Other regions	0.2
Tasmania Total	2.5
Greater Hobart-Southern Statistical Region Sector	0.9
Northern Statistical Region Sector	0.8
Mersey-Lyell Statistical Region Sector	0.8

State/Territory	Employed total ('000)
Northern Territory Total	0.0
Australian Capital Territory Total	0.1
Australia Total	11.3

(b) In August 2005, the Minister for Vocational Education and Training, the Hon Gary Hardgrave MP, and the (then) Minister for Fisheries, Forestry and Conservation, Senator the Hon Ian Macdonald, announced Australian Government funding of $165,000 for a skills audit of the forestry industry. This audit is being undertaken by the National Association of Forest Industries (NAFI) in consultation with Australian Plantation Products and Paper Industry Council (A3P), and will gather information to guide the development of strategies to address skills needs in the forestry industry.

(3) (a) See answer (2) (b).

(b) See answer (2) (b).

Australian Design Rules Review

(Question No. 1816)

Senator O'Brien asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 30 May 2006:

With reference to the Department of Transport and Regional Services' planned regulatory activity for the 2005-06 financial year, specifically the Australian Design Rules (ADR) Review for Vehicle Safety and Theft Reduction:

(1) Can copies be provided of the proposals and regulation impact statements for all ADRs under review; if not, why not.

(2) Will the reviews of ADRs listed as part of the planned regulatory activity for the 2005-06 financial year be completed by July 2006 as stated; if not: (a) why not; and (b) when will the reviews be completed.

(3) Do the reviews address the mandating of day running lights, seat belts on school buses and realistic speedometers.

(4) For each ADR under review, how many public submissions have been received as of 29 May 2006.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator's question:

(1) Yes. As part of the ADR review process all regulation impact statements detailing the proposals and justifications are available when they are released for public comment. The Department has completed 60 regulation impact statements for the 72 ADRs under review. Of the remaining ADRs under review there are 12 regulation impact statements in preparation that have not yet been released for public comment.

(2) No. (a) The timing of the review is subject to a range of influences, including the need to address issues raised in response to public comment. (b) The review will be substantially completed by early 2007.

(3) No.

(4) For those proposals submitted for public comment in the 2005/06 financial year there were 46 public comment submissions received.

Transport and Regional Services: Indigenous Trial Site

(Question No. 1841)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 May 2006:

With reference to the answer to the question on notice no.283 (Senate *Hansard*, 7 March 2005, p. 204), which advised that the department was developing a joint lead agency action plan for the East Kimberley trial site including performance indicators to monitor the further outcomes of the trial':

(1) When was the agreed plan finalised

(2) Can a copy of the plan be provided; if not, why not.

(3) (a) On what date were performance indicators to monitor the further outcomes of the trial finalised; and (b) can details of these performance indicators be provided, including relevant benchmarks and goals.

(4) If the minister has abandoned the development of performance indicators for this trial: (a) why; and (b) when was this decision made.

(5) If, contrary to the advice in question on notice no. 283, the East Kimberley COAG trial site is only being measured against overall COAG trial objectives, how is performance being measured with respect to each of these objectives.

(6) For each of the objectives, what progress has been made since the commencement of the department's involvement in the East Kimberley trial site in 2002.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

(1) The Joint Action Plan is a dynamic, working document, which has been tabled at community and Reference Group meetings.

The plan was developed principally to guide the Department of Transport and Regional Services and the Western Australian Department of Indigenous Affairs in their roles in the East Kimberley COAG trial, and represents an agreed approach between the agencies.

(2) The Joint Action Plan is attached (hard copies are available from the Senate Table Office).

(3) (a) The Plan identifies Key Result Areas.

(4) (a) The Plan identifies Key Result Areas. (b) See above.

(5) The Key Result Areas in the Joint Action Plan allow the agencies to monitor progress of the trial. The East Kimberley COAG trial is also currently being independently evaluated with reports due for release by the Office of Indigenous Policy Coordination shortly.

(6) See above.

Conclusive Certificates

(Question No. 1950)

Senator O'Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 8 June 2006:

(1) Since October 1996, on how many occasions has a conclusive certificate been issued in relation to departments or agencies within the Minister's portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982 (FOI).

(2) For each occasion: (a) what was the date; (b) what was the department or agency of which the FOI request was made; (c) what officer made the decision; (d) what was the document or documents

excluded from disclosure pursuant to the certificate; and (e) was an appeal made against the decision in the Administrative Appeals Tribunal; if so, what was the case name and its outcome.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

(1) According to available records, the Department of Health and Ageing and Portfolio Agencies have not exempted material from disclosure under the operation of a conclusive certificate under the Freedom of Information Act 1982 since October 1996.

(2) (a) – (e) Not applicable.

Compensation for Detriment Caused by Defective Administration Scheme

(Question No. 1970)

Senator O'Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 8 June 2006:

With reference to the Compensation for Detriment Caused by Defective Administration Scheme: for each department and agency for which the Minister is responsible, what is the total payment made under this scheme for each financial year since October 1996, by department and agency.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

Expenditure for Compensation for Detriment Caused by Defective Administration Scheme is reported in the Department's annual reports. According to annual reports from October 1996 to July 2005, the Department and Portfolio Agencies have made one payment under the Compensation for Detriment Caused by Defective Administration Scheme. The total amount of $40,000 was paid by the Department in 2003.

Health and Ageing: Monetary Compensation

(Question No. 1991)

Senator O'Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 8 June 2006:

What is the quantum of payments made as settlements to claims for monetary compensation by the departments and agencies for which the Minister is responsible that are consistent with Legal Services Directions issued under section 55ZF of the Judiciary Act 1903, by financial year, since the first Legal Services Directions were issued.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

This information is not readily available in an aggregated format and its compilation would involve an unreasonable diversion of resources which I am not prepared to authorise.

Mr Gerard Fletcher

(Question No. 2031)

Senator Allison asked the Minister for Justice and Customs, upon notice, on 15 June 2006:

With reference to evidence given by the Australian Federal Police (AFP) Commissioner, Mr Keelty, at the estimates hearings of the Legal and Constitutional Legislation Committee in October 2005, in relation to the suspension of Mr Gerard Fletcher for 'administrative issues':

(1) Is it the case that Mr Fletcher was advised on 14 December 2005 that he would be returned to work on 3 January 2006, but that he should await further advice before entering the workplace; if so, why.

(2) Was Mr Fletcher dismissed for 'administrative issues'; if not, why was he dismissed.

(3) Is it the case that Mr Fletcher was stood down in early January 2006 and told it was because he failed to accept the findings of an AFP investigation and that these findings demonstrated that he was not suitable to remain as a member of the AFP; if so: (a) who in the AFP conducted the investigations; (b) what were the findings; and (c) what was the procedure whereby Mr Fletcher failed to accept the findings of the investigation.

(4) How many AFP officer-hours have been spent so far on this matter.

(5) Was Mr Fletcher provided with the report of the investigation; if not, why not.

(6) Has Mr Fletcher now taken a case of unfair dismissal to the Australian Industrial Relations Commission (AIRC).

(7) Has a date been set for a new AIRC hearing.

(8) On what grounds were adjournments of the previously scheduled hearings sought by the AFP.

(9) Why was this case not referred at any stage to the Federal Police Disciplinary Tribunal.

(10) (a) What recourse do AFP officers have to seek an independent and unbiased consideration of their cases, other than the AIRC or the Federal Court, prior to dismissal from the AFP; (b) if there is no recourse to such a procedure, why is this the case; (c) if there is such a procedure, why was it not offered to Mr Fletcher; and (d) what protection is there for AFP officers against corrupt practices within the AFP that can lead to unfair dismissal.

(11) (a) How many cases of unfair dismissal of AFP personnel have been brought before the AIRC and the Federal Court; and (b) what is the cost of defending these cases.

(12) (a) In how many instances over the past 10 years have AFP officers been awarded unfair dismissal costs; and (b) what is the total cost of such action.

Senator Ellison—The answer to the honourable senator's question is as follows:

(1) to (4) It would be inappropriate to respond to these questions at this time as the matter is before the AIRC.

(5) Yes.

(6) Yes.

(7) No.

(8) Following the first conciliation in this matter it was agreed that the applicant would furnish the AFP with submissions in support of his argument for reinstatement. This process took longer than the parties had anticipated. Accordingly, an adjournment was sought by the AFP and consented to by the Applicant so as to enable a proper consideration of these submissions and other relevant material.

(9) The AFP has moved away from the use of the Disciplinary Tribunal in favour of a less punitive and better articulated administration based on appropriate management techniques. In line with the recommendations from the Fisher Review, which include the abolition of the Disciplinary Tribunal, the AFP has adopted a professional standards regime using managerial action for minor matters. Many other matters are subject to oversight from the Commonwealth Ombudsman and, in instances such as this, the AIRC.

(10) (a) Complaints of misconduct are investigated by Professional Standards (refer also to answer [d] below). Once a complaint of misconduct has been investigated by Professional Standards, substantiated matters are referred to a senior AFP member designated as an independent decision maker to assess whether the matter warrants further consideration of termination action. Procedural fairness is afforded to the affected employee at each relevant step. The employee is

also provided with an opportunity to respond to the case against them and can put forward any relevant material prior to the independent decision maker reaching a conclusion.

The Commissioner may then terminate, by notice in writing, the employment of an AFP employee under section 28 of the Australian Federal Police Act 1979 (the AFP Act).

(b) N/A.

(c) Employees have free and easy access to all information regarding their options in these circumstances. This information is clearly set out on the AFP's 'Intraweb' for the attention of all employees and is further reiterated via personalised communications with any employee affected by such proceedings.

(d) Professional Standards investigates and manages complaints about individuals within the AFP or about the organisation itself. The Commonwealth Ombudsman oversees the handling of complaints by Professional Standards and is similarly able to receive complaints about the AFP directly. The Commonwealth Ombudsman can independently report to Parliament.

The AFP Confidant Network also provides support and assistance to AFP employees who have reported on inappropriate behaviour by fellow AFP employees or breaches of the AFP core values.

(11) (a) 15 cases since 1995.

(b) Of those 15 cases, external legal providers were engaged to defend three cases at a total cost of $22,500.85. One of these cases was underwritten by Comcover and all costs and legal fees were met by Comcover. All other cases were defended by in-house lawyers whose salaries covered related costs.

(12) (a) Nil.

(b) N/A.

Import Permits

(Question No. 2039)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) On what date did Marnic Pty Ltd provide the Australian Quarantine and Inspection Service (AQIS) with correspondence between the company and AQIS relating to the application for, and issuing of, permission to import marine worms.

(2) On what date did AQIS institute changes to its procedures that mean applicants could no longer ring AQIS officers to seek information without being informed they had to lodge applications at that time so proper records could be kept.

(3) How were these administrative changes communicated to AQIS officers.

(4) If these changed administrative arrangements were communicated to AQIS officers in writing, what was the date of the communication and who authorised the communication.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) 9 November 2004

(2) First included in written work instructions in May 2004

(3) Work instructions.

(4) May 2004, the Biologicals Unit manager.

Import Permits

(Question No. 2040)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Does the Australian Quarantine and Inspection Service (AQIS) maintain a single file that holds all documents relating to applications to import marine worms; if not, how are documents relating to applications for the importation of marine worms held.

(2) Can the Minister confirm that since January 2002 a number of applications have been lodged with AQIS seeking a permit to import marine worms; if so: (a) how many applications seeking permits to import marine worms have been lodged since January 2002; and (b) how many of these applications have been approved.

(3) In each case: (a) when was the application received; (b) when was the application approved; (c) what protocols were attached to the permit; and (d) how many shipments were imported pursuant to the permit and in the case of each shipment when was it cleared by AQIS.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Documents for applications to import marine worms are held in numerous files.

(2) Yes (a) The Biological Unit is unable to provide this information as it is not in an accessible form. (b) Three applications for marine worms for bait were approved.

(3) (a) (b) and (c) - see table below (d) The information is not readily available.

Approved Permits for Marine Worms for Bait since January 2002

Number	Date Application received	Approval Date	Summarised conditions
1	18/4/02	24/4/02	Irradiation at 50 KGy
2 (Marnic)	20/3/03	7/4/03	Preserved in 70% alcohol
3	26/10/04	8/11/04	Irradiation at 50 KGy

Import Permits

(Question No. 2043)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) In relation to permits issued to import veterinary therapeutics, food and laboratory material, what guidelines govern the period for which permits are current.

(2) Have permits been issued that are current for a period greater than 2 years; if so, what is the scientific or administrative basis for the decision to issue permits that are current for a period greater than 2 years.

(3) In relation to the permit issued to Marnic Worldwide Pty Ltd to import marine worms, on what scientific or administrative grounds was that permit issued for 2 years.

(4) Who determined that the Marnic permit should be issued for 2 years.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Two years unless specific operational or quarantine matters dictate that permits be issued for shorter periods of time.

(2) Not according to AQIS' permits database.

(3) See (1)

(4) The delegate for the Director of Quarantine.

Import Permits

(Question No. 2044)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) On what date did the Australian Quarantine and Inspection Service (AQIS) commence a review of the approach taken by its biological unit in relation to the assessment of import permit applications.

(2) (a) Who initiated that review; (b) who undertook the review; (c) when was the review completed; (d) who authorised the implementation of the recommendations; (e) on what date did the implementation commence; and (f) can a copy of the review report be provided; if not, why not.

(3) On what date was the Minister or his office: (a) informed of the proposed review; (b) provided with advice of the review outcome; and (c) provided with advice relating to the implementation of the review recommendations.

(4) Has more than one review of the biological unit been undertaken since January 2002; if so, for each review: (a) on what date did it commence; (b) who undertook the review; (c) when was the review completed; (d) who authorised the implementation of the recommendations; (e) on what date did the implementation commence; and (f) can a copy of each review report be provided; if not, why not.

(5) In each case, on what date was the Minister or his office: (a) informed of the proposed review; (b) provided with advice of the review outcome; and (c) provided with advice relating to the implementation of the review recommendations.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) A formal review was not commissioned by AQIS, however all AQIS programs seek to continually improve their business processes. The Biologicals Unit commenced the development of additional work instructions for application assessments and the exchange of information with clients and Biosecurity Australia from about May 2004.

(2) Not applicable, see (1)

(3) Not applicable, see (1).

(4) Not applicable, see (1).

(5) Not applicable, see (1).

Import Permits

(Question No. 2045)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) On what date did the biological unit in Australian Quarantine and Inspection Service (AQIS) first recognise that it did not have a standard procedure for processing applications for import permits.

(2) If the above weakness in the assessment process was identified prior to the problems exposed by the application to import marine worms lodged by Worldwide Marnic Pty Ltd, what events led AQIS to the view there were problems with its assessment procedures.

(3) How were these problems first identified and who identified them.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) The Biologicals Unit always had standard procedures and practices for processing applications for import permits.

(2) and (3) See response to Question 2044 (1).

Import Permits

(Question No. 2046)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

Can the Minister confirm evidence by Dr Clegg that at the time of the assessment of an application from Marnic Worldwide Pty Ltd to import marine worms the assessment process was satisfactory, but the documentation of that assessment process was unsatisfactory.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

Prior to May 2004, parts of the application assessment process required formalisation, as noted in response to Question 2044 (1).

Import Permits

(Question No. 2047)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Can the Minister confirm evidence from Dr Clegg that prior to the compensation claim lodged by Marnic Worldwide Pty Ltd there were no arrangements in place to ensure new staff coming into the Australian Quarantine and Inspection Service (AQIS) biological unit knew how to process an import permit application or when they should refer information to Biosecurity Australia or when they should seek advice from officers in the department in relation to an application.

(2) When and how did AQIS first become aware of these flaws in its training arrangements.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) New staff always had documented assessment procedures with proposed permit conditions. In addition, all staff were closely supervised and mentored as with any business unit. In May 2004, as part of a continual improvement in business practices the Biologicals Unit documented the general processes for assessing import permit applications.

(2) Not relevant, see (1).

Australian Quarantine and Inspection Service: Training Manuals

(Question No. 2049)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(a) When did the method of updating Australian Quarantine and Inspection Service training manuals change.

(b) What procedures for updating manuals were used prior to this change.

(c) What was the nature of the change in the updating process referred to by Dr Clegg.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(a) The Biologicals Unit uses work instructions rather than training manuals. The work instructions have always been subject to ongoing review as quarantine risk or policy advice changes. On 8 December 2005 the documents were password protected, establishing a change control process.

(b) Work instructions were updated by senior assessing officers.

(c) See (a).

Import Permits

(Question No. 2050)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Can the Minister confirm evidence from Dr Clegg that procedures were put in place in 2003 that required Biosecurity Australia to be contacted in relation to all import permit applications where existing import conditions did not exist; if so:

  (a) when in 2003 was that requirement formalised;

  (b) when in 2003 did that requirement come into effect;

  (c) how was that new requirement communicated to Australian Quarantine and Inspection Service staff.

(2) Who approved the amended procedures.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) (a) and (b) Correction to page 30 of Hansard has been submitted to reflect 2004 rather than 2003. Taking this into account, the Minister can confirm that while the requirement was general practice prior to 2004, the principle was not included in a written work procedure before May 2004. (c) Work instructions

(2) Biologicals Unit manager.

Import Permits

(Question No. 2052)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Since the 2001-02 financial year, by year: (a) how many applications for permits to import veterinary therapeutics, laboratory materials and food were received by the Australian Quarantine and Inspection Service; and (b) how many of these applications: (i) were approved, and (ii) were rejected.

(2) In relation to the approved applications: (a) what number were covered by an existing protocol; (b) what number required the variation to an existing protocol; and (c) what number required the development of a new protocol.

(3) Were all conditions relating to approved permits recorded on the ICON database, including where a varied or new protocol was required.

(4) How many of the above permits granted were subjected to a review in the context of the compensation claim by Marnic Worldwide Pty Ltd.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) (a) The Biological Unit does not have this commodity specific information in an accessible form, however we can provide the number of applications received by the Biological Unit for this time period for all commodities assessed by the Biological Unit:

Total Applications Received by the Biological Unit	
Financial Year	Total Number
2001-02	7503
2002-03	8250
2003-04	7745
2004-05	7105
2005-06	6070

In addition, since January 2004 the Biological Unit has collected application data on specific commodities and can provide the following:

Total Applications Received by the Biological Unit by Commodity			
Year	Commodity		
	Veterinary Therapeutics	Laboratory Material	Food (issued by the Biological Unit)
Jan 03-Jun 04	162	1187	792
Jul 04-Jun 05	303	2024	1778
Jul 05-Jun 06	215	1579	1382

(b) (i) and (ii) The system containing applications does not have a search function to obtain the required data.

(2) (a), (b) and (c) The system containing approved applications does not have a search function to obtain the required information .

(3) Yes, on the ICON Permits database which is available to AQIS staff only.

(4) None.

Import Permits

(Question No. 2053)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Does the Australian Quarantine and Inspection Service's ICON database contain advice on protocols for the importation of marine worms.

(2) When was this information first placed on the ICON database.

(3) On how many occasions have details of protocols relating to the importation of marine worms been varied.

(4) In relation to each variation: (a) when was the information varied; (b) who authorised the variation; and (c) what was the nature of the variation.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) No.

(2) Not applicable, see (1).

(3) Not applicable, see (1).

(4) Not applicable, see (1).

Import Permits

(Question No. 2054)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

…when we get an application for an import permit and…there are not a set of conditions that immediately are able to be applied or that mean there are questions that need to be raised. We would ask Biosecurity Australia for advice on that. I think we are now moving to a much more formal system for managing the form of request, but it would have always have been in writing...:

(1) When did the Australian Quarantine Inspection Service (AQIS) seek advice from Biosecurity Australia following the application from Marnic Worldwide Pty Ltd for a permit to import marine worms.

(2) Consistent with Ms Gordon's evidence, was that request for advice in writing.

(3) On how many occasions did AQIS communicate in writing, including e-mail and facsimile, with Biosecurity Australia in relation to the Marnic application and, in each case: (a) what was the nature of the written communication; and (b) when did the communication take place and when.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) 8 November 2004.

(2) Yes.

(3) Twenty seven times. (a) Emails and minutes (b) Between 8 November 2004 and 30 March 2006.

Import Permits

(Question No. 2055)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) (a) When was the Executive Director of the Australian Quarantine and Inspection Service advised of problems with the process surrounding the issuing of a permit to Marnic Worldwide Pty Ltd; (b) in what form was the advice provided; and (c) who provided the advice.

(2) (a) When did the Executive Director direct staff to review other applications similar to that lodged by Marnic; (b) what was the form of that direction; and (c) when was it issued.

(3) How many reviews were undertaken in response to that direction and, in each case: (a) what was the form of the review; (b) when was the review commenced; (c) when was the review completed; and (d) how were the results of the review recorded.

(4) How and when were the results of each review reported to the Executive Director.

(5) If the review was reported in writing, in each case: (a) what was the date of the report; and (b) who signed it off.

(6) If the review was not reported in writing, why not and how was it reported.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) (a) On or about 8 November 2004. (b) Verbal. (c) National Manager, Animal Programs, AQIS

(2) (a) On or about 8 November 2004. (b) Verbal. (c) On or about 8 November 2004.

(3) A review of permits for marine worms for bait was undertaken. (a) See Question No 2059 (2). (b) On or about 8 November 2004. (c) The review of permits for marine worms for bait was completed within a day. (d) No other valid permits for marine worms for bait were identified with conditions other than irradiation, and as such no results were formally recorded.

(4) No other valid permits for marine worms for bait were identified with conditions other than irradiation, and as such no results were formally reported.

(5) Not applicable.

(6) See (4).

Import Permits

(Question No. 2056)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) (a) When was the Minister, or his office advised of the problems with the permit granted to Marnic Worldwide Pty Ltd for the importation of marine worms; and (b) how was the Minister or his office advised.

(2) (a) When was the Minister, or his office advised that the Australian Quarantine and Inspection Service was undertaking a review of related permits; and (b) how was the Minister or his office advised.

(3) (a) When was the Minister, or his office advised of the outcome of the review; and (b) how was the Minister or his office advised.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) (a) The Minister's office was advised on 17 December 2004. (b) Email.

(2) (a) As stated in Question 2055, 2059 and 2040 no other valid permits for marine worms for bait were identified with conditions other than irradiation, and this was communicated to the Minister's office by email on 17 December 2004. (b) See 2(a).

(3) See 2(a).

Import Permits

(Question No. 2057)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

Can the Minister confirm that all import permits issued by the Australian Quarantine and Inspection Service for veterinary therapeutics, laboratory material and food on or before 1 April 2004 were issued for a period of 2 years only.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

There are no permits on the ICON database issued for greater than two years. Some permits are issued for periods of less than two years.

Import Permits

(Question No. 2058)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

Can a copy of the list of permit applications to which Dr Clegg referred be provided; if not, why not.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

The following list comprises all permits identified by the ICON permit database when interrogated for all commodities with the word 'worm'. Only three permits identified below were for marine worms for bait (See Question 2040).

200118650; 200200345; 200201016; 200202083; 200202710; 200203267; 200206729; 200212405; 200212604; 200215456; 200215472; 200216051; 200216174; 200218169; 200301669; 200303819; 200304748; 200305694; 200305718; 200306288; 200306661; 200306706; 200306834; 200307292; 200308692; 200309555; 00309954; 200312287; 200315640; 200317087; 200318509; 200319124; 200320511; 200321614; 200402105; 200402437; 200402663; 200404594; 200408060; 200409505; 200410152; 200411396; 200414303; 200414464; 200414814; 200414861; 200414992; 200415262; 200415330; 200416374; 200417580; 200418519; 200420665; 200420819; 200421379; 200422969; 200420815.

Import Permits

(Question No. 2059)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Can a list be provided of the work groups to which Dr Clegg referred; if not, why not.

(2) How many permits did each work group review.

(3) How many of the permits reviewed did not have any paper records of the assessment process and the process of issuing the permit.

(4) Where there were no paper records, in each case: (a) when was the permit application lodged; (b) what was the nature of the material for which a permit was sought; (c) when was the permit issued; and (d) what was the life of the permit.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Administrative and assessing staff.

(2) A database search of all relevant records was conducted.

(3) None

(4) See (3).

Import Permits

(Question No. 2060)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

…we would advise clients if we thought the import permits that they held were subject to change because we had a different set of advices…:

(1) Can the Minister confirm that the Australian Quarantine and Inspection Service (AQIS) advises clients if it believes permits held by those clients are subject to change in these circumstances.

(2) Since 1 April 2004, on how many occasions has AQIS been required to provide such advice to a client and, in each case: (a) when was this advice provided; (b) what was the nature of the permit subject to the advice; and (c) what action followed the provision of the advice.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Yes.

(2) This information is not available in an accessible form.

Import Permits

(Question No. 2061)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Can the Minister confirm that the Australian Quarantine and Inspection Service commenced a project looking at work processes in relation to the assessment of import permit applications before the problems with the permit issued to Marnic Worldwide Pty Ltd came to light.

(2) When did the project commence and who initiated it.

(3) In relation to the above project, when was the requirement that assessments of permit applications, or variations of permits, be referred to Biosecurity Australia introduced.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Yes

(2) See response to Question 2044 (1).

(3) It has always been a requirement to refer applications to Biosecurity Australia for assessment where no import conditions for that commodity are available.

Import Permits

(Question No. 2062)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

(1) Can the Minister confirm that: (a) Marnic Worldwide Pty Ltd sought a change in the list of competent authorities contained in its import permit 200315640 in July 2003; and (b) the Australian Quarantine and Inspection Service amended the permit in response to the request.

(2) Was this application to vary the above permit referred to Biosecurity Australia for advice: (a) if so: (i) in what form was the referral made, (ii) when was the referral made, and (iii) when, and in what form, did Biosecurity Australia respond; and (b) if not, why not.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) (a) No. A request to add a new competent authority to permit 200315640 was made in October 2004 as answered in Question 1633 in April 2006.(b) see (a).

(2) No. (a) N/A (b) See answer to Question 1633 in April 2006.

Import Permits

(Question No. 2063)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 June 2006:

When did the internal review of the experience of individual assessors, and the database and information recorded in relation to applications for import permits, commence and conclude.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

See Question 2044 (1).

Norwood Nursing Home

(Question Nos 2082 and 2091)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Norwood Nursing Home since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 19 to 20 September 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2000	1 support contact*
2001	1 support contact*
2004	1 support contact (announced)
2005	4 support contacts (announced)
2006	2 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 19 to 20 September 2005 for an accreditation site audit – to assess the home's compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

Aminya Village Hostel

(Question No. 2083)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Aminya Village Hostel since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 19 to 20 September 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	1 support contact*
2002	7 support contacts*
	1 review audit*
2003	1 support contact*
2004	1 support contact (announced)
2005	3 support contacts (announced)
2006	1 support contact (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors did not visit the home from 19 to 20 September 2005.

Wallsend Aged Care Facility

(Question No. 2084)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Wallsend Aged Care Facility since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 28 February to 1 March 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2000	1 review audit*
2001	3 support contacts*
2003	1 support contact (announced)
2004	2 support contacts (announced)
2005	1 support contact (announced)
2006	2 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home on 28 February to 1 March 2006 for an accreditation site audit – to assess the home's compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

Ginninderra Gardens Nursing Home and Ginninderra Gardens Hostel

(Question No. 2085)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Ginninderra Gardens Nursing Home and Ginninderra Gardens Hostel since their inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 16 to 19 January 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Ginninderra Gardens Nursing Home	
Spot checks or support contacts	
Year	Number
2000	1 review audit*
	2 support contacts*
2001	2 support contacts*
2002	1 support contact*
2004	2 support contacts (announced)
2005	3 support contacts (2 announced, 1 unannounced)
2006	1 review audit (announced)
	4 support contacts (announced)

Ginninderra Gardens Hostel	
Spot checks or support contacts	
Year	Number
2001	2 support contacts*
2002	1 support contact*
	1 support contact (unannounced)
2004	2 support contacts (announced)
2005	3 support contacts (2 announced, 1 unannounced)
2006	1 review audit (unannounced)
	4 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) There was no visit to either Ginninderra Gardens Nursing Home or Ginninderra Gardens Hostel from 16-19 January 2005.

Immanuel Gardens Nursing Home

(Question No. 2086)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Immanuel Gardens Nursing Home since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 11 to 12 August 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	2 support contacts*
2002	1 support contact*
2003	1 support contact*
2004	3 support contacts (announced)
2005	6 support contacts (announced)
2006	6 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Agency assessors visited the home from 11-12 August 2005 for a review audit – to assess the home's compliance with the Accreditation Standards.

Rosehill Nursing Home

(Question No. 2087)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Rosehill Nursing Home since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 14 to 16 February 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	1 support contact*
2003	1 support contact*
2004	2 support contacts (announced)
2005	5 support contacts (announced)
2006	5 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) There was no visit at Rosehill Nursing Home from 14-16 February 2005.

Engelbert Lodge

(Question No. 2088)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Engelbert Lodge since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 12 to 13 July 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	1 support contact*
2002	1 support contact*
2003	2 support contacts (1 announced, 1 unannounced)
2004	2 support contacts (announced)
2005	2 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 12 to 13 July 2005 for an accreditation site audit – to assess the home's compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

Masonic Care Queensland Sandgate Hostel

(Question No. 2089)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Masonic Care Queensland Sandgate Hostel since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 1 to 3 March 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	2 support contacts*
2002	1 support contacts*

Spot checks or support contacts	
Year	Number
2003	1 support contacts*
2004	2 support contacts (announced)
2005	1 review audit (unannounced)
	22 support contacts (21 announced, 1 unannounced)
2006	1 support contact (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Agency assessors visited the home from 1-3 March 2006 for a review audit – to assess the home's compliance with the Accreditation Standards.

John Cani Estate

(Question No. 2090)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to John Cani Estate since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 2 to 3 November 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	1 support contact*
2002	1 support contact*
2003	1 support contact*
2004	1 support contact (announced)
2005	1 review audit (unannounced)
	4 support contacts (announced)
2006	22 support contacts (21 announced, 1 unannounced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Agency assessors visited the home from 2-3 November 2005 for an unannounced review audit – to assess the home's compliance with the Accreditation Standards.

Calvary Retirement Community, Cessnock

(Question No. 2092)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Calvary Retirement Community, Cessnock, since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 27 to 31 March 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2000	1 review audit*
	2 support contacts*
2001	1 support contact*
2002	1 support contact*
2003	1 support contact*
2004	3 support contacts (announced)
2005	1 support contact (unannounced)
2006	5 support contacts (announced)
	1 review audit (unannounced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 27-31 March 2006 for an unannounced review audit – to assess the home's compliance with the Accreditation Standards.

John Zeller Hostel

(Question No. 2093)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to John Zeller Hostel since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 7 to 9 March 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	1 support contact*
2003	1 support contact*
2004	2 support contacts (announced)
2005	2 support contacts (1 announced, 1 unannounced)
2006	6 support contacts (announced)
	1 review audit (unannounced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 7-9 March 2006 for an unannounced review audit – to assess the home's compliance with the Accreditation Standards.

Myrtleford Lodge

(Question No. 2094)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Myrtleford Lodge Aged Care since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 10 to 11 January 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2003	2 support contacts* (1 unannounced)
2004	2 support contacts* (1 unannounced)
2005	2 support contacts (announced)
2006	2 support contacts (announced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 10-11 January 2006 for an accreditation site audit – to assess the home's compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

Warley Nursing Home

(Question No. 2095)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Warley Nursing Home since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 31 January to 1 February 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2002	1 support contact*
2004	1 support contact (announced)
2005	6 support contacts (3 announced, 3 unannounced)
2006	7 support contacts (1 announced, 6 unannounced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 31 January to 1 February 2006 for an accreditation site audit – to assess the home's compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

St Lawrence Home

(Question No. 2096)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to St Lawrence Home since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 6 to 7 December 2005.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	1 support contact*
2003	2 support contacts* (1 unannounced)
2004	8 support contacts (announced)
2005	5 support contacts (3 announced, 2 unannounced)
2006	12 support contacts (1 announced, 11 unannounced)

* Prior to 2003/04, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 6 to 7 December 2005 for an accreditation site audit – to assess the home's compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

Aldersgate Village

(Question No. 2097)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:

(1) Can a list be provided of each spot check or support contact provided by the Accreditation Agency to Aldersgate Village since its inception, including those which were advised visits and unannounced visits.

(2) What was the reason prompting the visit by the Accreditation Agency from 14 to 18 March 2006.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1)

Spot checks or support contacts	
Year	Number
2001	2 support contacts*
2002	2 support contacts* (1 unannounced)
2004	1 support contact (announced)
2005	2 support contacts (1 announced, 1 unannounced)
2006	4 support contacts (unannounced)

* Prior to 2002/03, a breakdown of announced and unannounced visits is not always available.

(2) Assessors visited the home from 14-18 March 2006 for a review audit – to assess the home's compliance with the Accreditation Standards.

Australian Federal Police: Stun Guns

(Question No. 2109)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 22 June 2006:

(1) Could the Minister confirm whether or not Australian Federal Police (AFP) currently uses stun guns; if so, could the agency indicate in relation to such devices:

(a) how long have they been in use;

(b) what models are and in use and how many of each model;

(c) the costs of purchasing and maintaining an individual device;

(d) what programs are currently in place for training people in their use;

(e) how many current AFP officers or other staff have been formally trained in their use;

(f) have there been any reviews, studies or trials of their use; if so, can details be provided of any review, studies or trials, including: (i) the dates of commencement and finalisation, (ii) the title or reference, (iii) the main findings and recommendations, as well as a copy of any reports where available, and (iv) government and/or agency response; and

(g) have there been any adverse injuries or deaths resulting from their use; if so, can details be provided, including: (i) the types of injury sustained, and (ii) the number of persons to sustain each type of injury broken down by calendar year.

(2) Is the AFP aware of the review by the United States Justice Department into the use of stun guns; if so: (a) has there been, or will there be, any reassessment of relevant AFP policies and procedures in response to this review; and (b) where applicable can details be provided.

Senator Ellison—The answer to the honourable senator's question is as follows:

(1) AFP-ACT Policing Specialist Response and Security Tactical Response Team (SRS) members have the Taser X26 electrical incapacitant device available as a less-than-lethal force option. The AFP Operations Response Team (AFPORT) has recently acquired the Taser X26 electrical incapacitant device as a less-than-lethal use of force option and AFP governance is being formally amended to allow AFPORT to deploy and use this device.

(a) AFP-ACT Policing SRS commenced a trial of the Taser X26 electrical incapacitant as a less-than-lethal force option in December 2004. The trial was for a six month period, however due to limited evaluative data, the trial was extended for a further six months and concluded in December 2005. Use of the Taser X26 is limited to specialist police tactical teams.

The AFPORT acquired these devices (in October 2005 and June 2006).

(b) AFP–ACT Policing SRS utilises the Taser X26 model of which they have six in service. The AFPORT has acquired 20 Taser X26 devices.

(c) The unit cost per Taser X26 is $1,800 (GST Exclusive). Projected annual maintenance costs (excluding repairs if required) include the initial accreditation training utilising Taser X26 training cartridges at $55 per unit (GST Inclusive). Operational Taser X26 cartridges are $60 per unit. It is estimated the ongoing cost of maintaining each Taser X26 device (including air cartridges, batteries, software and holsters) is $310 per annum per unit.

(d) As an approved AFP Use of Force Option, the AFP Operational Safety Committee has ratified a training curriculum. The provision of training to SRS is delivered by qualified Specialist Trainers. The provision of training to AFPORT members will be delivered by qualified Specialist Trainers to the required industry standard.

(e) SRS has 40 members trained in the use of the Taser X26 device. All 32 AFPORT members will be qualified to the level of the AFP training curriculum.

(f) The SRS produced a document titled End of Trial Report on the X26 Taser. It was supplied to members of the AFP Operational Safety Committee to consider the viability of introducing the Taser as a permanent option for use by AFP Police Tactical Group members.

The Taser X26 trial commenced in December 2004 and concluded in December 2005.

The AFP Operational Safety Committee considered the End of Trial Report on the X26 Taser on 15 June 2006 and ratified the permanent implementation of the Taser as a less-than-lethal force option restricted to AFP Police Tactical Groups.

The main findings of the End of Trial Report on the X26 Taser were that the use of the Taser was successful in resolving incidents which could have otherwise resulted in injury to police,

members of the public, or the person involved and was, therefore, found to have advantages over other less-than-lethal force options.

The End of Trial Report on the X26 Taser is a classified document.

(g) No.

(2) The AFP is aware of a number of United States Justice Department publications, however specific advice on the cited publication would be required to provide an informed comment. At this time there is no intention to reassess relevant AFP policies.

Aged Care

(Question No. 2112)

Senator McLucas asked the Minister for Ageing, upon notice, on 23 June 2006:

(1) How many individuals have been investigated for acting in a key role in an aged care facility that are not listed by the Approved Provider as key personnel in accordance with the Aged Care Act 1997.

(2) How many of those were found to be disqualified individuals, and in each case, what was the name of the facility at which they were acting in a key role.

(3) What was the outcome of the investigations into each of those individuals.

(4) What processes does the department have in place to ensure that Approved Providers notify the department of changes to their key personnel.

(5) When the department receives advice that key personnel have changed, what assessment of that advice is undertaken.

(6) What are the penalties for an Approved Provider who fails to provide notification of changes to their key personnel and fails to notify that changes are the result of key personnel becoming disqualified individuals.

(7) Where the investigation identifies evidence which supports allegations that the person is undertaking key personnel activities, since the introduction of the Aged Care Act 1997:

(a) how many cases have been referred to the Director of Public Prosecutions; and

(b) how many of those cases have proceeded to prosecution, and in each case, what was the outcome.

Senator Santoro—The answer to the honourable senator's question is as follows:

(1) Two individuals.

(2) Two individuals were found to be disqualified individuals.

It would not be appropriate to disclose the names of facilities as this would compromise ongoing monitoring in the case of one individual, and an active investigation in the case of another individual.

(3) One disqualified individual has been suspected of acting in a key role from time to time, but the Department currently has insufficient evidence to take compliance action or to formally refer the matter to the Director of Public Prosecutions. Departmental officers continue to watch for any indication that the individual is acting in a key role.

One disqualified individual is currently under investigation.

(4) Under the Aged Care Act 1997 (the Act) an Approved Provider must notify the Department of any change of its Key Personnel within 28 days of the change taking place. A notification form is available on the Department's website.

As required by the Act, Approved Providers are advised of their responsibilities in relation to Key Personnel when notified of their Approved Provider status.

The Department conducted an audit of Key Personnel across all Approved Providers in 2004/05.

The Department receives email alerts from the Australian Securities and Investment Commission which notify the Department of changes of company directors.

The Department requires various accountability returns from an Approved Provider which must be signed by one of the Key Personnel of that Approved Provider. If a return is signed by a person not recorded by the Department as Key Personnel, the Department follows up the matter with the Approved Provider.

(5) Advice of a change in Key Personnel is considered by the Department and checked to ensure the Approved Provider has declared:

- that each new Key Personnel individual is not a disqualified individual; and
- the reason the exiting Key Personnel individual is, or is about to become, a disqualified individual (if removal from the Key Personnel list is due to disqualification).

This information, including the reason for disqualification, is recorded by the Department in the National Approved Provider database.

(6) Sanctions can be imposed on an Approved Provider that does not notify the Secretary of a change of any of the Approved Provider's Key Personnel within 28 days after the change occurs. The sanctions that can be imposed are specified in section 66-1 of the Act.

If a change in Key Personnel is wholly or partly attributable to the fact that a particular person is, or is about to become, a disqualified individual, the notification must include the reason for disqualification in order to be valid. To omit this information would nullify the notification. An Approved Provider that is a corporation is guilty of an offence if the Approved Provider fails to notify the Secretary of such a change within the 28 day period. The penalty for such an offence is 30 penalty units.

(7) (a) and (b) Amendments to the Act, relating to disqualified individuals, commenced on 18 January 2001.

Since 18 January 2001, the Department has had discussions with the Director of Public Prosecutions in relation to one individual, but a formal referral was not made because of insufficient evidence that the individual was acting in a key role.

There is an ongoing investigation in relation to another individual.

Kangaroos

(Question No. 2123)

Senator Bob Brown asked the Minister for the Environment and Heritage, upon notice, on 7 July 2006:

(1) Have restrictions been imposed on the culling of kangaroos because of recent drought; if so, on which species have restriction been applied.

(2) Is it true that kangaroo numbers in large drought-affected areas have fallen by up to 90 per cent; if not, what is a more accurate estimate.

(3) Is the shooting of kangaroos in the wild cruel.

(4) Was the issue of this slaughter of kangaroos used by Japanese whaling proponents at the recent International Whaling Commission to justify harpooning of whales; if so how.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) No. There are no specific restrictions associated with the recent drought conditions. However, changes in the kangaroo population from state to state are reflected in the quota figures for each year.

(2) In some drought affected areas kangaroo populations have decreased significantly. For example, it is estimated there was about an 80 per cent fall in the Grey Kangaroos in the Lower Darling Region during the recent drought (since 2002). The Grey Kangaroos were affected more than the Red Kangaroos in this region because it is on the edge of the normal distribution range for Grey Kangaroos.

(3) No. Shooting is considered the most accurate and humane method of culling kangaroos.

(4) No.

Environment and Heritage: Library

(Question No. 2139)

Senator Siewert asked the Minister for the Environment and Heritage, upon notice, on 10 July 2006:

With reference to the closure of the Department of Environment and Heritage Library:

(1) Is it the case that the library is to be closed; if so, why.

(2) What will become of the various collections held by the library.

(3) What will become of the cultural heritage collection.

(4) Is the Minister concerned that the closure of this library will lead to poorer decision making and policy outcomes; if not, why not.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) No.

(2) to (4) See answer to (1).

Christmas Island Mining

(Question No. 2140)

Senator Siewert asked the Minister for the Environment and Heritage, upon notice, on 10 July 2006:

(1) To date, what processes have so far taken place in the Environmental Impact Assessment of clearing for the Proposed Christmas Island mines (9 sites) (EPBC 2001/487).

(2) Did Parks Australia North, based on Christmas Island, provide advice on the impacts of such clearing in the form of an official minute to Parks Australia North in Darwin in December 2005; if so, will the Minister provide that minute; if not, why not.

(3) Has this advice been forwarded to the department to assist the Minister in making his decision; if not, why not.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) The draft Environmental Impact Statement under the EPBC Act was released for public comment from 18 November 2005 to 9 January 2006. The proponent has not yet finalised the Environmental Impact Statement taking account of public comments received.

(2) Parks Australia North has received comments on this matter from staff on Christmas Island. These comments represent internal Departmental advice and, as such, will not be publicly released.

(3) Parks Australia North is part of the Department. Advice from all relevant parts of the Department will be incorporated into the Departmental submission to assist my decision-making.

Radioactive Waste

(Question No. 2144)

Senator Milne asked the Minister representing the Minister for Defence, upon notice, on 12 July 2006:

(1) Were the former Department of Defence sites at Ravenhall and Derrimut in Victoria used to store radioactive waste at any time; if so, what was the quantity and type of radioactive waste stored at each site.

(2) Is there any radioactive material currently stored at these sites; if not, when was it removed and where is it stored now.

(3) What other potentially hazardous materials were stored at each site.

(4) Are these sites contaminated with radioactive or other hazardous materials.

(5) What is each site being used for now.

(6) Has each site been checked for background levels of radioactivity; if so, when did this take place and what were the results.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator's question:

(1) No radioactive material has ever been stored at Ravenhall. Radioactive material was stored at Derrimut from the late 1950s to 1979.

Quantity	Origin
Approximately one curie cobal-60	Sealed radiography sources ex MRL.
Approximately one curie radium-226	Sealed sources, luminising point and contaminated laboratory equipment ex ARL, MRL, Australian Defence Force, universities, hospitals and industry.
Approximately 200 millicurie caesium-137	Sealed sources ex MRL.
Minor amounts of various radioisotopes (millicurie range or less)	Sealed sources and contaminated laboratory equipment ex ARL, universities and Commonwealth Scientific and Industrial Research Organisation radiovalves, watches, compasses and miscellaneous equipment ex Australian Defence Force.

Notes:

MRL: Materials Research Laboratories, Department of Defence.

ARL: Australian Radiation Laboratory, Department of Health (formerly Commonwealth X-ray and Radium Laboratory).

(2) The material was removed from Derrimut to the munitions filling factory in St Marys in New South Wales in June 1979. St Marys is currently owned by ADI Limited.

(3) These sites were associated with the storage of explosives.

(4) There is no information that suggests that these sites are contaminated with radioactive or other material.

(5) As Defence has not owned the Ravenhall and Derrimut properties for a number of years, it is not able to provide information on the current use of the sites.

(6) In 1991, Defence commissioned the ARL to undertake a radiation survey of the Derrimut site. The study stated that radiation levels were no different to that which occurred normally in the environment.

Alcoholism

(Question No. 2149)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 13 July 2006:

With reference to the answer to question on notice no. 1807, concerning treatment programs for alcoholism, especially in Indigenous communities:

(1) When will the 'detailed dissemination strategy planned to roll out the new guidelines to all health professionals that work with Aboriginal and Torres Strait Islander Peoples' be introduced.

(2) Can a copy of the strategy be provided; if not, why not.

(3) (a) When will the 'television broadcast to rural health professionals' begin; and (b) what areas will receive the broadcast.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

(1) The process of writing, editing and printing the Alcohol Treatment Guidelines for Indigenous Australians will be finalised by September 2006. It is envisaged that the dissemination and implementation phase will commence in October 2006.

(2) An extract of the Implementation and Dissemination Plan is attached.

(3) (a) The Department of Health and Ageing is currently negotiating with the Rural Health Education Foundation regarding the production, broadcast and distribution of an educational television program in support of the Guidelines and Toolkit on the clinical management of alcohol problems for practitioners with an Indigenous Australian clientele.

(b) The national broadcast and distribution audience for the proposed program incorporates individuals and organisations that provide healthcare services to Indigenous Australians regardless of the point of access (eg, through mainstream services or through specialised Indigenous health services such as the community controlled services).

The satellite network has more than 600 sites, including 60 new sites (many in remote locations) in all states and territories of Australia concentrating on towns and communities with small populations and with a general practitioner. There is a core target audience of approximately 92,250 medical personnel including medical practitioners, nursing professionals, enrolled nurses and other health workers and directly reaches about 85% of Aboriginal Health Workers. The Rural Health Education Foundation's programs are also regularly accessed by large numbers of metropolitan health and medical personnel.

Development of Clinical Practice Guidelines for the Management of Alcohol Problems

in Aboriginal and Torres Strait Islander Peoples

Extract - Final Implementation and Dissemination Plan

17th May 2006

Implementation and dissemination phase: no less than 12 months to accomplish all major components as outlined below. Minimising a selection of strategies which require collaboration with other parties and/or endorsement through quality assurance bodies and educational and vocational providers may shorten the overall implementation time frame.

DoHA may also wish to consider approaching State and Territory Departments of Health in the first instance regarding cost-share arrangements under mental health, Indigenous health, drug and alcohol, and workforce development strategies.

Resource availability

Initial distribution

Send printed hard copy version of "Guidelines" to:

• Organisations listed in the COTSA (Clients of Treatment Service Agencies) database. The National Centre for Education and Training on Addiction (NCETA) are currently in the process of updating their master copy of this database.

• Regional offices of peak professional associations (see published summary of guidelines detail, from page 7)

• Deans of Faculty of Health Sciences, Medicine, Nursing, Social Sciences

• Council of Deans (Nursing and Midwifery)

• Chief Nurses in each State and Territory Department of Health

Secondary distribution

A printed hard copy version to be distributed through conference attendance and workshops conducted at major conferences.

Ongoing distribution

Further printed hard copies of the "Guidelines" should be available for distribution through National Mail and Marketing (National Drug Strategy Resources Catalogue) with downloads available from the DoHA alcohol website www.alcohol.gov.au .

Links to the DoHA alcohol website site should also be available through but not limited to the following web pages:

• Aboriginal Drug and Alcohol Council Inc (SA)

• Drug and Alcohol Services South Australia

• Flinders Consulting Pty Ltd

• Flinders University School of Nursing and Midwifery

Implementation team to explore opportunities with each member of the National Clinical Reference Group involved in the development of the "Guidelines" to have a link to DoHA's alcohol website www.alcohol.gov.au on their respective organisational websites.

DoHA to investigate the possibility of National Mail and Marketing delivering a brief questionnaire designed to capture basic evaluation information during the first three months of distribution. The content of the questionnaire should be negotiated between DoHA and the implementation team and might include multiple choice questions such as:

1. How did you hear about the "Guidelines"
   a. Read an article in a journal, newsletter
   b. Advised through an email distribution list
   c. Conference presentation or workshop
   d. Work colleague
   e. Alcohol and other drug advisory service
   f. Website
   g. Other: please specify…..
2. What is your occupation/field of practice?
   a. Aboriginal/Indigenous health worker
   b. Drug and alcohol worker
   c. Mental health worker

d. Nurse
e. Midwife
f. Social worker
g. General practitioner
g. Psychiatrist
h. Manager
i. Project officer/coordinator
j. Researcher
k. Other, please specify….

3. How do you intend to use the "Guidelines"?
   a. Professional development for self
   b. Professional development for non-Indigenous staff
   c. Professional development for Indigenous staff
   d. Teaching resource for non-Indigenous students
   e. Teaching resource for Indigenous students
   f. Community resource
   g. General library resource
4. Are you an Aboriginal and Torres Strait Islander person?
   a. Yes
   b. No
5. Are you ordering the "Guidelines" for an Aboriginal Medical Service or other Indigenous service provider?
   a. Yes
   b. No

Conference Presentations/Workshops

Submissions of abstracts for oral and poster presentations and clinical workshops in the fields of:

- Aboriginal and Torres Strait Islander Health
- Chronic Disease
- Custodial Health
- Domestic Violence
- Drug and Alcohol
- General Practice
- Health Promotion
- Mental Health
- Nursing and Midwifery
- Primary Health
- Public Health
- Rural and Remote Health

In the event that suitable conferences are identified after abstract closing dates, seek advice from conference organisers regarding the inclusion of promotional resources (as listed below) as satchel inserts for conference delegates.

Conferences which may include workshop sessions may include the following:

- Australian College of Midwives (ACM)
- Australian Divisions of General Practitioners (ADGP) (and respective State and Territory Divisions)
- Australian Indigenous Doctors Association (AIDA)
- Australian Nurse Practitioner Association (ANPA)
- Central Australian Remote Practitioners Association (CARPA)
- Congress of Aboriginal and Torres Strait Islander Nurses (CATSIN)
- Council of Remote Area Nurses (CRANA)
- Drug and Alcohol Nurses of Australasia (DANA)
- Royal Australian and New Zealand College of Psychiatrists (RANZCP)
- Royal College of Nursing, Australia (RCNA) (and respective state and territory chapters)
- Royal Flying Doctor Service (RFDS)
- Services for Australian Rural and Remote Allied Health (SARRAH)

In initial 3 month phase, seek partnership with the National Indigenous Drug and Alcohol Committee and the Western Australian Drug and Alcohol Office rollout of Strong Spirit Strong Mind AOD workforce development training.

Promotional resources

The following promotional resources are suggested and should prominently display the front page graphics of the "Guidelines"

- Pens
- Sticky note pads
- Flyers (DL)
- Posters

Additional Resources

Lifestyle Guide

Similar to Brady and Hunter (2003) 'Talking about alcohol with Aboriginal and Torres Strait Islander patients: A brief intervention tool for health professionals'.

Laminated Assessment tools

- AUDIT

B5 size Flipchart including

- Assessment flowchart
- Signs and symptoms of alcohol withdrawal (mild/moderate/severe table)
- Photos of healthy versus alcohol affected body organs

Press Releases

Implementation team in collaboration with DoHA should prepare press releases for the following newsprint, community radio and television media:

- Metropolitan and regional media, including
  - *Koori Mail*

- *Vibe*
- SBS *Living Black*
- ABC Local Radio *Speaking Out*
- Central Australian Aboriginal Media Association (CAAMA)
    - Imparja Television
    - 8 KIN FM

• Non-Government Alcohol and other Drug Sector networks including:
- South Australian Network of Drug and Alcohol Services (SANDAS)
- Network of Drug and Alcohol Agencies Inc (NADA), New South Wales
- Western Australian Network of Alcohol and Other Drug Agencies (WANADA)
- Victorian Alcohol and Drug Association (VAADA)
- Alcohol, Tobacco and other Drug Council (ADCT), Tasmania

• State and Territory Commissioners of Liquor Licensing and Gaming
• Relevant Ministers and Bureaucrats

Published Summary of 'Guidelines'

Implementation team to write 1 page Summary of "Guidelines" in collaboration with DoHA and a letter of request for publication to be sent to the following journals/newsletters:

Leading substance use and health journals

• Addiction
• Contemporary Nurse Journal
• Drug and Alcohol Review
• Emergency Medicine Australasia
• Emergency Nurse
• Health Promotion Journal of Australia
• International Journal of Mental Health Nursing
• Journal of Substance Abuse
• Journal of Primary Health
• Of Substance

Leading Aboriginal and Torres Strait Islander health journals:

• Australian Indigenous Health Bulletin
• Aboriginal and Torres Strait Islander Health Worker Journal

Leading Aboriginal and Torres Strait Islander health websites:

• Indigenous HealthInfoNet
• National Aboriginal Community Controlled Health Organisations (NACCHO)

Professional associations' electronic and hardcopy newsletters and magazines

• Australia and New Zealand College of Mental Health Nursing (ANZCMHN)
• Australian College of Midwives (ACM)
• Australian Divisions of General Practitioners (ADGP) (and respective State and Territories Divisions)
• Australian Indigenous Doctors Association (AIDA)

- Australian Nurse Practitioner Association (ANPA)
- Australian Nursing Federation (ANF)
- Central Australian Remote Practitioners Association (CARPA)
- College of Nursing
- Congress of Aboriginal and Torres Strait Islander Nurses (CATSIN)
- Council of Remote Area Nurses (CRANA)
- Drug and Alcohol Nurses of Australasia (DANA)
- Health Professions Council of Australia (HPCA), incorporating national professional member organisations of social workers, psychologists, occupational therapists, dieticians, etc)
- Royal Australian and New Zealand College of Psychiatrists (RANZCP)
- Royal College of Nursing, Australia (RCNA) (and respective state and territory chapters)
- Royal Flying Doctor Service (RFDS)
- Services for Australian Rural and Remote Allied Health (SARRAH)

National, State and Territories Health Departments/Councils and Committees electronic and hardcopy newsletters and magazines

- Aboriginal and Torres Strait Islander Health Councils
- Centres for Rural and Remote Health
- Cooperative Research Centre for Aboriginal Health (CRCAH)
- Government Departments of Health
- Indigenous Coordination Centres (ICC) (state and national)
- National Aboriginal Community Controlled Health Organisations (NACCHO)
- National Indigenous Drug and Alcohol Committee (NIDAC)

Alcohol and Other Drug sector email, newsletter and other publications

- Alcohol and other Drugs Council of Australia (ADCA) ADCA News, Update
- Australian Drug Foundation (ADF) DrugInfo
- Alcohol Education and Rehabilitation Foundation (AERF)
- National Drug and Alcohol Research Centre (NDARC) & National Drug Research Institute (NDRI) CentreLines

Workshops

Preliminary planning: initial 3 months of implementation phase

Seek guidance from peak national bodies, State and Territory health departments, peak professional organisations and existing partnerships for advice and support rolling out "Guidelines".

It is further suggested that the Rural Health Education Foundation be approached with the intention of collaborating on the development and delivery of a satellite workshop for health professionals in rural and remote areas.

Proposed workshop plan: from 3-6 months of implementation phase

It is proposed that workshops will be conducted in the following locations:

NT: Darwin, Tiwi Islands,

SA: Ceduna, Port Lincoln and Adelaide.

Vic: 1 x regional and 1 x rural workshop, negotiate locations with Koori Health

Tas: 1 workshop

NSW: 1 x regional and 1 x rural workshop

Proposed workshop format would include:

- An introduction/overview of the "Guidelines"
- Presentation of a case study relevant to each target group
- Skills for screening, assessment, problem identification, motivational interviewing, intervention and referral
- Facilitation session: working with local issues
- Evaluation (content to be developed relevant to each format)

A range of DoHA funded alcohol (and other drug) resources should be sent to each workshop location prior to the delivery of the workshop.

In particular, resources should include Maggie Brady's "Giving Away the Grog" and "The Grog Book" and any other evidence based complementary "Guidelines" resources, including: de Crespigny et al 2003 Alcohol, Tobacco and Other Drug Guidelines for Nurses & Midwives. Flinders University and DASSA; NCETA Alcohol and Other Drug Handbook for Health Professionals.

Summary of target audiences

Primary

Acute Medical and Nursing Care Professionals

- General Practitioners
- Nurses (including mental health and alcohol and drug nurses)
- Midwives
- Paramedics
- Psychiatrists
- Psychologists

Acute and Community Health Professionals

- Aboriginal Health Workers
- Alcohol and Other Drug Workers
- Community Health Workers
- Custodial/Justice Nursing Services
- Mental Health Workers
- Nurses (including alcohol and drug, remote area, practice and mental health)
- Nutritionists and Diabetes Educators
- Pharmacists
- Psychologists
- Rehabilitation Consultants
- Sobering Up and Mobile Assistance Patrol Workers
- Social and Emotional Wellbeing Workers
- Social Workers

Secondary

Justice/Corrections Officers

- Aboriginal Police Liaison Officers

- Custodial Officers
- Police
- Private Security Personnel (e.g. for licensed premises and transport providers)

Other Support Services Personnel

- Aged Care Workers
- Drivers
- Family Violence Workers
- Housing Workers
- Nutrition Program Coordinators (e.g. breakfast groups)

Administrative Personnel

- Board of Management Committees
- Program Provider Managers
- Reception Staff

Education and Professional Support Providers

- Staff Development Units
- Aboriginal Education Units
- Vocational Education Training Institutions and Providers
- Higher Education Providers, undergraduate and postgraduate
- Telephone Support Lines, e.g. Alcohol and Drug Information Services, Bush Crisis Line
- Professional Medical/Health Bodies

Communities

- Aboriginal Community Councils
- Aboriginal Community Controlled Health Services Boards
- Community leaders/elders
- Local schools
- Men's groups
- Regional Committees
- Self-help groups
- Women's groups
- Youth groups (mixed and boys/girls)

Aid Recipient Countries

(Question Nos 2150 and 2151)

Senator Allison asked the Minister representing the Treasurer and the Minister representing the Minister for Foreign Affairs, upon notice, on 13 July 2006:

Can a list of Australian aid recipient countries be provided indicating current and projected programs, including budgets to combat: (a) HIV/AIDS; (b) tuberculosis; and (c) malaria; if not, why not.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator's question:

Current and future approved activities for HIV/AIDS, tuberculosis and malaria are listed in the tables below. Other activities are currently in various design and approved stages and until approved will not appear on this list.

(1) The countries receiving Australian aid for HIV/AIDS programs are outlined in the following table:

Australia's commitment to HIV/AIDS is $600 million in the period 2000 to 2010.

Country/Regional HIV/AIDS Programs	Current	Future Approved
Africa Regional	$50,000,000 (2004-2009)	
Asia Regional HIV/AIDS Project	$10,300,000 (2002-2006)	
Bangladesh	$1,500,000 (2004-2007)	
Burma	$1,150,000 (2006)	
Cambodia	$650,000 (2004-2007)	
China	$35,000,000 (2002-2009)	
East Timor		$130,000 (2006-2007)
India	$10,200,000 (2002-2010)	
Indonesia	$37,000,000 (2002-2007)	
Nepal	$1,000,000 (2004-2006)	
Pacific Regional HIV/AIDS Project	$12,500,000 (2003-2008)	
Papua New Guinea	$60,000,000 (2000-2006)	$100,000,000 (2006-2010)
Philippines	$3,862,000 (2005-2009)	
Regional South Asia HIV/AIDS Project	$2,800,000 (2003-2006)	
Total	$225,962,000	$100,130,000

(b) and (c) Malaria is a major health concern in the Asia Pacific region, as noted in the White Paper. The new health policy for Australia's overseas aid, "Helping Health Systems Deliver", sets out in greater detail Australia's strategy in combating malaria.

Australia will support the most effective malaria preventive and treatment efforts appropriate to each setting. The prevention and treatment of other diseases such as tuberculosis will receive support by Australia dependent on the burden of the disease and the availability of cost-effective interventions.

The Australian Government will double its current level of support of $280 million to the health sector by 2010.

Country/Regional TB &/or Malaria Programs[1]	Current	Future Approved
Africa Regional	$1,041,082 (2006-2009)	
Asia Transboundary	$5,965,497 (2004 -2008)	
East Timor		$933,153 (2006 – 2009)
Kiribati	$1,170,080 (2006-2009)	
Papua New Guinea	$10,227,070 (1998-2006)	
Philippines	$8,479,924 (1995-2007)	
Solomon Islands	$24,561,211 (2001-2010)	
Total	$51,444,864	$933,153

Australia also provides funding for multilateral organisations to address HIV/AIDS, tuberculosis and malaria. The figures are outlined in the table below:

Multilateral Organisation	HIV/AIDS	Malaria	Tuberculosis	Totals
Global Fund to Fight AIDS, Tuberculosis and Malaria[2]	$42,750,000	$21,000,000	$11,250,000	$75,000,000 over 4 years
World Health Organization[3]	$450,000	$980,000	$1,400,000	$2,830,000
Total	$43,200,000	$21,980,000	$12,650,000	

[1]In many countries, AusAID's contribution to malaria and tuberculosis is through a sector wide approach to health, consequently it is difficult to report separate funding for these two diseases. The countries receiving Australian aid for malaria and tuberculosis are covered by only one statistical funding code for reporting on all infectious diseases to the OECD Development Assistance Committee (DAC).

[2] Global Fund funding figures are based on disbursement percentages provided by the Global Fund, Australia does not earmark funding to the Global Fund.

[3]Australia's 2006 voluntary contribution.

Estimates Training Sessions

(Question No. 2163)

Senator O'Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 14 July 2006:

(1) What Senate estimates training sessions have officers of the Minister's departments and agencies attended in the past 3 financial years, by year.

(2) For each of the past 3 financial years: (a) how many officers participated in; and (b) what was the total cost of, training for Senate estimates, by department and agency and by financial year.

(3) Where training has been provided by a private provider, what was the name of the provider and the associated cost.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

Financial Year	(1) Course Name	(2)(a) No. department and agency officers	(2)(b) Total cost per course	Total per financial year
2003/2004	SES Snapshot session Parliamentary Committees	1	$250.00	$250.00
2004/2005	SES Snapshot session Parliamentary Committees	3	$690.00	$3065.00
	Preparing to appear before Parliamentary Committees	1	$1565.00	
	The Senate and the Legislative Process	3	$810.00	
	In-house training session	3	$0.00	
2005/2006	SES Snapshot session Parliamentary Committees	6	$1380.00	$4510.00
	Preparing to appear before Parliamentary Committees	2	$3130.00	
Total cost of Senate estimates training for past three financial years				$7,825.00

(3) Not applicable. Training was provided by the Senate, Australian Public Service Commission and in-house.

Import Permits

(Question No. 2178)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 July 2006:

(1) Did Ms Kylie Challen from AQIS advise Marnic by letter dated 9 November 2004 that 'Biosecurity Australia informed AQIS that this product must be subjected to mandatory gamma irradiation at 50 kGrays on arrival, as an Import Risk Analysis (IRA) has not been conducted for this commodity/end use'.

(2) Did Ms Challen advise Marnic 'your permit has been amended in line with this advice'.

(3) When, in what form and to whom, did Biosecurity Australia provide this advice to AQIS.

(4) (a) What was the name and position of the Biosecurity Australia officer who provided that advice to AQIS; and (b) what was the name and position of the AQIS officer who received that advice

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) The information was provided to Marnic on 10 November 2004.

(2) Yes

(3) 8 November 2004, email, an assessing officer within the Biological Unit, AQIS.

(4) (a) A veterinary officer within Biosecurity Australia. (b) An assessing officer within the Biological Unit, AQIS.

Import Permits

(Question No. 2179)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 July 2006:

(1) Did AQIS advise Biosecurity Australia on 8 November 2004 that the original application from Marnic did not show any evidence of advice from Biosecurity Australia.

(2) Did AQIS ask Biosecurity Australia whether it would like the above permit revoked or reissued with gamma radiation and, if so, at what dosage.

(3) What is the name and position of the AQIS officer who made the above request to Biosecurity Australia.

(4) Did AQIS propose to Biosecurity Australia that the permit be revoked prior to any consideration by Biosecurity Australia of the status of the permit.

(5) What investigations, other than a review of the Marnic application, did AQIS undertake prior to proposing the permit be revoked or reissued with gamma irradiation.

(6) Who undertook those investigations, what was the nature of the investigations, when did the investigations commence and when were those investigations completed.

(7) Did Biosecurity Australia respond to the above AQIS communication on 8 November 2004.

(8) Did Biosecurity Australia advise AQIS that it would support either the revocation of the above import permit or the reissue of the permit with gamma irradiation.

(10) What was name and position of the Biosecurity Australia officer who responded to the AQIS request on 8 November 2004.

(11) If Biosecurity Australia did support the above recommendation from AQIS in relation to the Marnic permit; (a) what investigation or research was undertaken that caused Biosecurity Australia to support the revocation of the permit; (b) who undertook the investigation or research; (c) when did the investigation or research commence; and (d) when did the investigation or research conclude.

(12) When and how was the outcome of the above investigation or research provided by Biosecurity Australia to AQIS.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Yes.

(2) Yes.

(3) An assessing officer within the Biological Unit, AQIS.

(4) No.

(5) The investigation involved an electronic search of the permits database for valid permits containing the word "worm".

(6) Assessing officers within AQIS in consultation with Biosecurity Australia. The investigations commenced on the 8 November and concluded the same day.

(7) Yes

(8) Yes

(10) A veterinary officer within Biosecurity Australia.

(11) (a) Biosecurity Australia referred to an application by another importer for similar product. The examination of this application determined that the proposed alcohol treatment was not equivalent to gamma irradiation at 50 kGy which is a standard sterilisation method for animal pathogens. (b) A veterinary officer within Biosecurity Australia. (c) 8 November 2004. (d) 8 November 2004.

(12) Email advice of 8 November 2004 regarding the Marnic application and 4 November 2004 regarding another application.

Import Permits

(Question No. 2180)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 July 2006:

(1) Did AQIS send an email to Marnic on 11 November 2004 informing Marnic that Biosecurity Australia had reviewed Marnic's request for an amendment to the list of competent authorities attached to Marnic's import permit.

(2) Did the above mentioned email advise Marnic that it was then that Biosecurity Australia informed AQIS that the worms must be gamma irradiated on arrival as the product had not been subjected to an Import Risk Analysis; if so, how is that advice to Marnic compatible with the email from AQIS to Biosecurity Australia on 8 November 2004 in which AQIS proposed that the above permit be revoked or reissued with gamma irradiation and Biosecurity Australia immediately endorsed that approach.

(3) Will the Minister provide a copy of all communications including file notes between AQIS and Biosecurity Australia sent on 8 November 2004 in relation to the Marnic request for an amendment to its permit; if not, why not.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) No, however this information is contained in an email sent on 10 November 2004.

(2) No, however the email of 10 November informs Marnic of these facts and both advices are compatible.

(3) It is not appropriate to provide this information while the claim for detriment caused by defective administration is being assessed.

Import Permits

(Question No. 2182)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 July 2006:

(1) Did AQIS advise Biosecurity Australia by way of email on 8 November 2004 that the original application from Marnic did not show any evidence of advice from Biosecurity Australia.

(2) Did that email state: '… therefore would you like the AQIS permit revoked or reissued with gamma irradiation?'

(3) Did Biosecurity Australia respond to AQIS by way of email on 8 November 2004 stating that either option would be acceptable.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

(1) Yes.

(2) Yes.

(3) Yes.

Macquarie Island

(Question No. 2239)

Senator Bob Brown asked the Minister for the Environment and Heritage, upon notice, on 20 July 2006:

What is the Commonwealth doing to ensure that the historical buildings on Macquarie Island are preserved.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

There are no buildings on Macquarie Island listed on the National or Commonwealth Heritage lists, or on the Register of the National Estate.

Macquarie Island itself is registered for its natural values as an "indicative place" on the National Heritage register.

The Macquarie Island Nature Reserve is listed as an Indicative Place on the Register of the National Estate. The listing cites some remnant artefacts of Douglas Mawson's 1911-14 Australian Antarctic Expedition and of the nineteenth century sealing industry as significant. These are managed by the Tasmanian State Government.

Commonwealth buildings comprising the research station on Macquarie Island will be assessed under the heritage strategy of the Department of the Environment and Heritage, prepared in accordance with the Environment Protection and Biodiversity Conservation Act 1999.

When those assessments are complete, any building assessed as having National or Commonwealth heritage values may be nominated for listing and, if listed, will be managed appropriately.

The Commonwealth's interests on Macquarie Island are managed by the Australian Antarctic Division in close cooperation with the Tasmanian State Government.

Macquarie Island

(Question No. 2240)

Senator Bob Brown asked the Minister for the Environment and Heritage, upon notice, on 20 July 2006:

With reference to the damage caused to Macquarie Island due to the rapid increase in rabbit numbers:

(1) Given that Macquarie Island is a World Heritage listed site, and that a major reason for its listing is the unique geology of the island, does the Commonwealth accept that it has international responsibilities for the island's protection.

(2) Is the Government satisfied that the baiting program proposed by Parks and Wildlife Service Tasmania will sufficiently control rabbit numbers to prevent ongoing erosion.

(3) Are there any other programs to control rabbit numbers planned.

(4) Will the Commonwealth undertake to provide assistance for the Tasmanian Government to implement control measures on the island.

Senator Ian Campbell—The answer to the honourable senator's question is as follows:

(1) Under the World Heritage Convention it is the Australian Government's responsibility to protect and conserve the listed World Heritage values of Macquarie Island.

(2) The Hon Paula Wriedt MHA, the Tasmanian Minister for Tourism, Arts and the Environment, has written to advise me that a plan to control rabbits on Macquarie Island has been developed. I have yet to receive a copy of the plan.

(3) No.

(4) The Australian Government is already providing assistance to control rabbits on Macquarie Island. I will consider Tasmania's proposed programme once I receive a copy of the final plan.

National Film and Sound Archive

(Question No. 2241)

Senator Allison asked the Minister for the Arts and Sport, upon notice, on 21 July 2006:

(1) Is the Minister aware of the joint public statement released on 5 July 2006 by the Australian Society of Archivists, the Australian Historical Association, the Archive Forum, and the Friends of the National Film and Sound Archive that concludes that the National Film and Sound Archive (NFSA) should:

'Become a permanent, autonomous national institution with its own statutory base and legal personality

Thereby have its identity, role, functions and powers recognised in law, and hence Formalise the de facto autonomy with which it operated from 1984 until its "integration" with the Australian Film Commission in 2003.'

(2) Is the Minister prepared to review the assumptions that were made when the NFSA was attached to the Australian Film Commission (AFC) in July 2003, in light of the above statement and the need for integrity and security of Australia's audiovisual heritage; if not, how does the Minister intend to resolve the contradictions that have arisen in integrating a broadly-based memory institution like the NFSA with a narrowly-based funding and promotional body like the AFC, examples of which were given in the statement, for instance in section 4 'perspectives and agendas' and section 8 'separation of powers'.

Senator Kemp—The answer to the honourable senator's question is as follows:

(1) Yes.

(2) The Government announced a review of Australian Government film funding support on 9 May 2006. Among the issues to be covered by this review is an assessment of whether the agencies involved in funding films and their functions should be realigned to ensure the most effective delivery of the Government's objectives. The NFSA's essential role in preserving and ensuring access to our audio-visual heritage will be maintained in whatever mechanisms are developed for future delivery of Government support to the film industry.

Workplace Relations

(Question No. 2257)

Senator Wong asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 26 July 2006:

(1) (a) By month, year and employer: how many Australian Workplace Agreements (AWAs) have been registered for employees in the red meat processing sector; and (b) in relation to these AWAs, what is the relevant applicable award.

(2) Does the Government's recent 'Work Choices' amendments to the Workplace Relations Act 1996 require that workers employed in the red meat processing sector subject to an AWA be paid a minimum hourly rate, determined by either the Fair Pay Commission or a specified Pay and Classification Scale.

(3) What is the basis for the requirement that the above workers be paid an hourly rate of pay under AWAs rather than a weekly, monthly or annual minimum rate of pay.

(4) If there is not a minimum hourly rate of pay set for the above workers in the red meat processing sector: (a) what is the minimum rate of pay applying to these workers; (b) how was that rate determined; (c) to what hours of work does the minimum rate apply; and (d) how is the payment of the minimum rate enforced.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) The requested information is not readily available and it would involve an unreasonable diversion of the department's resources to ascertain such information.

(2) Yes. Under the Australian Fair Pay and Conditions Standard (the Standard), introduced as part of the WorkChoices reforms, workers in the red meat sector on AWAs signed after the commencement of the WorkChoices amendments to the Workplace Relation Act 1996 (WR Act) on 27 March 2006, must be paid at least the employee's guaranteed minimum hourly rate set out in the relevant Australian Pay and Classification Scale (APCS). If these workers are not covered by an APCS (and are not juniors, trainees or employees with a disability), they must be paid at least the Federal Minimum Wage (FMW) – currently $12.75 per hour.

(3) Sections 195 and 203 of the WR Act provide that the FMW and the basic periodic rate of pay included in an APCS must to be expressed as a monetary amount per hour.

(4) Refer to the answer to (2) above.

Australian Transport Safety Bureau Safety Investigation Reports

(Question No. 2298)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 3 August 2006:

What role, if any, is played by the Secretary of the department in reviewing and/or vetting draft Australian Transport Safety Bureau safety investigation reports.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

Consistent with Section 15 of the Transport Safety Investigation Act 2003, the Secretary has no role in reviewing and/or vetting ATSB safety investigation reports. However, the Secretary takes a close interest in the findings of ATSB reports and their safety actions and recommendations.