INTERNET
The Votes and Proceedings for the House of Representatives are available at:
Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at:

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>6, 7, 8, 26, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 5, 6, 7, 8, 26, 27, 28, 29</td>
</tr>
<tr>
<td>April</td>
<td>2, 3, 4, 5,</td>
</tr>
<tr>
<td>May</td>
<td>22, 23, 24</td>
</tr>
<tr>
<td>June</td>
<td>4, 5, 6, 7, 18, 19, 20, 21, 25, 26, 27, 28</td>
</tr>
<tr>
<td>August</td>
<td>6, 7, 8, 9, 20, 21, 22, 23, 27, 28, 29, 30</td>
</tr>
<tr>
<td>September</td>
<td>17, 18, 19, 20, 24, 25, 26, 27</td>
</tr>
<tr>
<td>October</td>
<td>15, 16, 17, 18, 22, 23,24, 25</td>
</tr>
<tr>
<td>November</td>
<td>12, 13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>December</td>
<td>3, 4, 5, 6, 10, 11, 12, 13</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Location</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CANBERRA</td>
<td>1440 AM</td>
</tr>
<tr>
<td>SYDNEY</td>
<td>630 AM</td>
</tr>
<tr>
<td>NEWCASTLE</td>
<td>1458 AM</td>
</tr>
<tr>
<td>BRISBANE</td>
<td>936 AM</td>
</tr>
<tr>
<td>MELBOURNE</td>
<td>1026 AM</td>
</tr>
<tr>
<td>ADELAIDE</td>
<td>972 AM</td>
</tr>
<tr>
<td>PERTH</td>
<td>585 AM</td>
</tr>
<tr>
<td>HOBART</td>
<td>729 AM</td>
</tr>
<tr>
<td>DARWIN</td>
<td>102.5 FM</td>
</tr>
</tbody>
</table>
TUESDAY, 19 JUNE

Questions without Notice—

Business Insolvencies ................................................................. 24597
Distinguished Visitors ................................................................. 24598

Questions without Notice—

Electoral Roll: Integrity .............................................................. 24598
Telstra: Shares ........................................................................... 24600
Government Policy: Manufacturing ............................................ 24600
Environment: Global Warming .................................................. 24601
Detention Centres: Joint Committee on Foreign Affairs, Defence and Trade Report ............................................ 24601
Aged Care: Expenditure .............................................................. 24602
Environment: Global Warming .................................................. 24603
Aged Care Facilities: Accreditation .......................................... 24604
Welfare Entitlements ................................................................. 24605

Distinguished Visitors ................................................................. 24606

Questions without Notice—

Aged Care Facilities: Accreditation .......................................... 24606
Petroleum Industry: Phantom Fuel ............................................ 24607
Aged Care Facilities: Accreditation .......................................... 24607
Telstra: Underperforming Assets .............................................. 24608

Answers to Questions without Notice—

Environment: Global Warming .................................................. 24610
Detention Centres: Joint Committee on Foreign Affairs, Defence and Trade Report ............................................ 24610

Notices—

Presentation ................................................................................. 24616

Committees—

Rural and Regional Affairs and Transport Legislation Committee—
Meeting ...................................................................................... 24616

Notices—

Postponement ........................................................................... 24616

Committees—

Employment, Workplace Relations, Small Business and Education Legislation Committee—Extension of Time ........................................ 24616
Foreign Affairs, Defence and Trade Legislation Committee—
Extension of Time ........................................................................ 24616
Foreign Affairs, Defence and Trade Legislation Committee—Meeting .................................................. 24616
Legal and Constitutional Legislation Committee—Extension of Time ...... 24616
Rural and Regional Affairs and Transport Legislation Committee—
Extension of Time ........................................................................ 24617

Baltic People: 60th Anniversary of Mass Deportations.............. 24617
Grenville, Ms Kate: Orange Prize ............................................... 24617
Indonesia: Detention of Conference Participants ....................... 24617
Trade Practices Amendment (Representative Actions) Bill 2001,
Trade Practices Amendment (Mergers in Regional Markets) Bill 2001,
Trade Practices Amendment (Unconscionable Conduct) Bill 2001,
Trade Practices Amendment (Operation of State and Territory Laws)
Bill 2001, and
Fair Prices and Better Access for All (Petroleum) Bill 2001—
First Reading ........................................................................................................ 24617
Second Reading ................................................................................................ 24618
Committees—
   Rural and Regional Affairs and Transport Legislation Committee—
      Extension of Time ...................................................................................... 24622
   Australian Public Service: Centenary .............................................................. 24622
Budget 2001-02—
   Portfolio Budget Statements ........................................................................ 24622
Committees—
   Public Works Committee—Report ................................................................ 24622
Broadcasting Legislation Amendment Bill (No. 2) 2001—
   Report of Environment, Communications, Information Technology and
   the Arts Legislation Committee .................................................................... 24623
Excise Tariff Amendment Bill (No. 2) 2001, and
Customs Tariff Amendment Bill (No. 3) 2001—
   First Reading ............................................................................................... 24624
   Second Reading ........................................................................................... 24624
Export Market Development Grants Amendment Bill 2001—
   Second Reading ........................................................................................... 24624
   In Committee ............................................................................................... 24628
   Third Reading .............................................................................................. 24631
Environment Protection and Biodiversity Conservation Amendment
(Wildlife Protection) Bill 2001—
   Second Reading ........................................................................................... 24632
   In Committee ............................................................................................... 24640
Documents—
   Consideration ............................................................................................... 24664
Adjournment—
   Vietnam: Religious Rights .......................................................................... 24664
   Work for the Dole: Remnant Bushland Protection Program ......................... 24665
   Detention Facilities: Study Tour .................................................................. 24666
Documents—
   Tabling ......................................................................................................... 24668
   Tabling ......................................................................................................... 24669
Questions on Notice—
   Communications, Information Technology and the Arts Portfolio:
   Parliament House Employees—(Question No. 3513) .................................. 24670
Tuesday, 19 June 2001

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 2.00 p.m., and read prayers.

QUESTIONS WITHOUT NOTICE

Business Insolvencies

Senator CONROY (2.01 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister confirm that ASIC figures show insolvencies are up nearly 20 per cent from 1999-2000 for the year to April; for March 2001 were up 15 per cent from last year; for April 2001 were up 30 per cent from last year; and the worst month so far this financial year was October 2000, with an increase of 101 per cent over the preceding year? What can the minister offer as an explanation for this large increase in business failures in a year-on-year comparison?

Senator KEMP—It is always good to get a question from Senator Conroy, one of the most important and powerful men on the front bench of the Labor Party—and, I might say, one of the boldest men on the front bench of the Labor Party as well. Senator Conroy is the only person I know in this parliament who can make one statement, and Mr Beazley will change a major speech. He is a man of some moment. The question was not quite as good as a Carl Zimmermann question, I have to say, but I am trying to penetrate the point that Senator Conroy was making. What has clearly upset Senator Conroy is the fact that the national accounts figures have come out and shown that the Australian economy is one of the best performing economies in the world. That was what clearly upset the Labor Party. All of us in this chamber were aware that the expectation, the hope and the prayer of the Labor Party were that the national accounts figures would be bad. All of us recognised on that day when the national accounts figures came out that there was acute depression within the ranks of the Labor Party, and rightly so. People like Senator Sherry, Senator Cook, Senator Faulkner, Mr Beazley and Mr Crean have been running the line that the Australian economy was going through the floor.

Senator Sherry—Don’t mention the GST!

Senator KEMP—Quite the contrary: the national accounts figures came out and proved that, when you contrast our performance in the March quarter with those of comparative countries, the Australian economy is in fact one of the better performing economies today. If the thrust of the question was that this economy is not going well, the fact of the matter, Senator Conroy, is that you are wrong, and the national accounts figures prove you comprehensively wrong.

Senator Sherry said, ‘Don’t mention the GST.’ I will mention the GST, Senator Sherry. The GST must be a pretty good tax reform, because not only have I mentioned the good news on the economic front but the Labor Party itself has endorsed the GST. As I have said, Senator Conroy is one of the brightest, most powerful men in the Labor Party—and one of the boldest. As Senator Conroy has said, the Labor Party, when it comes to government, will probably have to consider raising taxes. That is what Senator Conroy said. There was one very important bit of political news on the economy today—

Senator Conroy—What about insolvencies?

Senator KEMP—which, if Senator Conroy could be silent for one brief moment, I will share with him. I understand that some modelling was done on roll-back. The Labor Party will keep the GST, but they will roll it back. What this modelling discovered is that roll-back equals higher interest rates. That is what it showed, so it is a double whammy with the Labor Party. (Time expired)

Senator CONROY—Madam President, I ask a supplementary question. Four minutes and not a single mention of record insolvencies. Does the minister stand by the Treasurer’s statement of 18 May 2000, when he said:

I don’t think anybody will go to the wall as a consequence of GST ... I don’t think that there will be businesses that will flounder because of GST.

Did not the Treasurer get it wrong in that statement? Do not the ASIC figures prove that more and more businesses are floundering as a direct result of the GST?
Senator KEMP—I may have said this before, but I think I will say it again: if, as Senator Conroy says, the GST is so bad, why is the Labor Party proposing to keep it? It is a very simple question. Senator Conroy says that business is floundering. I point out to Senator Conroy the national accounts. I show to Senator Conroy the performance of the Australian economy in the national accounts. Senator Conroy then talks down the economy, as they always do—that is the old Labor Party standard. The problem is that the national accounts gave the lie to the Labor Party position. The fact is, as I have said, if the GST had all these adverse effects, why are you bothering to keep it? The fact of the matter, as the Treasurer said yesterday, is, ‘Hypocrisy, thy name is Labor.’

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Canada led by the Speaker of the Senate, Senator the Hon. Dan Hays. On behalf of honourable senators, I welcome you to the chamber and trust that your visit here will be informative and enjoyable. With the concurrence of senators, I invite the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Electoral Roll: Integrity

Senator FERRIS (2.08 p.m.)—My question is to the Special Minister of State, Senator Abetz. Will the minister inform the Senate of the importance of ensuring the integrity of our electoral roll? Have there been any comments regarding the recommendations of the Joint Standing Committee on Electoral Matters which might have the effect of misleading voters?

Opposition senators interjecting—

The PRESIDENT—Order! Senator Ferris.

Senator ABETZ—I thank Senator Ferris for her question and for her contribution, along with that of Senator Mason, to the Joint Standing Committee on Electoral Matters, which, in recent times, has brought down a very important report. The integrity of the electoral roll is fundamental to Australian democracy. That is why the government steered important electoral reforms through the parliament and why we did that in the face of Labor opposition, which is still coming to us from the Labor states. Senator Faulkner opposed roll integrity every step of the way. Indeed, two years ago, he said about electoral fraud that it was all ‘paranoia on the part of the government’. I wonder whether it was that paranoia that led to the Labor operative Karen Ehrmann ending up in jail. I wonder whether it was our paranoia that led to a Labor deputy premier having to resign in Queensland, and two MLAs, Grant Musgrave and Mike Kaiser, having to resign. I suppose all that was part of the Liberal government’s paranoia in relation to electoral fraud. Regrettably, the Labor Party has deliberately embarked—

Opposition senators interjecting—

The PRESIDENT—Order! There are far too many senators shouting. You are in breach of the standing orders.

Senator ABETZ—Thank you, Madam President. I can understand that the Labor Party does not want to hear this, but regrettably the Labor Party is now embarked on a campaign of misinformation to try to denigrate what is a very good report. One example, which is particularly disappointing, is Mr Beazley’s comments on 6AR, a Perth radio station, when he said:

Forcing voters to carry around ID with them will cause considerable confusion on Election Day at polling places.

In the 123 pages of this report, there is no mention, no recommendation, that people be required to carry around identification on polling day. So why did Mr Beazley engage in such a campaign of misinformation, which is false and fabricated? What is worse, what is Radio 6AR designed to do? Its demographics are that 65 per cent of its listening audience are young Aboriginal people under the age of 25. 6AR is a radio station de-
signed to assist the Aboriginal community—the community for which Senator Faulkner and Mr Beazley profess so much concern in relation to the suggestion of integrity of the electoral roll.

They cannot beat us on that fundamental issue of integrity at time of enrolment, so they had to fabricate a recommendation which does not exist and then, to compound his felony, Mr Beazley goes on to blame the Liberal Party for this fabricated recommendation. If Mr Beazley cannot even talk straight on these sorts of fundamental issues, it shows absolutely and clearly that this is part of his performance. We all remember when he told the Australian people the budget was in surplus, only to find out later that it was $10.3 billion in deficit. This is the sort of form that Mr Beazley is undertaking as a leader in this country. He will sink to the depths of deliberately misleading Aboriginal youth in this country so he can try to get a few votes—

The PRESIDENT—Order! Senator, you should rephrase that.

Senator ABETZ—In which way, Madam President?

The PRESIDENT—In terms of a reflection on the Leader of the Opposition.

Senator ABETZ—Madam President, did I say ‘deliberately misleading’?

The PRESIDENT—I believe so.

Senator ABETZ—I withdraw.

The PRESIDENT—Thank you.

Senator FERRIS—Madam President, I ask a supplementary question. Does Senator Abetz have any further examples of where the electorate could have been misled in this way?

Opposition senators interjecting—

The PRESIDENT—Order! That really is a hypothetical question. I call Senator Bishop.

Senator Newman—Madam President, I rise on a point of order. With the row coming from the other side, perhaps you did not hear the supplementary question.

Senator Carr—We heard it all right. It’s out of order!

The PRESIDENT—Do you mind, Senator Carr?

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left will cease shouting.

Senator Newman—Madam President, I thought you might prefer to reconsider your ruling on the basis that you probably did not hear the supplementary question, which was: what other facts and examples has this minister got?

The PRESIDENT—I would need to check the Hansard as to what was actually said compared with what I thought was said. I will allow the supplementary question only to the extent that it was as just worded.

Senator Faulkner—Madam President, I rise further on the point of order. In my view, you correctly ruled Senator Ferris’s supplementary question out of order, and you called Senator Bishop to ask the next question. I do not believe you should be bullied out of a proper ruling, which was that the supplementary question asked by Senator Ferris was out of order because it was hypothetical. Surely, Madam President, you would stand by the judgment you made as the supplementary question was asked, and surely you would stand by the call you made to Senator Bishop to ask the next question. I think it was inappropriate and improper for Senator Newman to ask you to reconsider your ruling but, as she has done it, let me ask you to reconsider the fact that you have already made a ruling and you have called Senator Bishop and now, because of a spurious point of order raised by Senator Newman, you have decided to overturn it.

The PRESIDENT—Order! We will proceed. I will call Senator Abetz to offer any further facts, and Senator Bishop will have the next opportunity.

Senator Abetz—I can understand why Senator Faulkner would not wish me to give any further examples of misinformation about the committee’s report, because Senator Faulkner was the prime architect of a lot of the misinformation. Just as one example, he suggested that voter identification at the time of enrolment would somehow disenfranchise migrants. For migrants to become
eligible for the electoral roll, they have to become Australian citizens. To become Australian citizens, they have to provide sufficient documentation—indeed, more documentation than would be required for them to get onto the electoral roll. This is another gross example of misrepresentation. Senator Faulkner and Mr Beazley are hell-bent on running a campaign of covering up the electoral rorts that their party has presided over, especially in the state of Queensland.

**Telstra: Shares**

**Senator MARK BISHOP** (2.18 p.m.)—My question is to Senator Hill, representing the Prime Minister. Does the minister recall the Prime Minister advising Telstra shareholders last Thursday: ... in the medium to longer term they—that is, market analysts—still think Telstra shares are a very good investment. Didn’t the Prime Minister also advise Telstra shareholders on 1 September last year that they should ‘take a long-term view’? Why isn’t the Prime Minister’s repeated advice to Telstra’s minority shareholders also good advice to the Commonwealth as the majority shareholder?

**Senator Alston**—That is pretty subtle.

**Senator HILL**—That is very subtle.

**Senator Carr**—What about an answer?

**Senator HILL**—My answer is that most analysts believe that Telstra shares in the medium to long term are a good investment.

**Senator MARK BISHOP**—Madam President, as the minister has sought to avoid responding to the issue, I will ask him a supplementary question. Why did Howard government ministers inappropriately talk up the Telstra 2 share price prior to the float? Given the obvious dangers of the government being involved in discussions of the share market price and value of Telstra, why did the Prime Minister try again to talk up the price last week?

**Senator HILL**—I think I have worked out what the first question was all about, I am sorry. The question was: if they are a medium to long-term investment, why does the government want to sell them? That was the question that Labor asked of Senator Alston yesterday, which he has already answered. I do not want to stand here as an analyst but, in relation to our current views, I again remind the honourable senator that most analysts—and, taking a risk, I think they are probably right—believe that Telstra shares are a good medium to long-term investment.

**Government Policy: Manufacturing**

**Senator CRANE** (2.20 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin. Will the minister advise the Senate how the government’s economic policies are assisting the Australian manufacturing sector to grow, to be competitive and to create jobs through increased exports? Is the minister aware of any alternative policies that threaten the continued growth of this important sector?

**Senator MINCHIN**—I thank Senator Crane for that very good question. It gives me an opportunity to respond to the campaign of misinformation being waged by the Australian Manufacturing Workers Union. That campaign commenced last weekend, as senators know. The union is spending $400,000 of its members’ money to campaign against the government on the issue of manufacturing jobs. This is a union that loves wasting its members’ money on lost causes. I understand it gave the ALP $680,000 last year. If it was not for Doug Cameron’s complete and utter contempt for Senator Cook, no doubt the union would have tipped the ALP $1 million. It is true that on free trade, at least, Senator Cook speaks with some commonsense. He knows that the only way to retain jobs in manufacturing in Australia is to have internationally competitive businesses, to have flexible labour markets and to have low taxes, low interest rates, low inflation and sustainable growth. That is what this government is delivering for Australian manufacturing.

Manufacturing output has increased by 2.6 per cent per annum under our government, compared with a growth of only 0.8 per cent per annum under the last five years of Labor. Manufacturing is the largest employer of full-time workers in this country, at 1.1 million workers, and is the second largest em-
ployer overall. Manufacturing exports rose 20 per cent last year. Our automotive exports, all manufactured, rose 30 per cent last year. Real wages under our government have gone up by almost nine per cent, compared with a fall of five per cent in real wages under Labor. Of course, our government abolished Labor’s wholesale sales tax, an insidious tax on manufacturing. We should remind the opposition that they had in place when in government a 22 per cent wholesale sales tax on car manufacturing, an industry they purport to stand up for.

Our industrial relations reforms have enabled our manufacturers to become internationally competitive. In relation to two of the most sensitive industries, cars and TCF, we put in place a five-year tariff freeze and $2.7 billion worth of investment incentive schemes. I ask you to compare that record with our predecessor’s. When Labor was in office, 200,000 manufacturing jobs were destroyed, and 160,000 of those were lost in just five years of the Labor government, part of which was when Mr Beazley was responsible for employment.

This AMWU is well known as a job destroying union. As Paul Keating made clear in his usual very subtle way, former AMWU official Senator George Campbell had 100,000 dead men hanging around his neck. They were the jobs lost when he was responsible for the AMWU. In the state where the AMWU and other unions are most aggressive, there were 27,500 days lost through industrial disputes in the March quarter of this year, compared with only 1,000 days lost in the state of South Australia. So it is no wonder that the manufacturing industry is moving from Victoria to South Australia, because of the grossly irresponsible actions of unions like the AMWU running a political sham of a campaign and ignoring the magnificent record of this government on manufacturing.

Environment: Global Warming

Senator BOLKUS (2.24 p.m.)—My question is to Senator Hill, the Minister for the Environment and Heritage. Can the minister tell the Senate whether the Australian government was either consulted or involved in the preparation of the new United States plan to address global warming? At what stage was the Australian government or the minister himself informed of the details of the plan prior to its public release? Do the minister and his government support the US plan?

Senator HILL—The Australian government was informed—that is, I was informed—before the public announcement by the United States government.

Senator BOLKUS—Madam President, I ask a supplementary question. I understand why the minister is sensitive about this. He did not answer the question and did not tell us at what stage. Why did the minister get the backbencher Mr Bilson MP to announce at the Renewable Energy Generators Association conference in Tasmania on 8 June that he, Senator Hill, had telephoned the head of the US EPA, Christine Todd Whitman, earlier that week and that they had in private reached common agreement for President Bush’s proposal to abandon Kyoto? Why didn’t the minister himself make this important announcement, the effect of which is to try to bury the Kyoto protocol?

Senator HILL—I do not think Mr Bilson would have said that, because there was no agreement between Australia and the US to bury Kyoto. The United States has said that it does not support the Kyoto protocol. Australia has signed the Kyoto protocol, we have received a fair target, we are seeking to achieve that target and in order to do so have a major suite of programs and have backed it with a budget of $1 billion. Although it has been difficult because of the impressive economic growth of this government, we can nevertheless still achieve it within the time frame that has been set—that is, between 2008 and 2012. That matter of fact is totally inconsistent with this spurious claim that Senator Bolkus is seeking to make.

Detention Centres: Joint Committee on Foreign Affairs, Defence and Trade Report

Senator STOTT DESPOJA (2.27 p.m.)—My question is addressed to the Minister representing the Prime Minister. I draw the minister’s attention to recommen-
dation 10 in the report that was tabled yes-
terday by the Joint Committee on Foreign
Affairs, Defence and Trade in relation to de-
tention centres, recommending that there be
a time limit of no longer than 14 weeks on
the period asylum seekers spend in detention,
provided they are not a security risk. Given
that this was a unanimous resolution of the
committee, and one that occurred following
an extensive inquiry into the conditions in
detention centres, and that it was supported
by members from all political parties, why
have the Prime Minister and the minister for
immigration immediately rejected the pro-
posal and vilified the committee members
involved?

Senator HILL—We certainly have not
vilified the committee members. We appreci-
ate the contribution of all committee mem-
bers, who obviously put a lot of care and
effort into their consideration of the matter.
Let me put that on the record, and I make
particular mention of Senator Ferguson on
my side of the chamber. The government
will of course look carefully at the recom-
mendations of the report and provide a con-
sidered response to all of the recommenda-
tions. But we do believe that introducing
upper time limits for detention would send
the message that unauthorised arrivals have
only to wait out a short period in detention
before they would be released. Mandatory
detention helps ensure that Australia is seen
as a less attractive destination for organised
people smuggling activities.

At the same time, we are continuing to
meet our international and humanitarian ob-
ligations to assist deserving refugees to mi-
grate to Australia under our humanitarian
migration program. Almost half, 46 per cent,
of people in detention are in fact people
whose claims for a visa have been clearly
rejected and who are appealing or are await-
ing their removal from Australia. Interest-
ingly, it was in fact Labor’s 1994 migration
reform act that introduced mandatory deten-
tion and did not impose time limits. Previ-
ously there was a time limit of 273 days that
had applied to people who arrived by boat.
The government’s efforts to improve ar-
rangements for processing refugee claims
regrettably are being frustrated by Labor’s
failure to pass the Administrative Review
Tribunal legislation, which would help stream-
line the process for all visa applica-
tions, including protection visas.

Senator STOTT DESPOJA—Madam
President, I ask a supplementary question. I
thank the minister for his answer. I am glad
to hear that there will be a considered ap-
proach to this report. I ask: will this be a
considered approach to all the recommen-
dations in the report, including recommenda-
tion 10? As the minister has pointed out, it
does recommend a significant shift away
from the policies of both the Labor Party and
the Liberal Party on indefinite mandatory
sentencing. I ask the minister: will recom-
mandation 10, and all the recommendations,
be given this considered approach to which
you refer? Is it not the duty of this govern-
ment to consider it seriously and listen to
those who have been inside the detention
centres, rather than reject these recommen-
dations in a knee-jerk and insulting way?

Senator HILL—There is no issue of in-
definite mandatory sentencing related to this
particular matter. As I said, the government
will be seriously considering the recommen-
dations that it made, but it would also be
only fair to tell the honourable senator that it
is the view of the government that upper
time limits for detention would send an un-
desirable message to other than those who
are genuine refugees—that is, they would
simply have to wait out a specified time limit
before they would be released into the Aus-
tralian community. We think that would fa-
cilitate those who are in the nasty business of
international people smuggling operations.

Aged Care: Expenditure

Senator CHRIS EVANS (2.31 p.m.)—My
question is directed to Senator Vanstone, the
Minister representing the Minister for Aged
Care. Can the minister confirm that the ex-
planations given by the Assistant Treasurer
yesterday for the very small increases in
aged care funding in the forward estimates
were directly contradicted by answers given
by the Department of Health and Aged Care
at the Senate estimates process? Didn’t the
Assistant Treasurer claim that previous
growth in resident frailty is expected to mod-
erate, yet the department clearly stated in
estimates on 28 May that the modelling for
the forward estimates assumes that the pre-
vious trend of five per cent growth in resi-
dent frailty would continue? Didn’t the As-
sistant Treasurer then try to claim that there
had been a backlog of beds under Labor, 
which is also contradicted by an answer from
the department at estimates, which shows
that there was no backlog of unbuilt beds
when Labor left office? Given that the min-
ister was at the estimates hearing, can she
confirm that the Assistant Treasurer misled
the Senate yesterday in his response to the
funding question and will she now correct
the record?

Senator VANSTONE—I thank the sena-
tor for his question, albeit I do suggest he is
wasting his time. He knows as well as I do
that, as good as my memory might be, it does
not extend to retaining every answer that is
given at four days of estimates hearings. But
I will happily go back and get the answers
that were given to you by departmental offi-
cers at the hearings. I will ask the Minister
for Aged Care to look at the answers to
which you refer, in the context of the answer
that was provided to me, should I have been
asked the question, which I handed to Sena-
tor Kemp.

I really cannot do any more than that at
this stage, other than to say, Senator Evans,
that it does amaze me that the Labor Party’s
excuse for not having any policies is: ‘We do
not know how much money is there; we can-
not cost anything.’ Surprisingly, the Labor
Party seems to be able to cost savings in a
whole variety of areas and to challenge this
government’s costing, but it has no capacity
to put together its own. Time is running out
for you, Senator Evans. In a matter of 20-
something weeks I expect that we will be
going to the polls. I strongly urge you to turn
your attention to coming up with some poli-
cies that will appeal to the Australian people.
Unless you do that, it is going to be a no-
contest election, which will be dreadfully
boring.

Senator CHRIS EVANS—Madam Presi-
dent, I ask a supplementary question. I en-
joyed the lecture from the minister, but I
would appreciate it if she actually knew
something about the question I asked and
had tried to answer it. But if she has to go
and ask Minister Bishop about that, I would
appreciate it if she would also ask for an ex-
planation as to why the small increase in fu-
ture aged care budgets is entirely accounted
for by the needed increase in subsidies,
which leaves the government with no money
to fund new beds. Could you find out why it
is that you have not provided any additional
funding for the new beds that the minister
announced? Won’t we be left with another
15,000 phantom beds because you just have
not provided the funding that is needed to
provide care for the elderly in the out years?

Senator VANSTONE—Senator, I will
take your supplementary on notice and I will
refer it to Mrs Bishop.

Environment: Global Warming

Senator BROWN (2.35 p.m.)—My ques-
tion is directed to the Minister for the Envi-
ronment and Heritage. In view of the enor-
mous public concern about global warming,
will the Prime Minister be meeting the top
level European Union delegation coming to
Australia to discuss the Kyoto protocol and
issues of global warming? If not, who will be
meeting that delegation? I also ask: in view
of the statement of the Minister for Foreign
Affairs today that it is wrong to say that
we—that is the Australian government—
back the US position on Kyoto, what is the
difference between the Australian position
and the US position?

Senator HILL—We still do not know a
great deal about this proposed delegation.
The latest information that I have seen,
which was this morning, suggested there
might be a delegation representing the presi-
dency of the European Union, which at that
time would be Belgium, and perhaps Swe-
den, as the preceding presidency, and there
might be a representative of the commission.
I am not sure what will be the level of that
representation. If it is the equivalent level of
the Prime Minister, I would expect the Prime
Minister to be meeting with them. If it is my
equivalent level, I certainly would be meet-
ing with them. If they are senior officials, the
normal practice would mean that they would
meet with our senior officials. We work
closely with the European Union towards a
better global outcome on greenhouse gases,
and we would be very pleased to receive a delegation to discuss with them how we can cooperatively move the agenda forward.

In relation to the United States and Australia, the fundamental difference is that the United States have said that they believe that the Kyoto protocol is fundamentally flawed and that, therefore, they are not prepared to continue to support it. They believe it is fundamentally flawed because it does not include binding commitments on developing countries. They believe it would be at an excess economic cost to the United States. Also, they suggest that some pollutants were not included.

The position of the Australian government has not been that the Kyoto protocol is fundamentally flawed. We recognise that the rules of Kyoto are still not settled some three years on. We have said that, unless those rules on compliance, on flexibility mechanisms and on sinks and the like are settled, countries simply will not be in a position to ratify the protocol. I can remember saying last year that, if COP6 was not able to settle these rules, the question of the future of the Kyoto protocol will obviously come into question. We also believe that the issue of developing country participation can be resolved within the process of further negotiation of the implementation of the protocol. So it has not been our position that it is fundamentally flawed; it has been our position that there are shortcomings that need to be overcome and rules that need to be defined and settled. We have been working with our partners across the world in order to achieve that goal, so our approach in that way has been different from that of the United States.

I have also said that, if the United States walks away from the Kyoto protocol, there must be a serious question of its effectiveness as an adequate global response. If we have a response from that part of the world that does not include the world’s largest emitter, it seems to me doubtful that that will be an effective response towards achieving a better global outcome. I have said, therefore, that I think the international community should work with the United States—again, in a cooperative way—to look at the best way to move the whole debate forward in order to achieve that goal that we all are seeking, which is an effective international response in which each of us will play our part, carry a fair share of the burden, in achieving a reduction of global greenhouse gases and therefore moving towards stabilising climate change.

**Senator BROWN**—Madam President, I ask a supplementary question. I point out that I was not asking about approach; I was asking about substance. Can the minister give one specific difference in substance between the position of the Bush administration on the Kyoto protocol and what has been negotiated so far, or is to be negotiated, and the Howard government’s position? Can the minister name one specific point of difference between the position President Bush has taken on the substance of the Kyoto protocol and what has been negotiated and that of the Howard government?

**Senator HILL**—Yes. A fundamental difference is that the United States is not prepared to accept the target that it agreed to in Kyoto. Australia is prepared to accept the target it agreed to in Kyoto. We got a target that is difficult for Australia to achieve but which can be achieved, and we are committed towards that outcome. That is why we have the new renewable energy legislation. That is why we are moving towards changes to the Australian building code. That is why we are requiring new standards for emissions from power stations and the like. If this European delegation does reach Australian shores, we will be pleased to talk to them about the successes that we have achieved through the domestic program to date.

I remind Senator Brown that the latest figures—the 1999 figures—show economic growth increasing by more than five per cent and emissions by just over one per cent. So we are succeeding. We are starting on the path towards success of decoupling economic growth from carbon growth, and that will be a major contribution on the part of Australia towards a better global outcome. (Time expired)

**Aged Care Facilities: Accreditation**

**Senator CROSSIN** (2.42 p.m.)—My question is to Senator Vanstone, the Minister...
representing the Minister for Aged Care. Can the minister confirm that the Department of Health and Aged Care wrote to the accreditation agency in September last year with concerns that residents in the Tracy Aged Care facility in Darwin were at serious risk after complaints from a number of staff in the facility? Didn’t these concerns include the maladministration of medications, in contravention of the Poisons and Dangerous Drugs Act? Isn’t it a fact that, despite these concerns, which were also presented directly to the agency’s assessors when they visited the facility, Tracy Aged Care was granted three years accreditation? Can you also confirm that a number of other complaints have been received by the department about the executive director of the nursing home, Ms Pam Fitton, who has allegedly threatened and abused residents and defrauded Commonwealth funds?

Senator VANSTONE—I thank the senator for her question. Senator, you have asked questions specifically before about particular nursing homes in your electorate. I think, on at least one occasion in the past I have encouraged you, should you have questions on specific residences, to at least give us some advice beforehand so that the information can be made available to you. Mrs Bishop does provide information on what I take to be either the most newsworthy or the most likely to be asked or the most recent issues that have been raised, but the nursing home you refer to does not appear in that list today. So I say the same to you as I said last time: I will get the answer for you as soon as I can from Mrs Bishop. But I repeat the offer I made last time: you do not need to wait for question time for these things. If you want this information, I am sure you can get it from Mrs Bishop’s office. If you have a thing about ringing a House of Representatives minister because you think it is beneath senators to do that, feel free to ring me.

Senator CROSSIN—I am surprised that it is not on the list or in your briefs, because it was on the front page of the Northern Territory News today. It is a very serious matter. Madam President, I ask a supplementary question. Why were the serious concerns of staff and the minister’s own complaints scheme overlooked by the accreditation agency in granting Tracy Aged Care three years accreditation? Why hasn’t there been a thorough Commonwealth investigation into these allegations against this provider, who is, after all, in receipt of millions of taxpayers’ dollars?

Senator VANSTONE—Senator, I would just repeat my earlier answer to you.

Welfare Entitlements

Senator KNOWLES (2.44 p.m.)—My question is also to Senator Vanstone, the Minister for Family and Community Services.

Opposition senators interjecting—

The PRESIDENT—Order! It is absolutely out of order to shriek in that manner when a senator starts asking a question and identifies the minister.

Senator KNOWLES—My question to the minister is: does she recall her comment that the government wants to be fair and to ensure that people on welfare get exactly what they are entitled to, not a penny more and not a penny less? I therefore ask the minister: what has the government done thus far to ensure that that is the case?

Senator VANSTONE—I thank Senator Knowles for her question. Senator Knowles has had a long-standing interest in the community service area and is obviously continuing to pursue that interest in a variety of ways. This government is unashamedly tough on compliance in the welfare sector. It is something that Labor never was and it is something that somehow the Democrats are offended by, but it is something that we are happy to stand by because we are spending hard-earned taxpayers’ money. We know we have the support of the community for our approach to compliance. The Australian community is a generous community. It does want people on welfare to get the amount of money they are entitled to, but it does not want them to get any more. We know we have the support of not only the community at large but also the people who are unemployed and on benefits.

A recent independent survey of over 3,000 unemployed customers showed that over three-quarters of those surveyed supported
the government’s mutual obligation principles and breaching rules. Unemployed people do believe that the government’s approach to mutual obligation improves their job readiness and self-esteem. They see the breaching rules as fair and reasonable. Seventy-eight per cent of them said that it was right to reduce their job seeker payments if they failed to meet the requirements, and 70 per cent of people who had had their payments affected by breach penalties at some time nonetheless still supported them. There is no way you can look at these results as being other than a ringing endorsement of our determination to ensure that people on income support payments receive only what they are entitled to.

The Labor Party and the Democrats really are out of touch on this issue, as they are on so many others. They really should try to stop whingeing about stronger compliance measures and get behind what the community actually wants, which is the full amount of welfare to be paid—not a penny less but not a penny more. As I say, we do want to make sure that our customers get all they are entitled to, so when changes are made to entitlements we want to make sure the community understands what those changes are and what their entitlements are.

After the budget, there were something like 230,000 older Australians who were entitled to a Commonwealth seniors health care card but who had not actually claimed it. We added about 50,000 to that list. Many of the older Australians who are entitled to receive the $300 one-off payment announced in the budget are not Centrelink clients nor are they in the income tax system. There are about 30,000 people in that category. So there are about 260,000 older Australians who are going to miss out unless they are informed of their entitlements. Does the Labor Party want these people to miss out on these entitlements? The answer must be yes, because the Labor Party says, ‘You shouldn’t be doing this advertising’—nudge-nudge, wink-wink—‘Don’t tell the old people that you have extra benefits for them; that would be a bad thing. Just announce the benefits in the parliament and keep them to yourself.’

The ads have been effective. The day after the ads went to air the number of calls made to the seniors hotline was 22 times higher than at the same time the week before. The vast majority of these calls were about the one-off payment, the telephone allowance and the Commonwealth seniors health care card.

**DISTINGUISHED VISITORS**

The PRESIDENT—Order! I would like to draw the attention of senators to the presence in the President’s gallery of Mr Faruk Khan, a member of the Bangladesh National Assembly. On behalf of senators, I welcome you to the chamber and trust that you will enjoy your visit to this country.

Honourable senators—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Aged Care Facilities: Accreditation**

Senator WEST (2.49 p.m.)—My question is to Senator Vanstone, representing the Minister for Aged Care. Can the minister confirm that a number of exemptions from the care standards, granted to 19 nursing homes by the Minister for Aged Care late last year, expire today and tomorrow? Why hasn’t there been a public statement by the government to clarify the status of these 19 facilities? Don’t these facilities potentially face the loss of Commonwealth funding if they are not granted accreditation, which would force their closure? Were any granted a one-year accreditation, which would signal that they still have not met the government’s care standards?

Senator VANSTONE—The issue of accreditation for aged care facilities is a complex one. It is an issue in which this government has taken a very strong interest, and it has made some significant improvements. Mrs Bishop has done an excellent job in this respect and is continuing to do so.

Senator Faulkner—Waffle, waffle.

Senator VANSTONE—I note that Senator Faulkner interjects and says, ‘Waffle,’ because he is not interested in anything that this government has to say. He knows full well the shortage of hospital beds before we came to government. He knows how many beds per thousand were available for people in aged care under the previous Labor gov-
ernment, and he knows what this government has done to improve that number. As to the specifics of Senator West’s question, I will ask Mrs Bishop whether she has anything to say on that matter and I will get back to her.

Senator WEST—Madam President, I ask a supplementary question. I would make the comment that these 19 nursing home accreditation exemptions expire today or tomorrow. Was the Ritz, a nursing home run by Ms Millie Phillips and which was exempted from the government’s care standards, granted accreditation and, if so, for what period?

Senator VANSTONE—That is almost a repeat of the same question—it just asks for a bit more detail. I spent some considerable time in opposition, and I can assure the opposition that if they want to come in here every day and waste their time by asking about individual nursing homes, on which there may not be a brief provided by the minister, all they are doing is wasting a question, which of course stops some other senator asking a good question which has been knocked off by their questions committee.

If you want the more minute detail with respect to the vast number of homes and facilities that there might be in Australia, the sensible thing to do in opposition would be to ring up and say, ‘I’d like to ask about a certain nursing home. Can you get me some information about it?’ But, of course, if you do not want to do that, it does not worry me.

Petroleum Industry: Phantom Fuel

Senator RIDGEWAY (2.53 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin. Minister, are you aware that oil refineries are currently permitted to sell fuel to service stations at temperatures as high as 52 degrees, which results in the significant expansion of fuel volumes? Minister, given this fact, is it not true that service stations sell fuel to motorists at about 15 degrees, after the fuel has significantly contracted? Is it not also true that, due to the contraction, an average of 2.5 per cent of the fuel the service station paid for disappears and that this is known as ‘phantom fuel’? Why hasn’t the minister stopped small service stations from being cheated, motorists from being ripped off and the government failing to receive large amounts of excise revenue, estimated to be in the vicinity of $200 million a year? Minister, isn’t the ‘phantom fuel’ practice a direct result of the government’s failure to put in place proper legislation to prevent this ludicrous situation continuing?

Senator MINCHIN—I always treat Senator Ridgeway’s questions seriously, and I accept his profound interest in the welfare of consumers of petrol. It is an interest we all have, although I think it is becoming a little bit ridiculous in this country that we bash refiners at every opportunity, when one of the most strategically important industries in this country is indeed domestic refining. It is not an industry this country can afford to lose. Sometimes I think we all go a little bit overboard by bashing up domestic refineries who employ thousands of Australians and do a great job for the country.

I do not have a brief in front of me on this issue. My recollection is that these allegations of expansion, et cetera, have been looked into repeatedly and have not been found to have any substance. But I will have another look at the brief and get you a more considered answer.

Aged Care Facilities: Accreditation

Senator CROWLEY (2.55 p.m.)—My question is to Senator Vanstone, representing the Minister for Aged Care. Can the minister confirm that the Klemzig Nursing Home in South Australia received three years accreditation in July last year—the highest possible rating? Is the minister aware that an inspection of the nursing home in March this year found that it failed to meet care standards related to clinical care, pain management, palliative care, nutrition, skin care, the restraint of residents and infection control? In all, wasn’t this nursing home found to have failed 27 of the government’s 44 care outcomes? Does this not show either that the nursing home should never have been given three years accreditation or that standards of care have significantly declined in just eight months?
Senator VANSTONE—The answer to this question is the same as the others. There are hundreds, if not thousands, of aged care facilities around Australia. If the Labor Party seek to demonstrate that no minister will come into this place with a brief on every nursing home, they do not need to demonstrate it—it is clearly obvious. I think this is just a waste of a question, Senator Crowley. If you wanted information on a specific nursing home, you should have given Mrs Bishop’s office some advice that you would like some information, and it would have been available for you.

Senator CROWLEY—Madam President, I ask a supplementary question. If the minister likes, I can take the name of the nursing home out of the question and ask her to answer the question, if she could, with respect to the legislation and principles. If any nursing home—in this case, Klemzig, in her own state—gets an accreditation for three years in July and the following March is found to be hopelessly behind in 27 out of 44 care standards, would the minister be concerned? Could she care to try to answer that? Leave out the name of the nursing home and have a shot at the principles under your own government’s policies. What faith can the residents of the Klemzig Nursing Home or any other nursing home have in the accreditation system when it gives a facility top marks last July and then finds serious breaches of care just eight months later? How can Mrs Bishop hand out three years accreditation when she cannot even guarantee that standards will be maintained for eight months?

Senator VANSTONE—Senator Crowley, I wish you had asked me that question first, because you have actually highlighted this government’s principle that someone will be given an accreditation but that there will be spot checks. Unlike what I presume happened when you were in government, when people were given a licence to do whatever they wanted and you did not care, we have set up a system whereby accreditation is given and then there are subsequent checks to maintain the level of service that should be provided.

Obviously, there will be circumstances where those checks will not prove adequate. In this case, you allege that that has happened with the Klemzig Nursing Home. I have a particular interest in that. I have a friend who has a mother in, I think, the same nursing home you are referring to. But, even if I did not have a particular interest in it, I would follow it up for you. But what you have highlighted is that you did not look after this area. We have set up proper accreditation and proper spot checks.

Senator Crowley—You ought not lie.

Senator Vanstone—Madam President, I raise a point of order. Senator Crowley made the assertion that I was lying in the supplementary answer. I invite her to either say where I was lying or withdraw.

Senator Faulkner—Madam President, on the point of order: Senator Crowley in fact said, ‘You ought not lie.’ And she ought not lie—that is true.

Senator Chris Evans—Madam President, on the point of order: Senator Crowley made that interjection on the basis that Senator Vanstone misled the Senate by saying that there were not spot checks under the previous Labor government, which she knows not to be true. In fact, there were no spot checks under Bronwyn Bishop for two years.

The PRESIDENT—Order! Senator Evans, you are out of order! Senator Hill, were you speaking on the point of order?

Senator Hill—Madam President, I rise on the point of order. Clearly that is an allegation that the minister lied in her answer. To say that she ought not have lied in her answer is an allegation of lying clear and unambiguous. It is clearly unparliamentary and it should be withdrawn.

The PRESIDENT—I think it should be withdrawn, Senator Crowley.

Senator Crowley—Madam President, as I understand it, it is an urging for the senator to behave that way. Under your guidance, I will withdraw. But I would ask you to take a look at those words and come back to the Senate if you believe it should be modified.

Telstra: Underperforming Assets

Senator EGGLESTON (3.00 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts,
Senator Alston, is the Telstra board required by law to act in the commercial interests of the company regardless of who owns it? Is the minister aware of any ‘rock solid commitment’ to prevent Telstra from disposing of underperforming assets? What would be the effect of such a commitment on the Telstra board, the company’s 1.5 million shareholders and the millions of Australians who rely on Telstra’s services?

Senator ALSTON—It is a very important question, because you have to go back to the early nineties to discover when Telstra was required by law to operate commercially, when it was corporatised, and that the minister who put that requirement in place was Mr Beazley. A lot follows from that. Whether he has got selective amnesia or whether he is simply deliberately wanting to continue to mislead the Australian public, I do not know. The fact is that he does not have any serious interest in policy; he is much more interested in scare campaigns.

There is one particular issue that I really do think requires close examination. This is the so-called rock solid commitment that a Beazley Labor government will not sell NDC or any more of Telstra. This is said in a press release by Senator Mackay, which states:

It’s a rock solid commitment that a Beazley Labor Government will not sell NDC or any more of Telstra.

She then puts out another press release saying:

That’s Right Senator Alston: The ALP Opposes Sell-Off Of NDC

Unlike the Howard-Anderson Government, Labor has never supported ... NDC is a valuable commercial entity ...

You would infer from that, would you not, that the only way that any incoming Labor government could possibly require Telstra not to sell off NDC is to use the power of direction? What we now have is a very slippery and dishonest Labor Party, knowing that they are in very big trouble, of course, with an unnamed source saying things like, as reported in today’s Australian:

We won’t actually have to use that power.

These are ominous words. What they mean is, as Michelle Gilchrist points out, that ‘Labor is likely to cajole, threaten and discuss’—in other words, they will intimidate. What they will do in the words of Mr Stephen Smith is:

The majority shareholder ... would let Telstra know what it regards as national priorities.

He goes on to say:

I would like to see a quicker rollout [and] cheaper prices ...

In other words, irrespective of whether it is commercial, we are going to require that to happen and we think that is a good idea because it actually ‘helps build the nation in the Knowledge Nation sense’. So here you have, on the one hand, Labor making it crystal clear that they will lean on Telstra, they will second-guess their business, they will be telling them how to run the show on a daily basis, and they will be involved in constant meddling, but somehow they are not going to use the power of direction. You cannot have it both ways: they cannot have a rock solid commitment that under no circumstances will they be allowed to sell off underperforming assets and in the same breath say, ‘We won’t actually use it.’ What they really mean is that they will threaten to use it. That is what they are saying. And if that is what they mean, they ought to come clean because the shareholders are interested in knowing that. They want to know whether you are going to threaten to use it. If you are not, then come clean and say you will not use it. But you will not say that, will you, because you want to have the power to use Telstra as your plaything? Go back to the days of the PMG; pretend it is a wholly-owned subsidiary. Well, it is not. You have got two million shareholders out there who are terribly interested, and I would have thought verging on being terrified about the prospect. Fortunately, that prospect seems to be receding by the day, and I hope that that will inject a bit more realism into the Labor Party. What we have now is simply another disgraceful scare campaign designed to say different things to different constituents. There was a bit of a narrowcast message in the Financial Review—another story out on the boondocks where you think you might be able to get a
run. None of it amounts to anything. All it really means is: still no policy from the Labor Party.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Environment: Global Warming

Senator BOLKUS (South Australia) (3.05 p.m.)—I move:

That the Senate take note of the answers given by the Minister for the Environment and Heritage (Senator Hill) to questions without notice asked by Senators Bolkus and Brown today relating to the Kyoto Protocol and climate change.

It became clear in question time today that this government’s greenhouse policy—this government’s global warming policy—is in tatters. It is failing domestically—we have evidence of that—and it is failing internationally. In a sense, you could say that it is schizophrenic. Senator Hill tells us that the Kyoto process continues but he also tells us that, regardless of what happens, the Australian government will not be party to it at the end of the day. They will not ratify it. It is a bit like building a road to nowhere: ‘We are going to go to the meetings. We might be involved in the processes.’ But the government have said that they would not sign up; they would not ratify at the end.

Senator Hill wants us to believe that his going to the odd meeting in the next few months—and we know he likes to travel internationally—is a commitment to the process. But you have got to have a commitment to both the process and the outcome—unless, as I say, the government are essentially building a very expensive road to nowhere. Mr Downer tells us today that the government’s position is not the same as the US. Senator Hill tells us the same. But already these very same ministers over recent weeks have declared the Kyoto process dead. Already they have stated on the public record that they would not be party to an outcome.

We saw again today that this government has been involved in preparing the last rites for the Kyoto process. As I indicated in question time today, Mr Bruce Billson, a very close confidant of the minister, a trusted ally, let the cat out of the bag in a meeting in Hobart—the minister had been discussing this issue with EPA head, Todd Whitman; the minister had given the green light to the Bush plan; and ministerial colleagues publicly had already done that. But now we find out today that there have been secret discussions between this administration and the US, and the purport and the effect of those discussions have basically been to saddle up with the Bush agenda.

In light of this, in response to questions in question time today, the minister would not tell us when those discussions took place, would not tell us the degree of those discussions and would not tell us what expression of attitude was given to the US government—but Mr Billson did just a few weeks ago. The minister may hold his head in his hands at the mention of the name Billson, because Mr Billson is the person designated by this minister as his successor in this portfolio. We know that; Bruce has been telling the whole world that. We know how close he is to the minister. What we have here today, and what we had previously, is this government finding the alternative road to addressing climate change as more attractive. But in doing so, what is it doing? The government is junking a process which has gone on for some number of years and it is embarking upon a new process—and it is embarking upon that process with the sceptics, not with those who are committed to redressing global warming. The government is committed to a process on a road to nowhere with President Bush and those who are sceptical about the effect of global warming. It is linking itself to the US oil companies, to Dick Cheney and to President Bush.

The first thing this government can do in the light of all this is to drag those expensive ads that they are running night after night, day after day, in prime time involving, amongst others, Don Burke. There is $3.9 million of advertising basically showing that this government’s position on this issue is schizophrenic and hypocritical. They want the public to believe that they care, but generally and effectively internationally they are telling the world community that they are not
going to be part of an outcome. They do have a credibility problem, in particular this minister. He has private discussions with Todd Whitman on the one hand, though just a few weeks ago he was saying to the Australian public, ‘I’m keen to get the Kyoto protocol implemented.’

The fact of the matter is that, despite what he has been saying domestically and despite what Don Burke tries to tell the Australian public, this government has pulled the plug on the Kyoto process. In doing so, it has pulled the plug on the international community. What a great strategy. Failing domestically, the 1999 national greenhouse gas inventory shows emissions at some 17.4 per cent over 1990 levels, and internationally what the government has done is sideline Australia from the debate, line us up with President Bush and turn our backs on the rest of the world. We are amongst a very small number of nations lined up with President Bush. The Labor Party is committed to seeing this process continue to an outcome and to trying to get the protocol ratified in the time line of 2002. (Time expired)

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.11 p.m.)—Senator Bolkus said the Labor Party is committed to trying to get the protocol ratified within the time line of 2002. What does that mean? Does that mean that the Labor Party has a policy position to, come what may, ratify by 2002? If so, why won’t Senator Bolkus say that clearly and unambiguously? He will not say that because there are not rules for the Kyoto protocol. There are not rules in relation to the extent to which the flexibility mechanisms can be utilised. There are not rules in relation to compliance. Senator Bolkus does not know the extent to which an incoming Labor government would be entitled to claim additional sinks under clause 3.4. In those circumstances, no responsible government would ratify.

So what is Senator Bolkus doing? He is trying again—as the Labor Party does so often—to send two messages. The first is a message to the Greens—and Senator Brown might listen to this—saying, ‘You should believe that we will ratify in 2002 although we have not really said that,’ while at the same time he can go to industry, the aluminium manufacturers and so forth and say, ‘We didn’t give a firm commitment to ratify come what may.’ It is the same old doubletalk that we are hearing from Labor so often in this run-up to the next election.

I would have thought by now we ought to know what the Labor Party’s policies are in relation to greenhouse gases—not only whether or not they will ratify the Kyoto protocol but whether they will issue a domestic cap and trade system without the Kyoto protocol. That was the issue that got Senator Bolkus into so much trouble at the last federal conference of the Labor Party when his recommended motion had to be gutted before being debated on the floor. So all sectors, both the Greens and industry, would like to know whether Labor are going to implement domestic binding constraints without there being an international trading arrangement. We know that Senator Faulkner, when he was the environment minister under Labor, took a proposal to government to introduce carbon taxes. Is that the unstated agenda of the Beazley alternative government? If that is their policy, why haven’t they got the political courage to come out and say it?

What we do not know—what we have no idea of—is their alternative in relation to a domestic program. What we do know is that the government has put down a program of domestic reform, which we announced in detail in November 1997, which was backed up with dollars and which has been added to significantly since. That program covers all sectors that contribute to Australia’s greenhouse gas emissions. I mentioned in question time that power stations are going to have to meet new emission standards. We are requiring new motor vehicle emission standards matched by new fuel quality standards. We have already passed the legislation through this place. We have a huge investment in renewable energy, and not only the investment up front of putting dollars into the commercialisation of new products. In all, we have some $350 million invested in renewable energy, but we have also passed compulsory renewable legislation that is go-
ing to require a $2 billion investment from industry to be met.

So I could go on down the list: the Cities for Climate Change, which is the most successful local government program of its type in the world; the achievements that have already been put on the board through the Greenhouse Challenge program, which is our voluntary program for industry; and the role being played by the Australian Greenhouse Office, which is still the only dedicated government office of its type in the world. The government is implementing a comprehensive suite of actions, backed by a budget of approximately $1 billion, designed to enable Australia to achieve the target that we accepted in Kyoto that would require of Australia a fair share of the burden in reducing global greenhouse gases. So, on one side, the government has a clear and unambiguous program—(Time expired)

Senator LUDWIG (Queensland) (3.16 p.m.)—Again what we have heard is a milk-sop about what this government could be doing with the environment—not what it is doing. We have not heard from Senator Hill where he started, and perhaps it is worth while in this debate to go back to that. Senator Hill put out a press release on 29 April 1998. The headline reads ‘Hill Signs Historic Agreement to Fight Global Warming’. He regarded it as a war then, and it seems that he is losing the scrap badly. What he said back then was:

Today’s signing will again send a strong signal to the international community that Australia is prepared to accept a fair share of the burden.

Senator Hill went on to say:

...Australia will now work constructively with the international community to resolve several outstanding issues before considering ratifying the protocol.

We are still at that point; we do not seem to have gone one step further. We do not seem to have sat down and addressed the issues that need to be addressed. We do not seem to have gone to the international community and said, with frankness, ‘We need to resolve these matters.’ In fact, on 26 April 2000, Senator Hill put out a press release with the headline ‘Hill addresses key global warming forum’; this was a forum held in the United States. The telling phrase in that press release is at the end, where it states:

Senator Hill says Australia will continue to work with other nations to resolve the outstanding technical issues in time for the next Conference of the Parties in The Hague in November.

That has already gone past. What is more disturbing is that from 1998 to 2000 we have had two years of ‘we’ll work through this, we’ll negotiate and we’ll see what the issues are and whether we can resolve them’—a lot of what perhaps is called ‘hot air’. This is about greenhouse gas emissions, and so perhaps the term is appropriate.

We also find that the transcript relating to the launch of the National Greenhouse Strategy talks about some of the very issues Senator Hill went to today. That transcript states:

One year on, at the meeting we’ve just completed in Buenos Aires, we had the challenge of trying to drive the Kyoto protocol further forward. And what we’ve done is that we’ve accepted that, all of the flexible mechanisms, joint implementation, emissions trading, the clean development mechanism, the rules under which they are to operate, which are designed to assist the developed world in meeting its commitment, must be settled within the next two years.

That was on 26 November 1998. We all know that they are words that surround greenhouse gas emissions; what we have not heard from Senator Hill are words addressing the international community about resolving some of these issues. Senator Hill needs to come clean. He needs to be able to tell the international community that he will meet them in Bonn; he will meet with a proactive drive forward, as he puts it in his launching statement, about how and where those issues will be resolved, rather than simply mouthing phrases about it. We then find on 19 May 2001 a headline in the Sydney Morning Herald that reads ‘Cancel Bonn meeting on Kyoto: Hill’. In that article it is stated:

... Senator Hill said there seemed little point going ahead with the continuation of the Convention of the Parties (COP6) meeting in Bonn in July when COP7 was due for November anyway.

We have this backward step. But where has this backward step come from? Has it come from Senator Hill all on his own, or is it something that has come out of cabinet? Has
Senator Hill been ruffled and rolled in cabinet? We will not know, unless Senator Hill comes clean. But, when we look at the evidence that is there, it can be seen that, in fact, that is what has happened; he is looking very ruffled about it. We then go forward to Monday 18 June where a headline in the Sydney Morning Herald reads ‘EU puts pressure on Australia in bid to revive Kyoto’. From Senator Hill’s answer today, we heard that he is still blowing in the wind about what he might do. Senator Hill should tell the Senate what the position is. (Time expired)

Senator EGGLESTON (Western Australia) (3.21 p.m.)—This question of greenhouse is one of the major issues facing us in the world today, and the Australian government continues to regard the threat posed by climate change as an issue of great importance. It is an issue of enormous importance, because it could change the climate of the world. That would result in a very different set of circumstances for countries such as the Pacific islands were the ocean levels to rise and flood those low-lying countries. And, of course, it would alter in many ways the lifestyle of people all over the world were the fears about climate change proved to be correct. So there is no question that the Australian government does regard climate change as a major issue to be addressed by the present government—and by any Australian government, no matter what its political colour, at any time in the future.

The Australian government indicated when they signed the Kyoto protocol in April 1998 that possible future ratification of the protocol was dependent upon satisfactory outcomes in four key outstanding areas. They were sinks, compliance, flexibility mechanisms and the involvement of developing countries. Australia has consistently argued that an effective international framework to address climate change needs to be economically manageable and to involve developing countries. There is very little point in the countries of Europe, the countries of North America and perhaps Australia and New Zealand signing on to the Kyoto agreement when vast areas of the world are not participating in any programs at all to reduce greenhouse emissions. In particular, one has to think about huge countries like China consuming huge amounts of hydrocarbon fuel and greatly adding to the level of greenhouse gas emissions around the world. If countries like China, the Russian Federation and the countries of South and East Asia are not involved, then the efforts by other countries to reduce greenhouse emissions become somewhat irrelevant because the net effect on the level of greenhouse emissions will be almost none at all. That is a matter which has concerned the Australian government and to which they have given a great deal of thought.

If you think about the principles underlying any new approach which might be described as a modified Kyoto approach, such an approach must deliver similar long-term climate change outcomes to those implied by the protocol but perhaps in a more equitable way. There must be a means of seeking to minimise harm to future generations, and it makes sense to minimise harm to this generation as well. The solution to anthropogenic climate change lies in developing new technologies, which requires both a reasonable time frame and international supply side policies to bring about results.

The Australia government has done a great deal to reduce greenhouse emissions in this country through its domestic greenhouse program. That program is supported by funding of almost a billion dollars over five years, and it embraces a wide range of strategies including investing $400 million over four years in projects that will provide cost-effective greenhouse emission abatement, substantial funding to develop the renewable energy industry complemented by the renewable energy fund which has provided funding for windmill power generators in the north of Western Australia and given a million dollars in showcase funding to the Derby tidal power project. The government has supported the increased use of efficient energy production mechanisms. (Time expired)

Senator BROWN (Tasmania) (3.26 p.m.)—All of us, I think, agree that global warming is one of the great issues that this parliament has to deal with and that action far beyond that which the international
community is taking, as indicated by the Kyoto protocol, is going to have to be implemented very rapidly if we are to turn around the impact on the environment, the economy and the lifestyle of the next generation of Australians and people around the world that global warming threatens. It is not just supply side that is going to have to be looked at, as Senator Eggleston indicated, but demand side. We have to stop being a greedy, self-invested generation that do not think about the next generations. That is why it is so heartening when you get an international leader like the Prime Minister of Sweden Mr Goran Persson who, in the wake of President Bush’s welching on the Kyoto protocol, said just last week at Gothenburg:

So it’s not a problem for Japan, it’s not a problem for Sweden or for Australia, it’s a problem for all our children and that’s a situation we have to address.

I was heartened to get the response from the minister for the environment at question time, hard as it was to extract, because for the first time we see a gap between the Bush administration’s position and Mr Howard’s position. When asked specifically, the minister said we don’t have the same position as the United States when it comes to compliance with the treaty. The United States has withdrawn from its commitment to reduce greenhouse gases by five per cent. We stick with our commitment, which allows us to increase them by eight per cent. This is a very important difference, because just a week or two ago Mr Howard was saying he understands the Bush administration’s position but now we have disapproval of the Bush administration’s position. It is important because the Australian public disapproves of the Bush administration’s position. There is a by-election coming up at Aston in Melbourne on 14 July and there is a national election coming up at the end of the year, and global warming and the environment are going to be on the agenda and are going to be in the minds of voters.

I do agree with Senator Hill that the opposition, the Labor Party, should make its position clear. It should take some advice from a past Labor minister for the environment Mr Graham Richardson, who said that Labor should get behind the Kyoto protocol. We know that Europe and Japan are going to sort out the fine print, but the objective of the Kyoto protocol is to implement a regime for reducing the output of greenhouse gases internationally by wealthy countries by five per cent come the year 2010.

It is a very modest target—five per cent—whereas scientists tell us that if we are to stop global warming by mid-century, we need to reduce greenhouse gases by 70 to 90 per cent. This is a very tiny step. If the Labor Party wants to win votes from the Australian people, it should put a difference between itself and the government, and it needs to be very explicit and say, ‘We will get behind the Kyoto protocol. When this European delegation comes to Australia, if we come to government at the end of this year, we will back the path you are setting in leading the world away from this global warming monstrosity that is stalking the lives of the next generation.’

On the matter of that top level EU delegation, the minister indicated that, if it is at ministerial level, he will meet them; if there is a prime minister there, the Prime Minister will meet them. That is very important, because I will use my green contacts in Sweden and Belgium to put on as much pressure as I can for their prime ministers to come on that delegation. They know a lot more about global warming than Prime Minister Howard. It would be instructive for him to hear from prime ministers who have the responsibility to at least bring onto their agenda the rights and interests of the next generation.

Question resolved in the affirmative.

Detention Centres: Joint Committee on Foreign Affairs, Defence and Trade Report

Senator BARTLETT (Queensland) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill) to a question without notice asked by the Leader of the Australian Democrats (Senator Stott Despoja) today relating to immigration detention centres.

It is worth noting the responses and the previous motion to take note in relation to the
Kyoto protocol and the contributions made by the ALP. The Democrats strongly urge the ALP to strengthen their position in relation to the Kyoto protocol. It is at a critical stage, and it is crucial that the ALP take a stronger position. Their previous stance on this, when it has come up in the Senate, has basically been to say that the time is not right for ratifying the protocol. The Democrats believe that that is incorrect and that it is not sufficient. If the Labor Party want to kid themselves that the preferences of Democrat voters are not influenced by their stance on the Kyoto protocol or on other key issues where they have failed in the past, like the inclusion of wood waste from native forests as renewable energy in the existing legislation, they are kidding themselves—they are wrong.

Those are crucial issues, along with their stance on social policy issues that the Democrats and Democrats voters watch very closely in relation to preferences. But even much more broadly than simply preferences at polling day, it is crucial for all political parties to take the opportunity raised by the unfortunate position taken by President Bush of the US to reject the Kyoto protocol and change Australia’s inadequate position to date. We should move towards the position of ratifying the protocol as the opportunity is put forward by the position taken by other European countries and countries such as Japan. Australia can reposition itself. It can contribute to the international momentum in favour of ratifying the Kyoto protocol. That is the position of the Democrats, and we urge all other parties to move towards it.

Senator Hill also responded to a question in relation to detention centres. It is, again, a challenge not just to the government but to the ALP in relation to this issue. The importance of the recommendations of the Joint Standing Committee on Foreign Affairs, Defence and Trade should not be underestimated. It was a clear, strong, unanimous, cross-party report from parliamentarians who took the time, who went to the detention centres, who heard the evidence, and who saw for themselves that we need to move away from our indefinite, no-exemptions, mandatory detention policy. That policy not only is held by this government but also was introduced by the Labor Party when they were in government. It is a challenge not just to the Prime Minister and the Minister for Immigration and Multicultural Affairs but to Mr Beazley and the Labor opposition to change their policy.

Clearly, the existing policy on detention centres is not working. Clearly, it is grossly expensive. Clearly, it is incredibly inhumane. Clearly, there are alternatives that are currently used by virtually every other developed country in the world. It is not an approach that is taken by other countries. Only Australia takes this approach, and clearly it does not work. We need the Prime Minister and the Minister for Immigration and Multicultural Affairs to take on board this significant shift put forward by the joint standing committee on foreign affairs. They are landmark recommendations. They move towards the position that the Democrats and many others in the Australian community have been advocating for many years. As the situation in detention centres gets worse and worse, the urgency of not just the government but the opposition having to reconsider their position on this important issue grows daily. The Democrats urge the minister, the Prime Minister and the opposition to change their policy in this area. It has clearly failed. To continue further down the wrong track is simply to continue with their heads in the sand. Not only will the real victims be those many thousands of men, women, children and families suffering in detention centres now; the losers will be the Australian community.

Tomorrow is World Refugee Day. It is an important issue and it is unfortunate that it is not getting the attention it deserves from the government, the opposition and the media. It needs more emphasis. We need to move away from our punitive approach on refugees and asylum seekers and from the failed policy of mandatory detention and move towards something that is more workable and that is in the interests of the Australian community as well as the asylum seekers. (Time expired)

Question resolved in the affirmative.
NOTICES

Presentation

Senator Calvert to move, on the next day of sitting:
That the Parliamentary Standing Committee on Public Works be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 21 June 2001, from 10.30 am to 12 pm.

Senator Chapman to move, on the next day of sitting:
That the time for the presentation of the report of the Parliamentary Joint Committee on Corporations and Securities on the provisions of the Corporate Code of Conduct Bill 2000 be extended to 28 June 2001.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Meeting
Motion (by Senator Calvert, at the request of Senator Crane)—as amended, by leave—agreed to:
That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 19 June 2001, from 7.15 pm to 10.15 pm, to take evidence for the committee’s inquiry in respect of the 2001-02 budget estimates for matters relating to regional services, territories and local government within the Department of Transport and Regional Services.

NOTICES

Postponement

Items of business were postponed as follows:
Business of the Senate notice of motion no. 1 standing in the name of Senator Collins for 21 June 2001, relating to the disallowance of the Workplace Relations Amendment Regulations 2000 (No. 3), postponed till 27 June 2001.

COMMITTEES

Employment, Workplace Relations, Small Business and Education Legislation Committee

Extension of Time
Motion (by Senator Carr) agreed to:
(2) That the Employment, Workplace Relations, Small Business and Education Legislation Committee hold a further public hearing on the bill on 25 June 2001, between 11 am and 1 pm, and for that purpose have leave to meet during the sitting of the Senate.
(3) That the Senate directs the Minister representing the Minister for Education, Training and Youth Affairs to ensure that relevant officers appear before the committee at that hearing for the purpose of answering questions about the bill.

Foreign Affairs, Defence and Trade Legislation Committee

Extension of Time
Motion (by Senator Calvert, at the request of Senator Sandy Macdonald) agreed to:
That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Legislation Committee on the 2001-02 budget estimates be extended to 27 June 2001.

Foreign Affairs, Defence and Trade Legislation Committee

Meeting
Motion (by Senator Calvert, at the request of Senator Sandy Macdonald) agreed to:
That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 19 June 2001, from 7 pm to 11 pm, to take evidence for the committee’s inquiry on the 2001-02 budget estimates for the Foreign Affairs and Trade portfolio on trade-related issues.

Legal and Constitutional Legislation Committee

Extension of Time
Motion (by Senator Calvert, at the request of Senator Mason) agreed to:
Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Motion (by Senator Calvert, at the request of Senator Crane) agreed to:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Maritime Legislation Amendment Bill 2000 be extended to 28 August 2001.

BALTIC PEOPLE: 60TH ANNIVERSARY OF MASS DEPORTATIONS

Motion (by Senator Calvert) agreed to:
That the Senate notes that:
(a) 14 June 2001 marks the 60th anniversary of the start of the Soviet Union’s mass deportations of Estonians, Latvians and Lithuanians from their homes to Siberia and other foreign destinations;
(b) during the night of 13 to 14 June 1941, thousands of Baltic residents of all ages were arrested by armed men, taken to railway stations, loaded into cattle wagons and deported;
(c) these mass deportations continued on and off until 1953;
(d) precise numbers of the Baltic deportees are difficult to determine, with conservative evidence showing that over half a million local residents of all ethnic origins were deported from the three Baltic States by 1953;
(e) these innocent people had committed no offences; they were arrested and imprisoned as ‘political prisoners’ and as ‘enemies of the people’, with less than half surviving deportation;
(f) Baltic immigrants to Australia have contributed significantly to Australia, its culture and its diversity; and
(g) the sad events that are solemnly commemorated on 14 June by Baltic people across Australia, and across the world, stand in stark contrast to the robust democracy that all Australians enjoy and commemorate in this, Australia’s Centenary of Federation Year.

GRENVILLE, MS KATE: ORANGE PRIZE

Motion (by Senator Allison) agreed to:
That the Senate:
(a) notes that:
(i) Australian writer, Kate Grenville, was awarded £30 000 and the prestigious Orange prize for fiction by women writers, for her novel published in 1999 entitled, The Idea of Perfection, and
(ii) few Australian writers can make a living without such other means of support; and
(b) congratulates Ms Grenville for this recognition of her work.

INDONESIA: DETENTION OF CONFERENCE PARTICIPANTS

Motion (by Senator Brown) agreed to:
That the Senate:
(a) notes:
(i) the police raid that resulted in the unlawful detention of 32 foreigners, including 20 Australians, attending a labour and human rights conference near Jakarta, Indonesia on 8 June 2001, and
(ii) the Jakarta Post editorial of 11 June 2001, condemning the police raid with the words ‘the day the nation turns a blind eye to its own law enforcement institutions breaking the law and the constitution is the day this nation kisses goodbye to democracy’;
and
(b) calls on the Minister for Foreign Affairs (Mr Downer) to condemn the police raid and seek an appropriate response from the Indonesian Government.

TRADE PRACTICES AMENDMENT (REPRESENTATIVE ACTIONS) BILL 2001

TRADE PRACTICES AMENDMENT (MERGERS IN REGIONAL MARKETS) BILL 2001

TRADE PRACTICES AMENDMENT (UNCONSCIONABLE CONDUCT) BILL 2001

TRADE PRACTICES AMENDMENT (OPERATION OF STATE AND TERRITORY LAWS) BILL 2001

FAIR PRICES AND BETTER ACCESS FOR ALL (PETROLEUM) BILL 2001

First Reading

Motion (by Senator Schacht) agreed to:
That the following bills be introduced: a bill for an act to amend the Trade Practices Act 1974 to enable the Australian Competition and Consumer Commission to undertake representative actions, and for related purposes; a bill for an act to amend the Trade Practices Act 1974 in relation to mergers in regional markets, and for related
purposes; a bill for an act to amend the Trade Practices Act 1974 in relation to unconscionable conduct, and for related purposes; a bill for an act to allow State and Territory laws to operate concurrently with the Trade Practices Act 1974 and a bill for an act to allow franchisees in the petroleum sector to purchase fuels for re-sale from a variety of sources.

Motion (by Senator Schacht) agreed to:

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

Bills read a first time.

Second Reading

Senator SCHACHT (South Australia) (3.43 p.m.)—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—

TRADE PRACTICES AMENDMENT (REPRESENTATIVE ACTIONS) BILL 2001

This bill I am introducing in the Senate today flows from the Retail Committee’s recommendation to extend to the ACCC power to take representative action on behalf of third parties for breaches of Part IV of the Trade Practices Act 1974, including the all-important sections 46 and 47.

This recommendation also came from the Reid committee, which examined a range of small business issues, including tenancy issues. The ACCC already has the power to take representative action under Parts IVA and V of the act, and it makes sense to extend that to Part IV. The reasons it is not in Part IV already are largely historical and date from the time when different ministers had different responsibilities for different parts of the Act. It is time that inconsistency was addressed.

It is well known that Labor does not support the secondary boycott provisions being part of the Trade Practices Act, and instead should be dealt with in industrial relations legislation. Therefore, Labor is not prepared to extend the ACCC’s power to take representative action under sections 45DA & E of the Act.

This bill is based on a simple concept to give the ACCC the opportunity to recover damages on behalf of an injured person – a small business person – who has been subject to some sort of foul play that breaches sections 46 or 47 of the Trade Practices Act. While the ACCC is in court prosecuting the offending party it can gather compensation for the small party that has been injured. That is eminently sensible.

Currently, the larger players can be fined up to $10 million for these offences but, of course, that $10 million goes back into general revenue for the Government. No part of that $10 million can be passed on to the injured party. Both the Reid committee and the Joint Select Committee on the Retailing Sector, of which I was a member, unanimously recommended it. Both committees were made up of members of parliament from all political parties represented in this place. It is only right that the Government should adopt it.

I am forced to introduce this initiative as a private member’s bill, because the Government refused to accept Labor’s amendments to the Trade Practices Amendment Bill (No 1) 2000. The Government has literally dropped the ball on the recommendations of these Committees.

We’ve known since the lower house rejected Labor’s amendments on the Trade Practices Amendment Bill (No 1) 2000 that the Government is prepared to put the big end of town, and its obsession with the trade union movement ahead of small business interests.

And what did the Government do when it rejected these amendments? It was putting at risk all those initiatives that have been begging for adoption since 1997—from the date the Reid committee made its recommendations to the Parliament. Here we are in the year 2001 and we are still trying to get them through the Parliament.

The Government was dragged screaming to the establishment of a retailing committee after the Labor Party made the pre-1998 election commitment to it. And what did the Government do next? It made sure none of the recommendations ever saw the light of day.

Bruce Baird was handed the poisoned chalice as the Committee’s Chair. The Government was never serious about implementing any initiatives flowing out of the Committee and it was made abundantly clear to the Chair that it would not accept any changes—demonstrated when the Government rejected his Committee’s recommendation that a mandatory retail code be established.

I challenge members and senators of the Government to support this bill as a sign of their commitment to small business, and commend it to the Senate.
TRADE PRACTICES AMENDMENT
(MERGERS IN REGIONAL MARKETS)
BILL 2001

This private senator’s bill expands the definition of what constitutes a market under section 50 of the Trade Practices Act 1974. It will allow the ACCC to take into account when considering a merger application or any like proposal the impact on competition within a particular region.

This bill is modelled on one of the important initiatives that came from the recommendations of the Joint Select Committee on the Retailing Sector. I draw your attention to the fact these recommendations were made over three years ago. Recommendations this Government has refused to take up at the expense of small businesses in regional Australia.

Currently, the Act defines a market as a substantial market for goods and services in Australia in a state or territory. This bill will allow a much broader definition by inserting the term ‘region’ into section 50 of the Trade Practices Act. This will allow the ACCC to consider the likely impact of an acquisition or a merger in a particular region.

When considering this issue, the Joint Select Committee had in mind the notion of ‘creeping acquisitions’, particularly in rural and regional Australia. For example, there may be one particular acquisition of an independent store by a national supermarket chain that may not in itself constitute a lessening of competition in a wider market, but over time a number of like acquisitions could certainly impact upon competition in a given rural or regional community or a rural region.

Labor first committed itself to the outcomes of the Joint Select Committee on the Retailing Sector prior to the 1998 election. After the election and due to intense pressure from the small businesses in the retailing sector, the Coalition reluctantly agreed to follow Labor’s lead.

By rejecting the broadening of this definition when it formed part of the Trade Practices Amendment Bill (No 1) 2000, the Government delayed a key protection measure for small businesses. With this private member’s bill and the subsequent Parliamentary vote, the small business community will be able to judge for itself whether the Howard Government is its ‘champion’. I commend this Bill to the Senate.

TRADE PRACTICES AMENDMENT
(UNCONSCIONABLE CONDUCT) BILL 2001

This private senator’s bill amends the Trade Practices Act 1974 to raise the transaction limit under section 51AC of the Trade Practices Act from $1 million to $3 million.

Raising the transaction limit will ensure that all firms have access to this new protection against unconscionable conduct, which we see evidence of from time to time from larger players in the market.

In general terms, section 51AC provides that a corporation must not engage in unconscionable conduct in relation to business transactions involving the supply, or acquisition of goods and services of under $1 million or such higher amount as is prescribed. This provision was inserted into the Trade Practices Act in 1998 and was intended to be a substantive legal remedy for small business against unconscionable conduct.

Having considered this issue the Joint Select Committee (Baird) on the Retailing Sector found that the $1 million transaction threshold hindered access by small business. In other words, the limit was too low for high volume, low margin small business people like service station operators.

As my colleague, Joel Fitzgibbon, Shadow Minister for Small Business knows, these are important issues at the moment. Having sat on the Baird Committee and worked hard to see the Committee’s recommendations come to fruition, Mr Fitzgibbon knows this bill provides the Government with a perfect opportunity to remedy some of the pain small businesses are experiencing in the GST environment.

This government claims to be a government of small business. It is the government that was going to cut red tape compliance for small business by 50 per cent, bolster cash flow for small business and bolster profits for small business. It is the government that promised the small business community it would abolish provisional tax. That must be the greatest fraud ever perpetrated on the small business community.

By rejecting the Labor amendments to the Trade Practices Amendment Bill (No 1) 2000, the Government is putting at risk all those initiatives that have been begging for adoption since 1997—from the date the Reid committee made its recommendations to the parliament. Here we are in the year 2001 and we are still trying to get them through the parliament. And why are we having difficulty now getting them through the parliament? Because of the government’s intransigence on this issue and because of their desire to put their obsessive hatred—and we hear it in question time day in and day out—of the trade union movement before the interests of small business.

These are recommendations that were unani-
nously adopted by the retailing committee only two years ago and we are still considering them. What those two committees wanted to do and what the Labor Party wants to do is confer that power on the ACCC. We tried and failed with amendments to the Trade Practices Amendment Bill (No 1) 2000. The Government stood in the way and attempted to give the ACCC power to take action against unions under the secondary boycott provisions. How frustrating this is, how disappointing for small business—now we are forced to introduce private member’s bills to get this initiative before the Parliament.

The secondary boycott provisions in sections 45 D&E of the Trade Practices Act are not necessary to implement the objectives of the Reid and Baird Committees. What the Committees had in mind was the misuse of market power provisions of the Act, currently the ACCC can take action against a firm guilty of misuse of market power and secure fines of up to $10 million. However, that penalty is of no assistance to a small business that has been injured by the actions of a larger player in the market. These matters go to Sections 46 and 47 of the Trade Practices Act, and at no time did either Committee consider 45 D&E to be an issue for small business.

Labor has said we will adopt all of the recommendations of the Retailing Committee, including a mandatory code and the principle of like terms for like customers in an industry code. We want to revisit retail lease issues, a huge issue for small business around this country. But I will tell small business that, unfortunately, they still do not have those provisions available to them because the Government refused to let the Trade Practices Amendment Bill (No 1) 2000 through the House of Representatives. I will tell them that in this very place, the Opposition and the Democrats agreed—having looked at the deliberations of the Reid committee and the Joint Select Committee on the Retailing Sector—that those committees never turned their minds to the secondary boycott provisions and that the exclusion of the secondary boycott provisions in no way undermines the effectiveness of what both committees set out to achieve.

That is what I will tell them—just as I will tell them that Sandra Nori, the Small Business Minister in New South Wales, has been waiting since 1998 to have the Retail Leases Amendment Act enacted. An initiative that contains a key provision to prohibit unconscionable conduct in retail shop lease transactions.

I challenge members and senators of the Government to support this bill as a sign of their commitment to small business. This will be a true test of their sincerity, particularly after the lack of initiatives for small business in the Budget. It is time to start helping small business and stop politicising this debate.

I am proud to introduce this Bill. It is a significant initiative and I commend it to the Senate.

TRADE PRACTICES AMENDMENT (OPERATION OF STATE AND TERRITORY LAWS) BILL 2001

This private senator’s bill amends the Trade Practices Act 1974, to ensure there are no direct inconsistencies between Commonwealth and State law under the Act.

This bill is Labor’s last resort to ensure vital small business protection measures under the Trade Practices Act. Measures that the Government has been painfully slow to respond to— at the expense of small business.

The Government rejected this initiative when it formed part of the Trade Practices Amendment Bill (No. 1) 2000. The Coalition placed its loyalty to the big end of town and its long-standing obsession with the trade union movement ahead of the interests of Australian small business.

This is a very sensible bill, one which my colleague, the Shadow Minister for Small Business, Mr Fitzgibbon moved as an amendment in the House of Representatives last year during the debate on A New Tax System (Trade Practices Amendment) Bill 2000. Extraordinarily, on that occasion the Government voted down his amendment.

As is acknowledged in the Bills Digest, he later introduced the provision by way of a private member’s bill on June 5 last year. The amendment will ensure that in future the Trade Practices Act unconscionable conduct provisions do not override state and territory laws when they are inconsistent with the Act.

The request for the so-called savings provisions first came from the New South Wales government in 1998 when it introduced new retail leases legislation to provide small business retailers with an easy to access, low cost, dispute resolution process. That very effective legislation— and I congratulate New South Wales Small Business Minister Sandra Nori on it— is yet to be proclaimed in New South Wales because it may be vulnerable under section 109 of the Constitution.

Section 109 of the Constitution provides that when a law of a state is inconsistent with the law
of the Commonwealth the latter will prevail and the former will, to the extent of the inconsistency, be invalid.

This amendment should have been introduced into this House at least a year and a half ago. The delay in doing so has been unacceptable and I know it has been a matter of some concern to the New South Wales Government. This is a wonderful opportunity for the Federal Government to finally move on this initiative.

How the Government votes on this Bill will be a test of its sincerity, and I call on its members to stop politicising this debate and to support its passage. That way, small firms can get on with what they do best—growing their business and employing people.

I commend this bill to the Senate.

FAIR PRICES AND BETTER ACCESS FOR ALL (PETROLEUM) BILL 2001

The private senator’s bill I am introducing today proposes to do what the Government promised to do but failed to do—that is, bring petrol prices down and reduce the outrageous gap separating city and country fuel prices. It will do so for the first time by giving service station operators the opportunity to shop around for their fuel. For too long, the major oil company oligopoly has controlled and manipulated petrol prices all the way from the refinery to the bowser. With the arrival of Woolworths and other independents, there is evidence of the benefits of new competition at the retail level. It is now time to introduce that same level of competition at the wholesale level.

This bill that I am introducing today will do just that. It will do so by allowing resellers to secure up to 50 per cent of their fuel supplies from sources other than their principal branded supplier. In other words, if a Caltex franchisee in Cessnock, Longreach or Dubbo is approached by Caltex and offered a price for his fuel, for any given week he will have the ability to go to Shell, Mobil or BP seeking a more profitable arrangement, which in turn can be passed on to consumers.

The bill will deliver this right and protect resellers who choose to exercise it. It will deliver the first point by making all future contracts between those covered by the Oilcode subject to section 47 of the Trade Practices Act. It will protect resellers from retribution from oil majors by providing ACCC enforcement.

Australian motorists have been held ransom to the major oil companies for too long. Petrol price hikes over holiday periods have confirmed in the minds of motorists what they already knew—that the Government’s so-called 1998 petroleum industry reforms have been a failure. Rather than seeking to curtail the ability of the major oil companies to manipulate prices, the government now wants to enhance their power by repealing the Petroleum Retail Marketing Sites Act 1980. This Act was a Fraser Government initiative designed to address the heavy concentration in the industry by restricting the number of service stations the oil majors may directly operate. But now the Government wants to remove that barrier. It wants to give the oil majors the absolute power to manipulate prices and take their economic rents wherever and whenever they can. That, of course, will be concentrated in rural and regional Australia.

So, at a time when we should be looking to curtail the control that the major oil companies have over retail prices, the Howard Government wants to strengthen that power.

The bill I am introducing today addresses this serious imbalance. If supported by the Parliament, this bill will put an end to the cosy arrangements enshrined in contractual agreements that give the oil companies exclusive supply rights to resellers.

Importantly, this bill embraces the principles that have been contained within Western Australian and Victorian state law since the early 1980s. However, service station operators in those states have not been able to take advantage of the ability to shop around for their fuel offered by the state acts because the oil majors have been very quick to challenge such behaviour as constituting ‘passing off’.

The Fair Prices and Better Access for All (Petroleum) Bill will deny the major oil companies the ability to entrench anti-competitive practices on those grounds, and introduce some transparency at the wholesale pricing level. Unlike the products sold by fast-food chains, petrol is a homogenous product. The fuel you buy at a Caltex service station is exactly the same as the fuel you buy at a BP or Shell service station.

The Senate Economics References Committee that examined the merits of this bill earlier this year recommended its adoption. The Committee accepts the view of the ACCC, the National Farmers’ Federation and a number of other industry players who supported the bill throughout the inquiry process. Once the bill secures the support of the Senate, the onus will be on the Howard Government to jettison its blind loyalty to the major oil companies, and give motorists and small business station operators a break by supporting the principles contained in this bill.
Before the introduction of the GST, John Howard and Peter Costello promised Australians the GST would not increase the price of petrol. It did. And it was a significant increase. By not reducing the excise enough when the GST was introduced, the Howard Government has subjected motorists to some of the highest petrol prices in Australia since July 2000.

As a result of the Howard Government’s refusal to remove the impact of the GST on inflation when calculating its automatic indexation of petrol, the February 2001 GST spike was created and passed onto motorists in the form of a petrol price hike of one-and-a-half cents a litre. The double-tax take to line the coffers of the Government.

Labor held the Government accountable on these broken promises, and forced John Howard to cut fuel excise and to abandon fuel indexation earlier this year. This bill is a crucial mechanism to break the major oil companies’ control over the price of fuel all the way from the refinery to the bowser. And Australian motorists stand to benefit from the support of this bill in the Parliament.

Wholesale competition reform is long overdue in the petroleum industry. Government members and senators cannot deny the significance of this initiative and I call on them to support the passage of this bill. I am proud to be introducing this bill, and commend it to the Senate.

Debate (on motion by Senator Calvert) adjourned.

COMMITTEES
Rural and Regional Affairs and Transport Legislation Committee
Extension of Time
Motion (by Senator Calvert, at the request of Senator Crane) agreed to:

That the time for the report of the Rural and Regional Affairs and Transport Legislation Committee on the 2001-02 budget estimates be extended to 28 June 2001.

AUSTRALIAN PUBLIC SERVICE: CENTENARY

Motion (by Senator O’Brien, on behalf of Senator Faulkner) agreed to:

That the Senate:

(a) notes that the week beginning 17 June 2001 marks the centenary of the Australian Public Service (APS);

(b) congratulates the APS on the achievement of this milestone;

(c) recognises the vital contribution the APS has made to Australia’s first 100 years as a nation and to the strength and stability of its system of government; and

(d) expresses its appreciation to all past and serving public servants for a vitally important job well done.

BUDGET 2001-02

Portfolio Budget Statements

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.45 p.m.)—I table corrigenda to the portfolio budget statements 2001-02 for the Department of Veterans’ Affairs; the Employment, Workplace Relations and Small Business portfolio; the Immigration and Multicultural Affairs portfolio; and the Industry, Science and Resources portfolio. I inform honourable senators that copies are available from the Table Office.

COMMITTEES

Public Works Committee
Report

Senator CALVERT (Tasmania) (3.46 p.m.)—On behalf of the parliamentary Joint Committee on Public Works, I present report No. 6 of 2001 relating to the proposed Commonwealth Law Courts, Adelaide, South Australia. I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—

Madam President, this report relates to the construction of a purpose-built building to accommodate four Federal courts:

1. the High Court;
2. the Federal Court;
3. the Family Court; and
4. the Federal Magistrates Service.

Purpose-built Commonwealth law courts have already been completed in Hobart, Sydney and Parramatta, Perth, Brisbane and Melbourne. Adelaide is the only State capital without its own purpose built premises.

The need

The Committee supports the proposed development in Adelaide and is of the view that the building is long overdue.
The need for the proposal arose from the deficiencies in the existing leased space. A lack of space in the existing accommodation has significantly limited the number of people that can attend court trials.

In the absence of the new building, future growth of the courts could only be met by leasing extra space at the Grenfell Centre, the current accommodation. This situation would lead to extra leased space on non-contiguous floors. The result would not only be inconvenient to court officials, but would compromise the level of security that could be provided.

**Security**

The question of ensuring security is a major concern and was a fundamental consideration in the implementation of the Commonwealth courts program.

The current security arrangements in Adelaide are inadequate and below the standard set in other Commonwealth law court buildings.

**Project cost**

Madam President I would like to make a few comments about the cost of the project.

On 8 February 2001, when the Parliamentary Secretary to the Minister for Finance and Administration referred this project in the House to the Public Works Committee for consideration and report, the cost was $73.7 million.

A few days before the public hearing, on 27 April 2001, this figure was revised upwards and the project is currently estimated at $76.6 million.

While the Committee accepts that the nature of design and construction for such projects may require some cost variation, the Committee expects that agencies proposing public works should ensure cost estimates meet three criteria when a work is referred to the Public Works Committee.

The criteria are that cost estimates be:
1. detailed;
2. accurate; and
3. current.

**Public access – a State/Local government issue**

During the Inquiry, the Committee was confronted with an issue that was of particular concern to the South Australian Government and the Adelaide City Council. The issue related to the closure of a small public thoroughfare as part of the building site. The public access road was identified as Nelson Street.

The Committee views the question of access as one for resolution between the State and local governments. However, the Committee urges the continuation of dialogue between all parties concerned in order that they may reach a satisfactory outcome.

**Heritage issue**

Madam President, the Committee is strongly of the view that major Commonwealth buildings, such as the proposed Commonwealth law courts in Adelaide should express our contemporary culture and form part of our national heritage.

The proposed Commonwealth courts complex will be located in the Victoria Square conservation area in Adelaide, which is entered in the Register of the National Estate. As such, the proposed complex should accord with its surroundings.

To this end, the Australian Heritage Commission and Heritage South Australia made a number of suggestions aimed at ensuring that the heritage values of the Victoria Square conservation area are maintained. They relate to the design of the building, a more subdued treatment of the facade and ongoing consultation about the proposed materials and finishes to be used.

The Committee supports these suggestions and is pleased that the Department of Finance an Administration has already incorporated elements of these proposals in their revised design plans.

**Recommendations**

The Committee has recommended that the Department of Finance and Administration ensure ongoing consultation in relation to heritage and access matters are maintained with the Australian Heritage Commission and the Adelaide City Council.

The Committee has recommended that the proposed construction of a Commonwealth law courts complex in Adelaide proceed at a cost of $76.60 million.

I commend the Report to the Senate.

Question resolved in the affirmative.

**BROADCASTING LEGISLATION AMENDMENT BILL (No. 2) 2001**

Report of Environment, Communications, Information Technology and the Arts Legislation Committee

Senator Calvert (Tasmania) (3.46 p.m.)—On behalf of Senator Eggleston and on behalf of the Environment, Communications, Information Technology and the Arts Legislation Committee, I present the report of the committee on the provisions of the Broadcasting Legislation Amendment Bill (No. 2) 2001, together with the Hansard rec-
Ordered that the report be printed.

**EXCISE TARIFF AMENDMENT BILL (No. 2) 2001**

**CUSTOMS TARIFF AMENDMENT BILL (No. 3) 2001**

**First Reading**

Bills received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

**Second Reading**

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.48 p.m.)—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—

**EXCISE TARIFF AMENDMENT BILL (No. 2) 2001**

The Excise Tariff Amendment Bill (No. 2) 2001 contains amendments to the Excise Tariff Act 1921.

On 1 March 2001, the Prime Minister announced a package of Government measures to cut petrol and diesel fuel excise. As part of that package, the Prime Minister announced that legislation would be introduced in the Parliament as soon as possible to abolish indexation of excise and customs duty for all petroleum fuels. These fuels include leaded and unleaded petrol, diesel, aviation fuels and burner fuels such as fuel oil, heating oil and kerosene.

The amendments in the bill give effect to the Government's decision by altering the indexation provisions of the Excise Tariff Act to exclude all petroleum fuel products from the application of the provisions, for the indexation period commencing on 1 August 2001 and any subsequent indexation period.

Complementary amendments for equivalent imported goods are contained in the Customs Tariff Amendment Bill (No. 3) 2001.

The automatic six monthly indexation of excise was introduced in 1983 by the Hawke Government. Its abolition in respect of petroleum fuel products will be a significant discipline on governments now and into the future.

This measure comes in addition to the 6.7 cent per litre reduction in the excise on unleaded petrol on 1 July 2000, as well as the 1.5 cent per litre reduction announced by the Prime Minister on 1 March 2001.

Full details of the measure in the bill are contained in the explanatory memorandum.

I commend the bill.

__________________________

**CUSTOMS TARIFF AMENDMENT BILL (No. 3) 2001**

The Customs Tariff Amendment Bill (No. 3) 2001 contains an amendment to the Customs Tariff Act 1995.

This amendment gives effect to the Government's decision, announced by the Prime Minister on 1 March 2001, to abolish the indexation of customs duty on imported petroleum fuels.

The bill amends the Table in subsection 19(1) of the Customs Tariff Act. Section 19 permits the indexation of customs rates of duty in line with movements in the excise rate of duty for similar goods. The amendment to the table removes the paired Customs Subheadings and Excise Items relating to petroleum fuels.

This amendment is complementary to amendments being made to the Excise Tariff Act 1921.

Full details of the measure contained in this bill are contained in the combined Australian Taxation Office and Customs explanatory memorandum.

I commend the bill.

Debate (on motion by Senator O'Brien) adjourned.

Ordered that further consideration of these bills be made an order of the day for a later hour of the day.

**EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 2001**

**Second Reading**

Debate resumed from 18 June, on motion by Senator Patterson:

That this bill be now read a second time.
Senator BARTLETT (Queensland) (3.49 p.m.)—I was part of the way through speaking on the Export Market Development Grants Amendment Bill 2001 when the Senate moved to the adjournment last night. I will continue to put forward the Democrats' position on this bill. I was speaking about the government’s use of this bill to exclude the funding provided through this grants bill being utilised by people wishing to export X-rated products. That is a part of the bill the Democrats are not opposing—indeed, we are not opposing any of the bill—but we draw attention to it to highlight that the government recognises that it is appropriate to shape funding schemes, subsidy schemes, grants and the like so that the government is not subsidising harmful products, whether they be socially harmful, environmentally harmful or whatever.

The Democrats are concerned about the ability of the scheme to allow the support of businesses that export products made from native forests. I have circulated a few amendments and that issue is addressed in one of them. I will speak to the amendments a little bit now to save me expanding on them at length in the committee stage of the bill. It is certainly not my intent to delay the legislation. I think it is important to put forward some of these issues. The scheme allows support and subsidisation of industries that export products made from native forests. It also allows the support of industries that develop, produce and export fossil fuels that will increase our greenhouse emissions. In the Democrats view, we should not be using extra subsidies to encourage the development of these products. We are not trying to ban them overnight or anything like that. They are legal products and those industries continue to operate as industries. But providing extra taxpayer funds to subsidise the expansion and export of such industries is undesirable. In this case, the scheme offers $750 million, or $150 million over five years. That is a fair amount of public funds. In the Democrats view, it is quite appropriate to ensure that those subsidies do not help promote the expansion of industries that should not be expanded.

We have heard recently in this chamber of the need to change our approach and our attitude on climate change issues. Certainly, although there is no indication that fossil fuel exports or native forest products comprise a major part of the scheme, grants to the fossil fuel industry and to forest product industry people have occurred. We believe that that is not the best use of public funds. Currently, the scheme provides no ethical framework for assessing grant applications. Exporters of guns are as likely to be funded as exporters of educational software. We put forward an amendment as well that requires that applications for subsidies under this scheme be assessed against ethical criteria. The criteria are not contained in the amendment but would be developed in regulations and would ensure that Australian exports are not only moneymakers but ambassadors for the kind of society that we want to be.

We also have an amendment that relates to provisions in the current scheme that allow certain information to remain secret under the very broad tent of commercial-in-confidence. Again, this is not out of the ordinary, but it is a practice that the Democrats believe has grown out of control. We need to stop the continuing hiding of details in relation to expenditure of public funds under this very broad definition of commercial-in-confidence. If an activity represents a trade secret or a secret process that is not protected by other means, preventing the release of that information is legitimate. To prevent release of information about a product, a location or other data under the excuse of commercial-in-confidence should not be supported. The Democrat amendment seeks to ensure particularly that, when private businesses avail themselves of public money, their activities are appropriately open to public scrutiny and accountability.

These amendments are not comprehensive. They simply put forward a few areas that we believe need to be taken into account whenever we are looking at schemes that involve a significant expenditure of public funds and the subsidising of corporations and business activities. Again, it is not something the Democrats oppose per se. We strongly believe that it is appropriate in many circum-
stances to provide public assistance for the development of appropriate business activities and exports. Hence, we are supporting this bill, which provides for the continuation of the scheme. We do believe it is time we started to look at shaping more appropriately the expenditure of such significant amounts of public funds, whether it is on ethical grounds or in relation to environmental or other social grounds—as, indeed, the government has done in a very limited way in this bill in relation to X-rated material.

There are a number of other issues that the Democrats believe could be considered. This bill provides for the scheme to be reviewed in about four years time, so they can be included then. There is an issue about whether the eight-year period of the scheme is too long and whether it could be shorter. Most of the evidence is that the majority of the benefits provided by the scheme occur in the earlier years of the scheme, rather than the later years in terms of when businesses first access it. Also, there may be more scope for an industry based rather than an individual business based approach as a target for export industry subsidies and we may be able to do more to use these schemes to promote the export of innovation in areas that have specific importance, such as alternative energy, education and other environmental areas. There may be other mechanisms and areas where the scheme should not be available and where we should not be encouraging further development of other industries, whether on environmental or social grounds.

The scheme has been operating for over 25 years now, and it has obviously been successful at many basic levels. But the Democrats believe it is time for such subsidy schemes to become smarter and more representative of community concerns and values and to not simply look at dollars and cents but also take into account the triple bottom line—economic, environmental and social values—and combine those rather than simply deal with things on a purely dollars and cents basis. We made a limited attempt to start in that direction with some of the amendments I put forward, which I will address in slightly more detail in the committee stage.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (3.56 p.m.)—I thank all the senators for their contributions. The EMDG Scheme has proven a success in assisting small business to export, and it is a key plank in the government’s strategy for a robust, internationally competitive economy. The EMDG Scheme complements the government’s other efforts to promote Australian trade and exports through reduced trade barriers and by improving our trade representation around the globe. The Labor Party—who did not support the new tax system and who now do not know whether they support it and how much they will roll it back—failed to acknowledge that since the introduction of the GST the new tax system has removed $3.5 billion in indirect taxes on exporters every year.

Wholesale sales tax, as it accumulated, had a trickle-down effect on items from the farm gate or from the manufacturer right through to export—they were riddled with trickle-down wholesale sales tax. Now those exports are free of the shackles of $3.5 billion in indirect taxes on exporters every year, and that makes Australian exports much more competitive, which has been reflected in our export record. Each year the EMDG Scheme assists about 3,000 businesses to get into export. These businesses generate $4.5 billion in exports. They employ an estimated 54,000 Australians to fill their export orders. Twenty-one per cent of these grants go to businesses in rural and regional Australia.

Senator Cook, in his speech during the second reading debate, suggested that the EMDG Scheme is no longer attractive to small business. He may be interested to note pages 26 and 27 of the report of the EMDG review, which point out that approximately 70 per cent of grant applicants have a turnover of less than $5 million, 65 per cent have fewer than 25 employees and approximately 90 per cent have annual export earnings under $5 million per annum. This makes it clear that the scheme is very well targeted to the small business sector. As well, the measures proposed in the current bill—such as the
reduction in the entry threshold from 20,000 to 15,000 and the removal of compulsory registration for first time claimants—will make the scheme even more attractive to small business.

Senator Cook also described the bill as a snub to the Australian tourism sector. I suggest that Senator Cook go back and look at the record of EMDG under Labor. He will find that many of the things he said in his speech in the second reading debate were actually incorrect. They were myth making furphies, which is typical of the Labor Party: say whatever you think, say whatever it takes—it does not matter. Sacrifice the truth, and just say whatever you think.

So Senator Cook described this bill as a snub of the Australian tourism sector, but in fact the share of the EMDG going to the tourism industry has increased from 9.6 per cent in the 1995 grant year—and I might just remind people on the other side that is when they were in government—to 13.7 per cent in the 1999-2000 grant year. If the EMDG program neglects tourism, it neglected it even more under Labor. In fact, as I said, it has gone from 9.6 per cent to 13.7 per cent. Before 1996 the tourism industry’s access to EMDG was limited because, while all other industries enjoyed a 50 per cent grant rate, tourism claimants—apart from inbound tourism operators—received only 25 per cent. The coalition government addressed this inequity in 1996 and gave all tourism claimants access to the full 50 per cent grant rate.

Previous speakers have highlighted the benefits of the scheme and given examples of the very broad range of firms representing all industry sectors that are building their exports with assistance from the EMDG Scheme. Senator Cook also stated:

Austrade’s administration of the EMDG seems more focused on compliance than on export promotion...

He says that is because:

... close to 20 percent of reimbursement claims are rejected by Austrade.

I ask Senator Cook to go back and check the facts. I have got these books I have published—two of them. Lies, damned lies and statistics, volume 1, was a whole lot of misrepresentations and myths put about by Labor members. Then I needed to have volume 2. I am working very assiduously on volume 2, edition 2, because we now have so many more that I can add to it.

So here is another one, that Austrade’s administration of the EMDG seems more focused on compliance than on export promotion because close to 20 per cent of reimbursement claims are rejected by Austrade. Wrong, wrong, wrong. In fact, over the last 10 years, the average rejection rate—and here I refer to where claims are rejected in total and no grant is paid—has been just under 10 per cent.

Senator Cook needs to go back, check his facts and make sure he is not one of the regular myth makers on the Labor side. He could go back and check, but there was error after error in his second reading contribution. For example, for the grant year immediately passed—1999-2000—the rejection rate was 9.98 per cent. It is interesting to note that the highest rejection rates for the last 10 years occurred in relation to the 1992-93 and 1993-94 grant years when the figures were 10.66 and 11.95 per cent respectively when Labor was in government. They were nowhere near the 20 per cent that Senator Cook referred to, but they were still higher under Labor. Senator Cook, go back, check your facts and, when you come in to give a speech on the second reading, make sure you have got them clear.

To give certainty to industry concerning the future of the scheme, the government publicly committed to the continuation of the scheme in August 2000, soon after receiving the report of the review. The bill before the Senate delivers on that promise to extend the EMDG Scheme for another five years as recommended by the Austrade board after its comprehensive review of the scheme in 1999 and 2000. It makes a number of changes to the scheme that will be of great benefit to the small business sector. I commend the bill to the chamber.

Question resolved in the affirmative.

Bill read a second time.
In Committee
The bill.

Senator BARTLETT (Queensland) (4.04 p.m.)—I move Australian Democrats amendment (1) on sheet 2217:

(1) Schedule 1, page 17 (after line 3), after Part 9, insert:

Part 9A—Fossil fuels and logging of native forests

_Export Market Development Grants Act 1997_

46A  Section 40 (at the end of the table)
Add:

20 Expenses associated with exploration for or production of fossil fuels

57C

21 Expenses associated with the derivation of products from the logging of native forests

57D

46B  At the end of Subdivision 4 of Division 2
Add:

57C  Expenses associated with exploration for or production of fossil fuels

(1) Expenses of an applicant are excluded if they were incurred in respect of exploration for or production of fossil fuels

(2) Subsection (1) does not apply if the applicant can demonstrate that the particular exploration or production will result in a reduction of global greenhouse gas emissions.

Note: For _greenhouse gas emissions_ see section 107.

57D  Expenses associated with the derivation of products from the logging of native forests

Expenses of an applicant are excluded if they were incurred in respect of the derivation of products from the logging of native forests.

46C  Section 107
Insert:

_greenhouse gas emissions_ means anthropogenic emissions of those gaseous constituents of the atmosphere that absorb and re-emit infra-red radiation including, in particular, emissions of carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, halons and other halocarbons, oxides of nitrogen, non-methane volatile organic compounds, carbon monoxide, sulphur oxides and sulphur hexafluoride.

This amendment relates to expenses associated with exploration for, or production of, fossil fuels and expenses associated with the derivation of products from the logging of native forests. As I outlined in my second reading contribution, the Democrats believe that in a scheme such as this—which is basically a significant provision of public funds to help the expansion of export industries—such funds should not be used to expand industries that we need to be trying to move away from. That certainly includes fossil fuel production and the logging and taking of products from native forests. In the Democrats’ view, whilst those activities are still ongoing ones as part of our economy, we do not need to be providing public funds to resource the further expansion of those industries, whether for export or for local production.

In the same way as the government included the production of X-rated goods in its original bill as an activity it did not believe should be the recipient of public funds, similarly the Democrats believe that products from native forests and fossil fuels should not be given that public subsidy. The overall amounts that have been provided in the past in this area through the scheme would be fairly small. Indeed, I think in the last year of the operation of the scheme amounts only of the level of about $60,000 were provided for forest products. That is a small amount obviously in the context of the scheme which in the next year is going to be providing up to $150 million for export industries.

The Democrats believe that, nonetheless, the principle of using public funds to subsidise the expansion of environmentally unsound industries is one that we need to move away from. This provides a good opportunity to do so. We have already heard in other forums today about the urgency of the greenhouse issue and of moving more quickly on areas related to the Kyoto protocol. It is incongruous for the government, on the one hand, to be saying—as Senator Hill did today—that they support the Kyoto protocol and meeting the targets that Australia signed
up to in the protocol, yet at the same time to be providing public funds that are able to be used to expand the production and use of fossil fuels around the world.

That is incongruous. If anything, those moneys should be used to more heavily assist other industries. Obviously, inasmuch as this scheme helps the development of exports in relation to renewable energy, the Democrats welcome it. Again, it is incongruous to have the same scheme able to be used to expand fossil fuel production at a time when all parties in Australia should be working harder to wind back our reliance on fossil fuels and the reliance on fossil fuels by the rest of the planet. This amendment seeks to make just a small attempt to move away from public subsidy of environmentally unsound activities. We would certainly urge all other parties in the chamber to give it their support.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (4.08 p.m.)—The government will not be supporting the Democrat amendments for a number of reasons, including the fact that very few grants go to companies in the area that the Democrats are trying to address. I think three small companies currently get grants. Also, some of the other aspects of the amendments would make it very cumbersome. It would increase the red tape, it would increase compliance costs and, in many ways, it would place officers in Austrade in a very difficult situation in that they would have to make decisions about what was ethical and what was not ethical. We believe that it would not add to the bill; therefore, the government will not support the amendment.

Amendment not agreed to.

Senator BARTLETT (Queensland) (4.09 p.m.)—I move Democrat amendment (2) on sheet 2217:

64R At the end of section 80
Add:
(3) Austrade must not make a determination under paragraph (1)(b) that an applicant is entitled to a grant unless Austrade:
(a) has assessed the application against the ethical guidelines; and
(b) is satisfied that the application is consistent with the ethical guidelines.

64S After paragraph 101(1)(b)
Insert:
(ba) ethical guidelines to be complied with by Austrade under subsection 80(3) in assessing applications before determining that an applicant is eligible for a grant; and

64T After subsection 101(1)
Insert:
(1A) Before determining guidelines under paragraph (1)(ba), the Minister must consult the Centre for Australian Ethical Research about the guidelines.

64U Section 107
Insert:
Centre for Australian Ethical Research means the Centre for Australian Ethical Research established in January 2000 as a business unit of Australian Ethical Investments Ltd.

Part 13D—Register of applicants

Export Market Development Grants Act 1997

64V After Division 6 of Part 8
Insert:

Division 6A—Grants register

101A Register of grants

(1) Austrade must maintain a register of determinations under paragraph 80(1)(b) that an applicant is eligible for a grant. The Register may be kept in a computerised form.

(2) The Register must include the following information:
(a) the name of the applicant;
(b) the purpose for which the grant has been approved;
(c) if the grant is in relation to the export of a product—the nature of the product and its source;
(d) the amount of the grant;
(e) a copy of Austrade’s assessment of the application against the ethical guidelines.

(3) Nothing in this section requires the register to include information that is a trade secret.

(4) Austrade must permit any person to inspect any part of the register.

This amendment relates to ethical guidelines and disclosure of information in relation to the grants. Senator Patterson has, to some extent, already indicated reasons why she might not support this amendment. I will outline the benefits of it nonetheless. I recognise Senator Forshaw is not the portfolio holder, but it is unfortunate that the ALP has not even seen fit to put a position on the record in relation to this—other than a flat no. This calls into question Labor’s commitment to moving in a serious way towards reducing our reliance on and subsidising of greenhouse emitting activities.

The amendment puts forward requires that applicants be not entitled to a grant until an application has been assessed against ethical guidelines, and that the application is consistent with those guidelines. There is a growing amount of support for, and an interest in, ethical investment activities amongst the Australian community. Those ethical investment organisations have to make judgment calls about which type of economic activity meets the guidelines and which does not. If the corporations and investment groups that handle millions and millions of dollars are able to make those decisions, I do not see why government instrumentalities cannot also make those decisions in relation to schemes. We are talking here about $150 million per year of public money. The Democrats cannot see any reason why the provision of a significant amount of public money is not able to be assessed against a basic set of ethical guidelines. The guidelines would be produced by the minister and introduced in regulations.

The proposal in the amendments is that the Centre for Australian Ethical Research be involved in the development of those guidelines, so it is not overly cumbersome. The government and the minister would be able to determine appropriate workable guidelines, which would give more of a guarantee that the expenditure of significant amounts of public funds is in accordance with basic guidelines, so there is clearly not a net negative social or environmental benefit as a consequence of the activities.

The Democrats wish to point out the absurdity of providing huge amounts of public money to subsidise the expansion of activities if those activities result in a net social or environmental loss. There is no point having some economic benefits if the social or environmental consequences negate them. That is the basic principle behind an ethical assessment—again, the triple bottom line of assessing not just dollars and cents on a balance sheet but the broader social and environmental benefits. We believe that instituting a principle such as this would be a significant advance in the appropriate utilisation of significant amounts of public funds.

The second part of the amendment relates to establishing a grants register. We are looking at a significant amount of public money—$150 million a year. The Democrats believe it is appropriate that information about how that money is spent is more easily available. This amendment simply seeks to require Austrade to maintain a register of determinations of who has been eligible for a grant. This would include the name of the applicant, the purpose for which the grant has been approved, the nature of the product and its source, the amount of the grant and a copy of Austrade’s assessment against the ethical guidelines, which I just spoke about.
Nothing in this register would require the disclosure of information that is a trade secret. It would simply mean that the public would be able to assess quite easily where the money is going to, who it is going to, how much and where the products are from. I cannot see why that is a problem. That sort of degree of transparency about the expenditure of significant amounts of public money would ensure not only greater confidence that the money is being put to good use in accordance with triple bottom line principles but also a more accurate assessment of the effectiveness of the scheme overall.

That degree of transparency would enhance the ability for independent assessment of the effectiveness of the scheme, and it would stop the increasing creeping inappropriate use of commercial-in-confidence to hide significant amounts of information about the expenditure of public funds. I think that has got to a stage where people from all sides of politics and the general community recognise that it has compromised appropriate accountability of the scrutiny of public expenditure. It is time that we turned that around and enabled a more open assessment of the details of public expenditure. We believe that that basic point needs to be emphasised. We are looking at ensuring that public money is spent in the most effective way possible. Again, ‘effective’ does not just mean simple dollars and cents measurements but overall social public good and environmental benefit, not environmental detriment and social harm.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (4.16 p.m.)—I have already commented, in part, on the second amendment. But I just want to add that there are already rules that govern grants payments, including bans on giving grants in relation to illegal activities—for example, grants to anybody involved in the sale of pornography, to claimants with criminal convictions or to people who are insolvent. The government sees a difficulty in what this amendment would add to those rules. Again, as I said, if we stray into the area of assessing ethical issues, we may find greater client dissatisfaction about the decisions being made by Austrade officers, because they have to use considerable discretion and we believe that could lead to possible appeals and litigation.

With regard to the last amendment and the proposed register, Austrade is required to keep a detailed database and filing system of all relevant information. The information on companies that obtain grants will be available to any senator at estimates committee hearings or through a request in writing to the minister. There would be some concern about information as to the amount of a grant, because that may give competitors information about a company’s particular approach to developing exports. The information would be there. Of course, there is a cap on the amount that any company could have that is limited to companies of a certain size and turnover. One would be able to assess roughly what the amount was, but at least the company names would be available. I think that information is openly available to anybody who requests it through their senator or member or from the minister. Again, we do not think that amendment is necessary and will not support it.

Amendment not agreed to.

The TEMPORARY CHAIRMAN (Senator Chapman)—Senator Bartlett, I assume you no longer wish to proceed with your foreshadowed consequential amendment (3).

Senator Bartlett—No.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Bill (on motion by Senator Patterson) read a third time.
Second Reading
Debate resumed from 24 May, on motion by Senator Ian Campbell:
That this bill be now read a second time.

Senator BOLKUS (South Australia) (4.20 p.m.)—I rise to speak to the Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001. In doing so I indicate that the opposition supports the legislation and will probably support many of the amendments that will be before the chamber this afternoon. We start from the position that we believe that Australia has an incredible diversity of ecosystems and species, many of which do not occur anywhere else. Our natural assets are indeed rich and extensive. Our landscapes have been changing over the millennia, but the rate of change is dramatically increasing. We are losing our biodiversity, and I think there is a growing awareness of this in the community. Since European settlement, there have been profound changes to our environment. We have lost an estimated 75 per cent of our rainforests and 40 per cent of our total forest area, and nearly 70 per cent of all native vegetation has been removed or significantly modified by human activity. Our record of mammal species extinctions is the worst for any country, having lost some 10 of 144 original marsupials and 8 of 54 native rodents, with 23 per cent currently listed as extinct, endangered or vulnerable. It has also been predicted that half of our land based bird species will become extinct during this century. The Australian Conservation Foundation noted in one of its most recent publications, A Natural Advantage:

While extinction is a natural part of the evolutionary process, the current rate of human-induced global extinctions is between 1,000 and 10,000 times the natural rate. Today’s extinction rate has not been matched since the dinosaurs disappeared 65 million years ago.

Although human-induced changes have affected the Australian landscape for 50,000 years or more, the changes in the 200 years since European colonisation have caused catastrophic loss of soil, vegetation and biodiversity. Australia is not the only country in which biodiversity is at risk; global species extinctions continue at a frightening rate. In the 1996 state of the environment report, it was recognised that loss of biodiversity was perhaps our most serious environmental problem. It is under threat from habitat destruction, land clearing, inappropriate and ecologically insensitive developments, climate change and the apathy and lack of commitment of governments—in our case, the Howard government.

It is also under threat from the global trade in endangered species. The illegal trade in wildlife is second only to the illegal trade in drugs. It is therefore not only important but also imperative that any illegal trade is strictly regulated. In the past, poor management and regulation have led to the extinction or near extinction of species. For a while, the koala population suffered a significant decrease in numbers as a result of the fur trade. Trade in fisheries has led to the near extinction of some species: the patagonian toothfish, the whale shark, the orange roughie and the blue shark.

The gouldian finch has suffered enormously. Although there are less than 200 pairs of finch left in the wild, there are 50,000 to 100,000 currently in captivity around the world. Even the crocodile for a while was overhunted with trade in its skins. We have been lucky that its numbers have seen a dramatic recovery since it was protected. Let us hope that we do not lose to the cane toad what we managed to save from the skin trade. But it is not enough to merely stop extinction. Stopping it is one thing, but we must also stop these species from becoming endangered. The Labor Party feels that it is essential that the current ban on live commercial trade in native wildlife is maintained.

The Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001 amends the Environment Protection and Biodiversity Conservation Act 1999. The objectives of this bill are to ensure that Australia complies with its obligations under the Convention on Inter-
national Trade in Endangered Species of Wild Fauna and Flora—the CITES convention. Those obligations are to protect wildlife that may be adversely affected by trade, to promote the conservation of biodiversity in Australia and other countries, to ensure that any commercial utilisation of Australian native wildlife for the purpose of export is managed in an ecologically sustainable way, and to promote the humane treatment of wildlife. We support the objectives of this bill, although we remain concerned about the considerable shortcomings in the approach to the protection of biodiversity and the environment under this Howard government.

As the government foreshadowed in its consultation process for the reform of Commonwealth environment legislation, this bill incorporates the Wildlife Protection Act into the EPBC Act. Many of the amendments in this bill represent either a continuation of current legislation or an improvement in both process and outcome. The bill incorporates the amended provisions of the Wildlife Protection (Regulation of Exports and Imports) Act 1982—the Wildlife Protection Act, as it is known—into the EPBC Act. The bill repeals the Wildlife Protection Act and provides for effective savings and transitional arrangements for decisions and processes under that act. It makes some minor consequential amendments to other Commonwealth legislation as a consequence of this incorporation and introduces three technical amendments to the EPBC legislation to improve the operation of the environmental assessment and approval processes of the EPBC Act. The legislation is designed to overcome some of the inefficiencies and enforcement difficulties of the current legislation and addresses some of the issues raised in the Senate inquiry into the commercial utilisation of Australian wildlife.

As I said, we support the provisions of the bill, but we do recognise that it has quite a number of failings. One of those failings that we always find in this government’s legislation is the failure to really recognise indigenous Australians and their role in environmental matters—and in broad matters generally. In this case, we have a bill that fails to recognise or respect the cultural property, attachments and the rights of indigenous Australians. It is one of those shortcomings which, I think, shows the mental block of this government when it comes to some of these issues. We believe that substantial revision of the EPBC legislation is required. As we indicated during the original EPBC debate, we are committed to overhaul that legislation if we are elected to government, and we are committed to overhauling it in an endeavour to restore Commonwealth responsibility and national leadership.

As a sign of this legislation’s inadequacy, we have yet another attempt to fix some of the many shortcomings of the legislation. New amendments introduced by the government in this bill to the EPBC legislation include: the ability to make regulations to identify actions that are taken to have had a significant impact on matters of national environmental significance to provide greater certainty for stakeholders; the ability for the minister to issue an evidentiary certificate to prevent a person taking an action that would represent a breach of the EPBC Act prior to a decision being made on whether an approval will be granted for the action; and, where a person fails to respond to a request to make a referral, the ability for the minister to make a decision as to whether approval is required under the EPBC Act.

It is disappointing for us that we have to go through this process now. It is disappointing because these are some of the areas that we sought to amend when this legislation first came through the parliament. We were gazumped by that overnight deal between the government and the Australian Democrats. They did a deal not only on the final outcome of the legislation but also to gag the original debate on these issues. Some hundreds of amendments that were being floated at the time did not see the light of day because of the guillotine, the gag, that was imposed by the Democrat-government deal to fast-track the legislation. If they had listened then, if they had given the public some time to consult on the legislation and the amendments that they were pursuing at that particular time, we would not have to go through this process now. What we have now, some 15 months after the event, is this
government stealing Labor Party initiatives that were to be moved during that previous debate—initiatives that were, in fact, circulated during that previous debate.

As I said, we find the source legislation inadequate and, as indicated previously, we will subject the EPBC legislation to a full-scale review. We will seek to broaden the scope of the legislation in accordance with the COAG agreement of 1992, introduce a greenhouse and land clearing trigger and include a national interest fall back provision to allow for Commonwealth involvement in matters of national environmental significance. We will seek to strengthen the public accountability and transparency of decision making provisions to ensure precision and fairness criteria for the exercise of ministerial discretion and limitation on the scope of delegation by the minister. We will seek to maintain adequate levels of enforcement provisions, including in some circumstances criminal penalties. We will also seek to ensure that state assessment processes and procedures are at least the same standard as for the Commonwealth. The legislation that we have in place now stands as an ongoing monument to a quick, secret and dirty deal conceived between the government and the Democrats. It is in major need of amendment. We are seeing some amendment now, but that amendment does not go anywhere near as far as we would like.

I understand that the Democrats will be moving a significant number of amendments. As I said, we will seek to support as many of those as possible. In respect of some of them, we will see how the debate goes, but we are disposed to support those amendments in general. I said also that we will support the bill. It is a positive step towards the ongoing protection of biodiversity. However, we also recognise that, in itself, this bill does not guarantee the protection of our unique biological heritage.

There are a number of matters which could further be raised in this debate. We could look, for instance, at other critical steps that governments can take to address loss of biodiversity and protection of endangered species. The need, for instance, for an end to the ongoing decline in the quality and extent of native vegetation. We must bring land clearing under control. The only party that has actually come up with a comprehensive and cohesive policy to this effect has been the Labor Party, and Kim Beazley announced that policy a few weeks ago. There is a need to complete the national reserve system and to properly resource the management of existing reserves. We have had promise after promise from the Howard government. In 1996 they promised that they would commit $80 million over four years to the development of a comprehensive national reserve system to protect Australia’s biodiversity, and they sought and promised to do so under the Natural Heritage Trust. After the first four years, they have only spent $25.9 million of that $80 million. Even after five years, that will be $58 million. This is, I suppose, symptomatic of this government’s policy and practice in this area. They promise, they do not deliver; and when they spread the money that they initially promise over a number of extra years they claim that they are allocating new funds. I do not think the public is any longer conned by this sort of approach.

The other example of direct concern in this area is the need to control weeds and feral animals. Once again, the Howard Government promised in 1996 that they would commit $16 million over four years. After the first four years of the NHT, only $10.9 million has been spent. In 1996 they promised, as I said, $19 million over five years towards the finalisation and implementation of the National Weeds Strategy. After that first five-year period, only $10 million has been spent. The practice has basically been to make commitments, not spend the money, and then claim, when they are spending the original resources over a longer period, that they are actually spending more. It is a con job; it is a pea and thimble trick. As I say, I think the public is tired of this minister and this government trying to manipulate the budgetary system in the way that they have under the NHT. This legislation goes some way to addressing the problem. We will support it. As I said earlier, we look positively disposed towards the Democrat amendments.

Senator BARTLETT (Queensland) (4.33 p.m.)—I speak on behalf of the Australian Democrats to the Environment Protection
and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001. I have a particular interest in this area of the use of Australia’s wildlife, in particular wildlife trade and the import and export of wildlife. In many ways, it is worth noting that this bill has been many years in gestation and in part is a response to issues raised in a Senate committee inquiry into the commercial use of our native wildlife that was initiated in 1996, before I came into this chamber. This legislation is broader than simply commercial use and export; it also relates to import. It deals with the very significant issue of biodiversity but it also deals with other issues such as individual animal welfare.

The bill proposes to bring into the general Environment Protection and Biodiversity Conservation Act wildlife trade provisions that are currently in the Wildlife Protection Act. In doing so, the bill makes some improvements on the existing act, in other places it simply transfers existing powers, and it does make some other modifications. The bill regulates the international movement of wildlife species and specimens through a mix of permits, approved plans and various exemptions. It enables Australia to meet its obligations as a signatory to the Convention on International Trade in Endangered Species of wild fauna and flora—otherwise known as CITES. This convention has 154 countries as signatories who cooperate in the banning of international commercial trade in endangered species.

The fact that this convention exists highlights some of the dangers in simply putting economic dollars and cents and immediate short-term market values on the use of our wildlife. It is an issue that, in a sense, is a specific example of what I was speaking about in relation to amendments the Democrats moved on a previous bill—that is, you cannot simply put a short-term dollars and cents, market driven viewpoint onto every transaction; you have to look at environmental consequences, particularly in terms of biodiversity and welfare issues. It is because that has not been done at all in most circumstances over the history of wildlife trade in animals and plant species that we have the need, unfortunately, for a convention such as CITES which is there to try to stop endangered species from becoming extinct. Unfortunately, it is often not successful. That is for reasons not just of trade, of course; but in as much as commercial trade generates that move towards extinction it needs to be halted and reversed. That is what the convention relates to and that is what this bill deals with.

The bill goes a step further than CITES requirements in some places by requiring import permits for CITES species listed in appendix 2 and by imposing strict live export bans on many native Australian species. The Democrats are on record, both before and after the last election, supporting the retention of the export ban on those native Australian species.

The bill makes some important changes to the wildlife protection act, which will now evolve to a higher species in the form of the EPBC Act. For instance, it requires that the impacts of invasive species be properly assessed before introduction, it introduces criteria in the consideration of permits that assess the impacts not only on individual species but also on habitats and ecosystems as well, and it introduces some extra consideration of animal welfare issues. There has been a great gap in the attention to animal welfare at the national level, and the Democrats believe that is an area that should get greater attention. Again, it is not one of those issues that should be just left to a patchwork of inadequate state regimes; it needs a national framework to ensure that we have proper standards of animal welfare, and not just relating to our wildlife—but this bill specifically relates to native wildlife.

Whilst the bill does reflect an improvement on current legislation, the Democrats are introducing a number of changes that will ensure that this bill reflects world’s best practice for wildlife trade. Again, it is an example of where Australia can play an important role in being a world leader. As I was saying before in relation to CITES, it is because of the failure internationally around the globe to properly control trade in various forms of wildlife that we have a CITES convention and hundreds of species listed on it in various stages of endangerment. Clearly, there needs to be better control, better as-
essment and better regulation in trade in wildlife in general. We see stories regularly on the media about some animals—elephants, tigers, some of the other big cats and the great apes, about which there is great concern—but they are just the tip of the iceberg. They are the so-called charismatic mega fauna, the sexy animals that grab people’s attention. It is appropriate that they are brought to our attention through the media, but that small number of animals that we see that are on the brink of extinction, often due in part or totally to trade and commercial pressures, are just the tip of the iceberg. Many other species that are not so charismatic are also facing the same fate and indeed are often more likely to meet that fate because it is harder to get direct attention. But we should not be trying to fight each individual battle species by species, trade by trade, industry by industry; we need some proper overall assessments, and that is something we need more of internationally as well as within Australia.

The Democrats have circulated a number of amendments. I recognise that they have been circulated fairly late in the piece, but the bill itself was only introduced fairly recently and that has meant that we have had to move fairly quickly on providing those amendments. Many of the amendments simply improve and tighten the language of the bill. For instance, the commercial component in personal use has been reduced from not primarily commercial to commercial use being only incidental to the personal use, therefore ensuring that when people call something non-commercial it is genuinely non-commercial. We have seen the loophole that has been used by the Japanese in particular to get around restrictions on whaling, by saying it is scientific rather than commercial when obviously the commercial aspects of it are what enable the ongoing and completely unjustifiable harvesting of whales from our oceans. We need to make sure that loophole is not contained in our own wildlife legislation.

We have an amendment that explicitly recognises that any existing indigenous rights to plants and plant knowledge are not affected by the bill. The inherent indigenous rights in genetic knowledge in our native species form part of an area that still needs a lot more attention. We need to make sure that there is no inadvertent extinguishment of those rights as part of any legislation that we pass through this place.

The Democrats are putting forward several amendments that require the consideration of the welfare of the species being traded. These are reflected in proposed amendments to the object clause to require more specific attention to the welfare of the animals and in the creation of an Animal Welfare Advisory Council, which will advise the minister regarding welfare questions that arise under permits or plans.

Assessment and permit criteria have been strengthened even more by including migratory birds protected under treaty within the ambit of the existing EPBC Act and also by ensuring that our obligations under the biodiversity convention are also part of wildlife trade considerations. We have also ensured that the precautionary principle is now taken into account in decision making under this bill. Also, amendments will broaden the prohibition on live exports to include terrestrial invertebrates and freshwater fish that are prescribed in the regulations.

In order to reduce the number of species used for scientific research, the Democrat amendments create a scientific specimen exchange inventory that facilitates the exchange of research specimens. This is an important area. I think the Australian community would be surprised to be made aware of the number of animals—both wildlife as well as other animals—that are used in scientific research around the country as well as internationally. As someone who is a member of an animal welfare ethics committee at a university in Queensland that assesses applications for research—including in some cases native wildlife, particularly marine life and fish but also bird species from time to time—I know that the number of animals used in scientific research is quite considerable. Some of it is non-lethal and observational, but other research is lethal. Obviously, the ethics committees are there to ensure that that research is necessary, but one of the ar-
that often need greater attention is whether or not the research that is being done is simply duplicating something that has been done somewhere else. So having a scientific specimen exchange inventory is one mechanism to reduce the number of species and the number of individual animals, just as importantly, that are used for scientific research.

Many of the amendments regarding non-commercial uses—which include research, exhibition and household pets—close loopholes and better recognise the impact of personal use and the movement of wildlife. The Democrats aim to ensure that provision permitting the exhibition of wildlife in zoos is limited to genuine zoos that are public and that are primarily educational and scientific, and that they are not simply private zoos for some person’s individual fancy. Under the Democrat amendments, cat and bear products and trophies would no longer be permitted to be imported. We also have proposed amendments to limit the number and type of native species that will be exempt from permit requirements.

In order to increase the efficiency of the bill, the bill provides for approved and accredited plans to become part of the fabric of wildlife movements. The Democrats have strengthened those provisions by amendments that improve the assessment criteria for plans and operations. For instance, in deciding whether to approve a wildlife operation, the minister must have regard to the significance of the impact of the proposed operation on the ecosystem. The public consultation provisions of the bill would be substantially improved by the Democrat amendments. All applications for permits would require public notification and listing on the Internet. Again this is not simply to enable public comment on every single application—although that is certainly desirable where people feel it necessary—but also to ensure greater public awareness of the number and nature of permit applications.

Again I think that Australians would be astonished at the huge volume of applications and permits that are provided for trade in some of our native wildlife. Certainly people would be aware of the kangaroo trade, a trade that has been condemned repeatedly by the RSPCA as being inhumane and unnecessarily cruel. It is a trade, and an export market in particular, that is expanding, despite the supposed motivation for it being purely environmental in reducing the impact on the land of kangaroo numbers. The industry is obviously driven again by dollars and cents, and not by environmental benefit. I think Australians are at least partly aware of the nature and size of that particular export industry in our native wildlife, but there are plenty of others out there—and crocodile is certainly one of which there is some awareness. Again, if people were aware of the numbers, the sheer volume, in terms of the species that are given permits, I think it would increase Australians’ awareness about this trade and I think, hopefully, it would improve the level of public debate about the desirability of such a trade.

The Democrats also propose amendments to strengthen offence provisions relating to the possession of prohibited imported species to ensure humane treatment of animals. Again I think stronger action and controls at the national level in relation to humane treatment of individual animals is an area that we had been lacking in quite severely at the federal level, and this is certainly a welcome opportunity to try and improve Australia’s record in that regard. Similarly, it should be noted that the bill helps to close some of those loopholes that make it harder to prosecute people who are suspected of being in possession of prohibited import species. There seems little point in putting in place a significant bureaucratic and regulatory regime relating to trade in wildlife if there is not an ability to ensure that people who breach those laws can be prosecuted. We certainly welcome the fact that, in relation to this bill, the loophole that has enabled people to escape prosecution will be significantly closed. The amendments being put forward by the Democrats will significantly improve a bill that is an already important bill. This bill will enable Australia to become a world leader by ensuring that world trade in wildlife will not harm biodiversity and the ecosystems upon which our native wildlife depend. We are taking measures that will significantly improve our assessment of im-
ports into Australia, particularly of species that may threaten Australia’s flora and fauna.

So this is not a prohibitionist approach but rather a regulatory approach—but, however, it is a regulatory approach that certainly requires the strong controls necessary to ensure that the economic rationalist obsession with pure dollars and cents that occurs in commercial activity does not overpower environmental biodiversity and social needs that also need to be taken into consideration. In a world like the one we live in today, those economic forces almost always get primacy, unless there is a strong regulatory regime in place to ensure that environmental values, biodiversity values and social values are able to be incorporated and exercised. Indeed, through this legislation and the amendments, we will ensure that there is a much stronger obligation—indeed, a requirement—on the government and the minister of the day to properly assess applications for the use of native wildlife, or imports and exports of wildlife, to make sure that those other values that are not simply dollars and cents values, those other environmental biodiversity values, are properly taken into account.

It is worth mentioning briefly that the bill as a whole incorporates, as I said at the start, the wildlife protection act into the Environment Protection and Biodiversity Conservation Act. I think this again highlights why the Democrats were correct in passing the Environment Protection and Biodiversity Conservation Act as significantly amended, because it provided the framework for significant future amendments. As we said at the time, it is not a perfect act, but it is a significant advance forward on the laws that were in place before. However, it is still not a perfect act, particularly when we have a far less than perfect government and minister implementing it. The best act in the world is only as good as the political will of the government of the day in ensuring that the act is implemented. Nonetheless, the Democrats will seek to make it the best act in the world. We said at the time that there was room for future improvements. This bill and particularly the amendments, not only those contained in the bill but also those that the Democrats are putting forward, will make significant improvements to the EPBC Act—improvements that could not be made were not the framework in place in the first place. If we had not had that bill passed nearly two years ago now, then we would not be able to be having this debate today.

Almost inevitably, in a legislative sense change does not occur in one huge, massive, enormous, single leap. It occurs through a range of improvements. It is important that those improvements are significant. When you add the ongoing improvements that are being made, they are significant beneficial improvements. The Democrats nonetheless say that significant improvements to the act can still be made, which we will endeavour to see made in future opportunities. We do not wish to hold up the positive gains we can achieve here by overdoing it in terms of trying to get them all at once, because that will not be successful and we will lose the benefits that we have here. But there are significant future beneficial amendments that can be made to the acts including the addition of triggers for areas such as greenhouse, pollution, land clearing, environmental flows, forests, genetically engineered organisms, endangered ecological communities and wetlands of national importance.

We can remove the capacity for the minister to delegate Commonwealth environmental approval powers. We can put in legislative targets for environmental outcomes, and repeal exemptions under regional forest agreements—which the ALP would not support at the time and have still not given support to. A range of improvements can still be made. Our support for the original bill and acts and our support for amendments being put forward here should not be misinterpreted as a position that we are happy with what we have achieved and that is all we need. The Democrats will continue to strive for more improvements in the Environment Protection and Biodiversity Conservation Act. There is still plenty of room for improvement and we will continue to strive to do so. (Time expired)

Senator COONEY (Victoria) (4.54 p.m.)—I noticed the minister was rising to make his contribution on this bill. I think this Environment Protection and Biodiversity
Conservation Amendment (Wildlife Protection) Bill 2001 has taken things forward and the minister needs to be acknowledged for doing that. As Senator Bartlett said, and Senator Bolkus said beforehand, the bill should go further but it is certainly a move in the right direction.

My father was born on 11 July 1894 at a place called Waratah in Tasmania. He had the same name as me, Barney Cooney. You would know Waratah, Senator Denman. My father has been dead many years—

Senator Forshaw—He left a great legacy.

Senator COONEY—He did, Senator Forshaw. The point I make about that is that Waratah was the place where, not many decades after that, the last Tasmanian tiger or thylacine was captured in a snare. Although I was not born in Waratah, my cousin John Cooney was and he can remember the thylacine being brought out from the forest surrounding Waratah and being put in a coop. He remembers it as a hen coop but it may have been a pigeon coop. It was later taken to the Burnie show and then put into the Hobart zoo, where it died. That was either the last or very near the last thylacine captured in the wild. That species has now disappeared. The picture appears in many things to do with Tasmania still.

The attachment to the thylacine in Tasmania and elsewhere indicates the sorrow that attaches to the passing of that particular species. It is a sad thing and we can get emotional about the fact that that native Australian animal should have disappeared because of the way it was treated, mainly by snares but also by being shot. Farmers at the time said that this was an animal that worried their stock and therefore should be put down. There was a bounty paid for it. Now it has disappeared and that is the end of that, although there is now an attempt talked about to get the species going again through material taken from the dead thylacines that are still preserved, to try to get the animal back on track and wandering through the Tasmanian forests. That attempt shows the great sorrow that has persisted as a result of that animal disappearing and the great desire to resurrect a species that has departed this planet. It is only proper and right that that sort of thing does not occur again and again, whether in Australia or overseas.

I think the desire arises from a veneration that has developed, that is more and more in the heart of people, for the creations of God if you believe in God or the creations of the great spirit or whatever you believe in. There is a veneration for creation which is more pronounced than it used to be. People in Australia want to do something about it. Not only people in Australia but people around the world do not want to see the wasting of animals and the plants that make this world as diverse a place as it is. For that reason the nations of the world have got together and have developed the Convention on International Trade in Endangered Species, CITES, which has been mentioned in previous contributions to the debate.

The centrepiece of the bill is set out in clauses 303CC and 303CD. Clause 303CC reads:

A person is guilty of an offence if:
(a) the person exports a specimen; and
(b) the specimen is a CITES specimen.

That simply means that, if a person exports from Australia a specimen as defined in the bill and that specimen is within the descriptions set out in CITES, an offence has been committed. The penalty for that is imprisonment for 10 years, 1,000 penalty units or both. That indicates the seriousness with which this legislation deals with the offence of exporting from this country animals that should not be exported. Subclause 303CD(1) reads:

A person is guilty of an offence if:
(a) the person imports a specimen; and
(b) the specimen is a CITES specimen.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

The central idea of the bill is to stop exports from and imports into Australia of wildlife. There are other provisions where the penalties are less. For example, clause 303GP is headed ‘Cruelty—export or import of animals’ and it states that, if there is cruelty in exporting or importing live animals, the person can be imprisoned for up to two years.
There are exceptions to the two central provisions for penalties for people who export and import specimens, and they relate to imports and exports under permit. The bill sets out how people are to apply for permits and what they are able to get permits for. It provides that permits may be issued in particular circumstances. For example, clause 303DG is headed ‘Minister may issue permits’ and it sets out the grounds upon which permits may be issued. For example, sub-clause 303DG(4) states:

The Minister must not issue a permit unless the Minister is satisfied that:

(a) the export of the specimen will not be detrimental to, or contribute to trade which is detrimental to:

(i) the survival of any taxon to which the specimen belongs; or

(ii) any relevant ecosystem (for example, detriment to habitat or biodiversity) ...

The scheme of the bill is supported across the chamber, although, as Senator Bolkus and Senator Bartlett have said, there are amendments that, hopefully, improve the bill, but the general thrust of the bill is accepted. That is a situation about which we ought to be very pleased.

The bill arises, as I have said before, from a convention that many countries have agreed to. It is a sign that the countries of the world are coming closer and closer together. We hear a lot of discussion in this chamber, and indeed elsewhere, about the global economy, the need for global trade and the need to free up that trade so that we all might benefit more in terms of the material goods that come to us. It is said that the more international we become in our thinking, particularly in the area of the economy, the better we will be rewarded with the material things of life.

The bill deals with the concept of globalisation, but it is the globalisation of a consciousness of the need to keep secure the varied wildlife that exists around the world so that generations ahead of ours will be able to enjoy and appreciate it and will be able to get a spiritual uplift from the diversity within the various countries around the world. That is something that we must and will approve of at the end of this debate.

Generally, there is a problem not only in Australia—and I think that, in many cases, Australia has a reasonable record in this area, although a bad record in other areas—but in places like Africa and Asia, for example, where the Asian tiger is in considerable danger. If you accept what is said on the news, and if you accept the sorts of things that you hear about, then there is a need for this act and for it to be as efficient and effective as possible. When we go into the committee stage, I hope that the amendments that are put forward will be accepted. The minister at the table is the sort of minister who will try to make this act as good an act as possible, and I hope that he will accept the amendments insofar as they help the act to be more effective than it would otherwise be, and that the good start he has made can be made even better by way of amendment.

Senator HILL (South Australia—Minister for the Environment and Heritage) (5.09 p.m.)—I thank honourable senators for their contributions to this debate. I heard the contribution from Senator Cooney so I particularly thank him and recognise his support for effective conservation measures for endangered species, and, as I interpret what he said, for all native wildlife. It is true that this legislation has within it the mechanisms to conserve Australian native wildlife, both endangered and that which is fortunately not endangered but which might be traded in some form. There is also a greater emphasis in the legislation now on animal welfare considerations. I thank honourable senators who contributed to the second reading debate and I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator HILL (South Australia—Minister for the Environment and Heritage) (5.10 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 19 June 2001.
Senator BARTLETT (Queensland) (5.11 p.m.)—by leave—I move Democrats amendments (1) and (95) to (98):

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

1A After paragraph 160(2)(c)  
Insert:

(c) the declaration that a specified wildlife trade operation (other than an operation mentioned in paragraph 303FN(10)(d)) is an approved wildlife trade operation for the purposes of section 303FN where the operation is likely to have a significant impact on the environment; and

1B After subsection 160(2)  
Insert:

2AA) To avoid doubt, this Division applies to paragraphs (2)(ca) to (cc) as if:

(a) the authorisation referred to in subsection (1) is the decision to make the relevant declaration; and

(b) the action referred to in subsection (1) is the carrying out of the wildlife trade operation or the carrying out of the activities under the management plan (as the case may be).

(95) Schedule 1, page 88 (after line 22), after item 36, insert:

36A After section 523  
Insert:

523A Management Plans  
(1) This section applies to an action that is the making or implementation of a plan of management (however described).

(2) To avoid doubt, the impacts of the action include the impacts of any action that is likely to be authorised by or un-der, or otherwise taken in accordance with, the plan of management.

(96) Schedule 1, page 112 (after line 28), after item 83, insert:

84A At the end of Part 4  
Add:

Division 6—Actions with prior authorisation

43A Actions with prior authorisation  
(1) A person may take an action described in a provision of Part 3 without an approval under Part 9 for the purposes of the provision if:

(a) the action consists of a use of land, sea or seabed; and

(b) the action was specifically authorised under a law of the Commonwealth, a State or a self-governing Territory before the commencement of this Act; and

(c) immediately before the commencement of this Act, no further environmental authorisation was necessary to allow the action to be taken lawfully.

(2) In this section:

environmental authorisation means an authorisation under a law of the Commonwealth, a State or a self-governing Territory that has either or both of the following objects (whether express or implied):

(a) to protect the environment;

(b) to promote the conservation and ecologically sustainable use of natural resources.

43B Actions which are lawful continuations of use of land etc.  
(1) A person may take an action described in a provision of Part 3 without an approval under Part 9 for the purposes of the provision if the action is a lawful continuation of a use of land, sea or seabed that was occurring immediately before the commencement of this Act. For this purpose, an enlargement, expansion or intensification of use is not a continuation of a use.

(2) However, subsection (1) does not apply to an action that was specifically authorised under a law of the Commonwealth, a State or a self-governing Territory.
Territory before the commencement of this Act.

Note: Section 43A applies to actions that were specifically authorised under a law before the commencement of this Act.

(97) Schedule 1, page 113 (after line 25), after item 84, insert:

84A Subsection 146(1)
Repeal the subsection, substitute:

(1) The Minister may agree in writing with a person responsible for the adoption or implementation of a policy, plan or program that an assessment be made of the impacts of actions under the policy, plan or program on a matter protected by a provision of Part 3.

84B Subsection 146(2) (note 1)
Omit “relevant”.

84C Paragraph 148(1)(a)
Repeal the paragraph, substitute:

(a) make an agreement with the Minister under section 146 for assessment of the impacts of actions under the plan on each matter protected by a provision of Part 3; and

84D Paragraph 148(2)(a)
Repeal the paragraph, substitute:

(a) make an agreement under section 146 with the Minister (the Environment Minister) administering this section for assessment of the impacts of actions under the plan on each matter protected by a provision of Part 3; and

84E Paragraph 149(a)
Repeal the paragraph, substitute:

(a) make an agreement with the Minister under section 146 for assessment of the impacts of actions on each matter protected by a provision of Part 3, being actions permitted under the Authority’s policy for managing the fishery; and

84F Subsection 150(2)
Repeal the subsection, substitute:

Two-thirds of fisheries to be covered by agreements in 3 years

(2) Before the day that is the third anniversary of this Act commencing, the Australian Fisheries Management Authority must make agreements with the Minister under section 146 for assessment of the impacts of actions on each matter protected by a provision of Part 3, being actions that are permitted under the Authority’s policies for managing at least 2/3 of the fisheries.

84G Subsection 150(3)
Repeal the subsection, substitute:

All fisheries to be covered by agreements in 5 years

(3) Before the day that is the fifth anniversary of this Act commencing, the Australian Fisheries Management Authority must make agreements with the Minister under section 146 for assessment of the impacts of actions on each matter protected by a provision of Part 3, being actions that are permitted under the Authority’s policies for managing the fisheries.

84H Subsection 151(2)
Repeal the subsection, substitute:

Policies for all actions to be covered by agreements in 5 years

(2) Before the day that is the fifth anniversary of this Act commencing, the Minister administering the Torres Strait Fisheries Act 1984 must make agreements under section 46 with the Minister administering this section for assessment of the impacts of the actions on each matter protected by a provision of Part 3, being actions that are permitted by policies under that Act.

84J Subsection 516A(6)
Omit “actions” (wherever occurring), substitute “activities”.

84K At the end of section 516A
Add:

(7) In subsection (6):
activities includes:

(a) developing and implementing policies, plans, programs and legislation; and

(b) the operations of a department, authority, company or agency referred to in this section.

84L Section 522B
Repeal the section.

84M Subsection 523(2)
Repeal the subsection.
85A Section 528 (definition of continuation)
Omit “subsection 523(2)”, substitute “section 43B”.

I have 98 amendments and I do not wish to hold up the passage of the legislation. I will go as quickly as I can but not so quickly that people are unsure exactly what we are doing. If there needs to be separate votes on specific amendments, I am happy for that to occur. I would seek the indulgence of the committee if I need to double-check what some of the amendments relate to as well.

Amendment (1) relates to the minister’s advice. Basically, it seeks to ensure that the assessment process under part 8 of the EPBC Act applies to any environmentally significant proposal for the commercial utilisation of native wildlife. For example, the amendments would ensure that a minister is able to direct an EIS before approving a management plan for the large-scale harvest of native species. The amendment does not apply to a commercial fishery because all export fisheries must already undergo assessment against the guidelines for assessing the ecological sustainability of fisheries, including for Commonwealth fisheries, in the form of a strategic assessment under part 10 of the act. Basically, it requires a declaration that it is an approved wildlife trade operation, where the operation or activities are likely to have a significant impact on the environment, and that includes carrying out activities under the management plan.

Amendments (95) through to (98) relate also to management plans and prior authorisation. As I understand it, they link in to amendments that were previously put forward in the Environment Legislation Amendment Bill (No. 1) 2000, which has not managed to find its way through the various labyrinths of the Senate amendment, consideration and debate processes. This is an opportunity to put some of those amendments through while we are considering the matter.

Senator Hill (South Australia—Minister for the Environment and Heritage) (5.14 p.m.)—I would like to make a few general comments. There are a large number of amendments. Although I understand that the drafting instructions were given to us a few days ago, the amendments themselves have been available for only a short period of time.

In the spirit of Senator Cooney’s remarks, we would wish to take advantage of the wisdom of the Senate in improving the bill that we have put before the Senate, recognising that it is rarely impossible to improve any bill. But it is difficult to answer in precise terms on the detail of what is before us. Where there is an obvious concern to me, I would certainly put that to the Senate. But I suspect that, unless I am particularly persuasive, the Labor Party is going to support the block of amendments that the Democrats have brought to the chamber on behalf of an interested constituency. If I am correct and these amendments therefore pass, we will have to give very careful consideration overnight to the detail that has been carried and we will have to take that into account when the bill returns to the other chamber.

Senator Bolkus (South Australia) (5.16 p.m.)—That is what you call passing the buck. We have had these amendments for less time than the government. We are disposed towards supporting most of them. I am quite aware of the fact that some of them may have consequences that are not, on the face of it, quite apparent when one looks at them. The minister is basically saying that he is prepared to allow these amendments through at this stage, with the possibility that the amendments would come back to the Senate for us to reconsider a message from the House after the House has considered them and after the government has had further opportunity to make an assessment of them.

The government needs more time. We definitely do need a bit more time but, on the basis that we do have that opportunity for reflection when the amendments come back, we are prepared to give most of these amendments approval at this stage on the proviso that we have a bit more time to look at them in the intervening period. The government can spend its enormous resources tapping into these issues to see what are some of the currently unforeseen conse-
quences. On the basis that we are giving in principle support for these directions, with an opportunity to review them in the interim period, we also support this batch of amendments.

Senator BROWN (Tasmania) (5.17 p.m.)—I support the amendments and, with them, the legislation. I flag to the committee—and I apologise for this; I am doing it as fast as I can—that I will also be bringing in two small amendments for the committee’s consideration as we move along.

Amendments agreed to.

Senator BARTLETT (Queensland) (5.18 p.m.)—by leave—

I move Democrats amendments Nos 2, 7 to 16, 20, 24, 25, 31, 35 to 56, 58 to 60 and 89:

(2) Schedule 1, page 5 (after line 10), after item 10, insert:

10A After subsection 238(4)
Insert:

(4A) Regulations made for the purpose of subparagraphs (3)(d)(ii) or (3)(e)(ii) must not prescribe scrimshaw or any other product of commercial or scientific whaling as a part of a cetacean taken to be a personal item for the purpose of export or import.

(7) Schedule 1, item 11, page 6 (after line 23), before the definition of eligible listed threatened species, insert:

bear product means any product derived from, or any part of, a member of the family Ursidae.

(8) Schedule 1, item 11, page 6 (after line 23), after the definition of bear product, insert:

cat product means any product derived from, or any part of, a member of the family Felidae, other than a member of the species Felis catus.

(9) Schedule 1, item 11, page 8 (after line 23), after the definition of trade, insert:

trophy has the meaning given by the regulations.

(10) Schedule 1, item 11, page 7 (after line 28), after the definition of import by way of introduction from the sea, insert:

listed migratory bird means a migratory bird included in the list established under section 209.

(11) Schedule 1, item 11, page 10 (lines 29 and 30), omit subsection (3).

(12) Schedule 1, item 11, page 11 (line 15), after “registered”, insert “; non-commercial”.

(13) Schedule 1, item 11, page 12 (line 17), omit “not”.

(14) Schedule 1, item 11, page 13 (line 1), after “registered”, insert “; non-commercial”.

(15) Schedule 1, item 11, page 13 (after line 13), after section 303CD, insert:

303CDA Regulations relating to CITES exports or imports

(1) Regulations made for the purposes of subsections 303CC(6) or 303CD(3) must not prescribe any of the following as an export or import that is taken to be a personal or household effect:

(a) a bear product;

(b) a cat product.

(2) Regulations made for the purposes of paragraph 303CD(4)(c) must not prescribe species in any of the following families:

(a) the bear family (Family Ursidae);

(b) the cat family (family Felidae) other than the domestic cat (Felis catus).

(16) Schedule 1, item 11, page 13 (after line 13), after section 303CDA, insert:

303CDB Export or import of trophies

Regulations made for the purposes of subsections 303CC(6) or 303CD(3) must not prescribe trophies as exports or imports that are taken to be personal or household effects.

(20) Schedule 1, item 11, page 20 (line 25), after “species”, insert “or a species of listed migratory bird”.

(24) Schedule 1, item 11, page 22 (after line 15), after paragraph (b), insert:

(ba) the specimen is not a live terrestrial invertebrate or a live freshwater fish prescribed by the regulations for the purposes of this paragraph; and

(25) Schedule 1, item 11, page 22 (line 22), after “registered”, insert “; non-commercial”.

(31) Schedule 1, item 11, page 26 (lines 22 and 23), omit subsection (3).

(35) Schedule 1, item 11, page 38 (line 23), omit subparagraph (iii).

(36) Schedule 1, item 11, page 38 (line 25), omit paragraph (1)(c), substitute:

(c) any commercial purpose is incidental to the purpose of the export; and
(37) Schedule 1, item 11, page 38 (line 26), omit “(if any)”.  
(38) Schedule 1, item 11, page 39 (line 2), omit subparagraph (iii).  
(39) Schedule 1, item 11, page 39 (line 4), omit paragraph 303FC(2)(c), substitute:  
(c) any commercial purpose is incidental to the purpose of the import; and  
(40) Schedule 1, item 11, page 39 (line 5), omit “(if any)”.  
(41) Schedule 1, item 11, page 39 (line 12), omit paragraph 303FD(1)(b), substitute:  
(b) any commercial purpose is incidental to the purpose of the export; and  
(42) Schedule 1, item 11, page 39 (line 13), omit “(if any)”.  
(43) Schedule 1, item 11, page 39 (line 19), omit paragraph 303FD(2)(b), substitute:  
(b) any commercial purpose is incidental to the purpose of the import; and  
(44) Schedule 1, item 11, page 39 (line 20), omit “(if any)”.  
(45) Schedule 1, item 11, page 39 (line 27), omit paragraph 303FE(1)(b), substitute:  
(b) any commercial purpose is incidental to the purpose of the export; and  
(46) Schedule 1, item 11, page 39 (line 28), omit “(if any)”.  
(47) Schedule 1, item 11, page 39 (line 34), omit paragraph 303FE(2)(b), substitute:  
(b) any commercial purpose is incidental to the purpose of the import; and  
(48) Schedule 1, item 11, page 40 (line 1), omit “(if any)”.  
(49) Schedule 1, item 11, page 40 (lines 3 and 4), omit subsection (3), substitute:  
(3) In this section:  
   exhibition includes:  
   (a) a zoo; or  
   (b) a travelling exhibition.  
   travelling exhibition does not include a travelling exhibition with live specimens.  
   zoo means an organisation involved in the public exhibition of animals primarily for educational or scientific purposes.  
(50) Schedule 1, item 11, page 40 (line 15), omit paragraph (1)(d), substitute:  
(d) any commercial purpose is incidental to the purpose of the export; and  
(51) Schedule 1, item 11, page 40 (line 16), omit “(if any)”.  
(52) Schedule 1, item 11, page 40 (line 27), omit paragraph (2)(d), substitute:  
   (d) any commercial purpose is incidental to the purpose of the import; and  
(53) Schedule 1, item 11, page 40 (line 28), omit “(if any)”.  
(54) Schedule 1, item 11, page 41 (line 3), omit paragraph (1)(b), substitute:  
   (b) any commercial purpose is incidental to the purpose of the export; and  
(55) Schedule 1, item 11, page 41 (line 12), omit paragraph (2)(c), substitute:  
   (c) any commercial purpose is incidental to the purpose of the export; and  
(56) Schedule 1, item 11, page 41 (line 20), omit paragraph (3)(b), substitute:  
   (b) any commercial purpose is incidental to the purpose of the export; and  
(57) Schedule 1, item 1, page 42 (line9), omit paragraph 303FH(1)(b), substitute:  
   (b) any commercial purpose is incidental to the purpose of the import; and  
(58) Schedule 1, item 11, page 42 (line 15), omit paragraph (2)(b), substitute:  
   (b) any commercial purpose is incidental to the purpose of the import; and  
(59) Schedule 1, item 11, page 42 (lines 18 to 28), section 303FI TO BE OPPOSED.  
(60) Schedule 1, item 11, page 42 (lines 18 to 28), section 303FI TO BE OPPOSED.  
(89) Schedule 1, item 11, page 77 (after line 15), at the end of Division 6, add:  
303GZ. Inventory of scientific specimens  
(1) Scientific organisations may provide the Secretary with a list of specimens:  
   (a) held by the organisation; and  
   (b) that are available for exchange with other scientific organisations.  
(2) The Secretary must publish on the Internet an inventory that identifies specimens available for registered non-commercial exchanges between scientific organisations.  
(3) Where information has been provided to the Secretary under subsection (1), the Secretary must publish the information in the inventory.  
(4) The Secretary must take reasonable steps to ensure that the inventory is maintained in an up-to-date form.
This is a fairly large block of amendments which deals with a range of matters relating to imports and exports and definitions thereof. I would make the following comment once, given the comments made by the previous speakers about the difficulty involved with the time available to consider these amendments. The Democrats certainly do not determine the order in which legislation comes on. All senators are aware of how recently the whole bill was introduced. It is clearly a choice of the government’s to bring it on for early debate. Given that the opposition, the Democrats and Senator Brown have indicated their support for the bill, it is not necessarily inappropriate to bring it on, but it is appropriate to allow enough time for properly defined amendments.

If extra time is needed to consider the amendments, it is not the Democrats’ desire to be seen to be railroading them through. I do not want to be criticised for that. I will take criticism when that occurs but, in this circumstance, we circulated drafting instructions and draft amendments as early as possible—virtually as early as we developed them—to ensure that people had as much time as possible to consider them. I hardly need to remind other senators that the resources they have available to them are more comprehensive than those available to the Democrats or to Senator Brown. So, whilst I appreciate the message that there has not necessarily been a fulsome amount of time in which to examine these in fine detail, it is not the Democrats’ doing that this bill has come on this quickly.

Having said that, I will attempt to outline some of the above amendments. These amendments relate to exports and imports and seek to restrict the circumstances in which permits can be issued for non-commercial export or import of cetacean parts as personal items. The amendments specifically ensure that there is not a loophole in relation to whaling products. That is amendment (2) in particular. Amendments (7) to (9) try to ensure a better restriction to ensure that exports and imports of bear products, cat products and trophies cannot be exempt, and that includes definitions of those products.

Specifically inserting ‘non-commercial’ after the word ‘registered’ makes it quite clear that non-commercial activities are required in issuing permits. It ensures:

Regulations ... must not prescribe any of the following as an export or import that is taken to be a personal or household effect:

(a) a bear product;
(b) a cat product.

This ensures that there are not opportunities for loopholes in relation to those areas to be exploited by either this government or a future government. There is also an extension of the live trade exception to cover live terrestrial invertebrates and freshwater fish that are listed in regulations—that is, in future regulations, so it does not put in that exception immediately but it provides a mechanism or a power for that to happen.

There is also a range of amendments in relation to the permit criteria concept, basically to continue to ensure that the meaning of ‘not primarily for commercial purposes’ is as tight as possible, so ensuring that any commercial purpose is incidental to the purpose of the export or import rather than simply seen as not the primary purpose. That could be interpreted as meaning that 49 per cent of the purpose is commercial and 51 per cent is non-commercial, therefore it is not primarily commercial. That is clearly not the intent. Changing that definition to ‘any commercial purpose’ being ‘incidental’ ensures a tighter control of the permission relating to any act. I hope to some extent reflected these in my speech in the second reading debate, so I am being brief here in the interests of facilitating the outcome of the entire government’s legislative program. I trust they are suitably grateful.

The amendments clarify the definition of exhibitions and zoos, and limits the definition to public exhibitions that are primarily educational and scientific. They insert a requirement for a public consultation process before amending the list of native animals for household pets. That is an attempt to tighten an area that is quite broad. Public oversight seemed the easiest way to try and restrict what is potentially a problem area. There is a legitimate debate that needs further elaboration in relation to the use of na-
tive wildlife as pets. More public consultation in that area before any list is amended is certainly desirable. I could go on at length about the dangers involved in developing trade in wildlife as pets, but I will not do that. The amendments speak for themselves in terms of inserting not a prohibition but a necessity for public consultation in those areas. They require reasons for amending the list of native household pets to be published on the Net. They remove allowances for travelling exhibitions. I think that goes as far forward as I need to in relation to those particular amendments at the moment.

Senator HILL (South Australia—Minister for the Environment and Heritage) (5.26 p.m.)—The same comments as the ones I made earlier apply. If I was interpreted as being critical, that was not my intention. If this was the start of a long parliamentary session, there may well have been another way of dealing with these amendments. But in view of the very tight time frame of this session and the large volume of work before the Senate, it strikes me that at the end of the day we might more efficiently deal with this legislation by reviewing whatever the Senate is of a mind to carry. In this group, for example, there are some which certainly go beyond what we specifically have in mind. The first amendment relates to the ban on scrimshaw, which I understand is carving on whalebone. There is no-one in this chamber who is more strongly opposed to commercial whaling than me, but if it relates to some ancient family relic, I am not sure that that is going to affect the wellbeing of existing and future whale species. I am going to have to make considerations such as that if the Senate is of a mind to carry the provision.

A lot of the definitional issues included in here by the Australian Democrats at first glance seem to be reasonable. Others concern me a little, because they may mean that, if certain other actions are not taken, the intention of the bill may not be implemented. For example, in relation to the ban on trophies, the Democrat amendment provides that ‘trophy’ has the meaning given by regulations. If a government did not regulate, it might mean that we will lose a ban on trophies, which I would not want to see. Whereas I understand the spirit in which these amendments have been brought—they are an attempt to further tighten and clarify the bill that the government has before the Senate rather than to take any substantially different direction—before the bill returns to the Senate we as a government would want to be satisfied that they are necessary and, if so, that they are the most effective and reasonable way in which the desire of the Democrats can be achieved.

Senator BOLKUS (South Australia) (5.30 p.m.)—In case I was not interpreted as being critical, let me state that I am critical of the way these amendments have been brought into the Senate. We have had very little notice of them. That may not be the fault of the Democrats, but others around this building—and I do not mean the government—have been contemplating these amendments for quite some time. We should have been given the courtesy of having notice of these amendments some time earlier. As I say, that may not be Senator Bartlett’s fault; it may be those who, behind the scenes, have been pushing these amendments. It leaves us in a very difficult position. I state now that, though we will support the amendments at this stage, that should not be taken to mean that we are cemented into supporting any particular one, subject to further assessment of them.

I think that the minister is right: there are some definitional problems. Even the definition of a ‘zoo’, for instance, might look a simple thing, but we are talking about some very technical amendments across the spectrum here, and I do not think the Senate is fully aware of the implications and consequences of them. Quite often definitions that sound innocuous in legislation have all sorts of flow-on impacts. For instance, I must admit at this stage I do not know the full effect of amendments Nos 24 and 25, together with amendment No. 26. I am not so sure that I do want to give them in-principle support. And they are just three that I have looked at. So the process is not one that is desirable. We are, as the minister says, probably at the end of a parliamentary process and to give them the tick now is probably the best way to go. But I do raise these concerns because I think
we could be giving and in-principle tick to amendments with consequences that have not been thought through.

Do not take us as being cemented to supporting these ultimately. We will take the time necessary to have a pretty comprehensive look at them, but in the meantime we will support them. As I say, I have some real concerns, for instance, with amendments Nos 24 and 25, and No. 26 in the next batch, and the definition of ‘zoo’, I think, is symptomatic of the problems. It might look pretty easy, but the definition may include institutions, organisations and the sorts of things that would otherwise not be seen to be zoos. I recommend to the government that they have a good look at this and, to the extent that we can actually look at some of the government’s legal advice on them, we would appreciate that as well.

Senator HARRIS (Queensland) (5.33 p.m.)—I rise to speak briefly and to support Senator Bolkus and his comments regarding the amount of time we have had to look at the amendments that have been circulated. I would like to pick up on an issue that Senator Hill raised in relation to the second amendment of the Democrats, in that I would not like to convey any support for the commercial sale of whaling parts or crustaceans or any of those things for the purpose of export or import. I do have some concerns in relation to historical artefacts and, as a matter of fact, one such issue has been raised with me where such goods—very old historical artefacts belonging to a family who migrated to Australia—have actually been seized. So I have concerns in relation to the second amendment of the Democrats. I would also like to speak very briefly to amendment No. 62 that is being proposed and seek some guidance from Senator Hill whether that in actuality impacts—

The TEMPORARY CHAIRMAN (Senator Murphy)—Senator Harris, amendment No. 62 is not before the chair at the moment. It is in the next batch.

Senator HARRIS—My apologies. I thought that we were on amendments Nos 62 to 69. I will reserve my comments on that until that time. But I would also seek some clarification from Senator Hill as to his opinion relating to the impact of these amendments and their possibility to impact on commercial fishing that is carried out in the defined licence areas within Australia and, also, from Senator Bartlett as to his consultation with the commercial industry in relation to these amendments during their drafting process.

The TEMPORARY CHAIRMAN—Senator Bartlett might like to give an explanation in the first instance.

Senator BARTLETT (Queensland) (5.36 p.m.)—Senator Harris was possibly referring specifically to an amendment that I am about to move next, but I think the general question about consultation is an appropriate one in terms of the bill as a whole. As I said in my second reading comments, my understanding is that the issue on a larger scale of updating the wildlife protection act and incorporating it into the EPBC Act is something that has been on the table for a long time, possibly even before the EPBC itself was put forward as legislation. I think there were some initial suggestions that the wildlife protection act would be part of those acts that were going to be upgraded as a package. They were left out for a variety of reasons I think, in part, to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.

The EPBC bills were tabled late in 1998, and this bill is a flow-on from those. Certainly there has been a lot of input into the formulation of the bill, although obviously you cannot put forward specific amendments because you have to see what the government is bringing forward. All of us have had less than a month—about three weeks—to consider some of the issues that were raised during the fairly extensive Senate committee inquiry into the commercial use of native wildlife that occurred from about 1996 to 1998 when I think the report was tabled.
ing, particularly commercial fishing, is that none of the provisions in the bill or the amendments would automatically affect commercial fishing; they simply provide a mechanism for the minister, or future ministers, to implement regulations. It would be at that time that consultation would occur if there were proposals to move in that direction. The amendments are enabling provisions rather than prescriptive provisions to that extent. They will not have any immediate impact on the industry, as I understand the amendments.

I would make a general statement that the consultation that occurred in relation to the amendments relates to organisations that have specialised for many years in the area of wildlife trading. I had a close interest in the Senate inquiry into the commercial use of native wildlife. I followed that inquiry closely. Even before I was in this chamber, I followed the inquiry closely in terms of the submissions and the hearings. I was involved in meetings with people from all aspects of the wildlife industry, as well as those who follow it from various areas.

It should also be mentioned that inasmuch as the minister may choose to undertake actions that link into commercial fisheries, a lot of powers in relation to fisheries are already in the EPBC Act, such as assessments and actions that the minister can take as a consequence of those assessments, particularly in the Great Barrier Reef Marine Park, and I know that this would be of interest to Senator Harris as a Queensland senator. Senator Hill acted recently in relation to coral. Coral might not leap to people’s minds when they think of wildlife, but it certainly is an area of wildlife where the minister has intervened in recent times, not under this bill, but under provisions of other legislation.

That is an example of how actions would always come back to the minister of the day, which is what I think Senator Harris’s concerns are about. Certainly the Democrats cannot and would not want to be held responsible. I certainly would not want to be held responsible for a lot of the actions of this government in the environmental area. As I said in my second reading contribution, you can have the best environmental legisla-

ation in the world, but it depends on the political will of the minister that has responsibility for it as to how it is implemented. We certainly cannot give guarantees as to how this minister or any future minister may act but, inasmuch as has been possible in the extremely tight time frame, there has been a lot of information, not just in the last few weeks since the bill has been available but over quite a long gestation period, where there has been input from a range of sources and a range of views.

Senator HILL (South Australia—Minister for the Environment and Heritage) (5.41 p.m.)—I think Senator Harris is concerned to see whether there are any new restraints upon the export of commercial fishers. That has not been our intention in this bill. The provisions under the bill that it replaces that required the Commonwealth to conduct assessments of ecological sustainability of export fisheries over a period of time remain. That process has already started. The first assessment of a Tasmanian fishery is under way, and I am sure within the time frame that had been previously specified it will be completed. But this bill that we have brought to the Senate does not seek to change that process or to introduce new processes.

Amendments agreed to.

Senator BARTLETT (Queensland) (5.43 p.m.)—by leave—I move Democrat amendments Nos 17-19, 21, 26-30, 32-34, 61-69, 75-78 and 83 on sheet 2224:

(17) Schedule 1, item 11, page 13 (line 30), omit “subsection (3)”, substitute “subsections (3), (4A) and (4B)”.

(18) Schedule 1, item 11, page 15 (after line 19), after subsection (4), insert:

(4A) The Minister must not issue a permit for the import of any of the following:

   (a) a bear product;

   (b) a cat product.

(19) Schedule 1, item 11, page 15 (after line 19), after subsection (4A), insert:

(4B) The Minister must not issue a permit for the import of a trophy.

(21) Schedule 1, item 11, page 20 (lines 26 to 28), omit paragraph (6)(a), substitute:

(a) the Minister is satisfied that the export of the specimen will not:
(i) adversely affect the conservation status of the species concerned; and
(ii) be inconsistent with any recovery plan or wildlife conservation plan for that species; and

(26) Schedule 1, item 11, page 23 (after line 19), insert:

(3A) The Minister must not issue a permit authorising the export of a live terrestrial invertebrate or a live freshwater fish prescribed by the regulations for the purposes of paragraph 303DD(3)(ba) unless the Minister is satisfied that the proposed export would be an eligible non-commercial purpose export (within the meaning of section 303FA).

(27) Schedule 1, item 11, page 23 (line 24), omit “survival”, substitute “conservation status”.

(28) Schedule 1, item 11, page 24 (lines 1 to 3), omit paragraph (d), substitute:

(d) if the specimen belongs to an eligible listed threatened species or a species of listed migratory bird—the export of the specimen is covered by subsection (7) or (8), and the export would not be inconsistent with any recovery plan or any wildlife conservation plan for that species; and

(29) Schedule 1, item 11, page 25 (after line 11), at the end of section 303DG, add:

(10) Despite paragraph (4)(b), the Minister must not issue a permit for a listed threatened species if:

(a) there is no recovery plan for that listed threatened species; and

(b) the time allowed for making a recovery plan for that species under section 273 has expired.

(30) Schedule 1, item 11, page 25 (line 26), omit “5 years”, substitute “3 years”.

(32) Schedule 1, item 11, page 32 (lines 19 and 20), omit paragraph (a), substitute:

(a) the proposed import would not be:

(i) detrimental to the conservation status of a species or ecological community; or

(ii) likely to threaten biodiversity; and

(33) Schedule 1, item 11, page 33 (after line 2), at the end of section 303EN, add:

(5) In this section: not likely to threaten biodiversity has the meaning given by the regulations.

(34) Schedule 1, item 11, page 33 (line 17), omit “5 years”, substitute “3 years”.

(61) Schedule 1, item 11, page 44 (line 28), at the end of paragraph (b), add:

or (iii) any relevant ecosystem including (but not limited to) any habitat or biodiversity;

(62) Schedule 1, item 11, page 45 (lines 3 to 18), omit subsections (4) and (5), substitute:

(4) In deciding whether to declare an operation under subsection (2), the Minister must have regard to the following:

(a) the significance of the impact of the operation on an ecosystem (for example an impact on habitat or biodiversity);

(b) the effectiveness of the management arrangements for the operation (including monitoring procedures);

(c) the effectiveness of the legislation in the receiving country relating to the welfare, protection, or conservation of the specimens to which the operation relates...

(d) whether legislation relating to the protection, conservation or management of the specimens to which the operation relates:

(i) is in force in the State or Territory concerned; and

(ii) applies throughout the State or Territory concerned; and

(iii) is, in the opinion of the Minister, effective.

(63) Schedule 1, item 11, page 45 (line 11), omit “may”, substitute “must”.

(64) Schedule 1, item 11, page 45 (line 18), at the end of subsection (5), add:

; and (d) the effectiveness of legislation relating to the protection, conservation or management of the specimens to which the operation relates in the receiving country.

(65) Schedule 1, item 11, page 45 (lines 24 to 29), omit subsections (7) to (9).

(66) Schedule 1, item 11, page 47 (lines 2 and 3), omit paragraph (b), substitute:

(b) there has been an assessment of the environmental impact of the activities covered by the plan, including
but not limited to) an assessment of:

(i) the status of the species to which the plan relates in the wild; and

(ii) the extent of the habitat of the species to which the plan relates; and

(iii) the threats to the species to which the plan relates; and

(iv) the impacts of the activities covered by the plan on the habitat or relevant ecosystems; and

(67) Schedule 1, item 11, page 48 (after line 28), after paragraph (a), insert:

(aa) the implementation of the plan will be beneficial to the conservation of the taxon to which the plan relates; and

(68) Schedule 1, item 11, page 49 (after line 6), at the end of paragraph (e), add:

(iii) the status of the species to which the plan relates in the wild; and

(iv) the impacts of the activities under the plan on the habitat of the species to which the plan relates; and

(69) Schedule 1, item 11, page 49 (lines 25 to 32), omit subsection (9), substitute:

(9) The Minister is not required to comply with subsection (8) to the extent to which compliance could reasonably be expected to be detrimental to:

(a) the survival of a taxon to which the plan relates; or

(b) the conservation status of a taxon to which the plan relates.

(75) Schedule 1, item 1, page 55 (after line 15), after subsection (1), insert:

(1A) the Minister must not issue a permit under this section unless the grant of that permit would be in accordance with CITES.

(76) Schedule 1, item 11, page 55 (after line 34), after subsection (4), insert:

(4A) If a permit issued under this section has expired or has been revoked or cancelled, a new permit may not be issued under this section:

(a) to the same person; or

(b) in relation to the same activity.

(77) Schedule 1, item 11, page 56 (lines 10 to 26), omit subsections (7) to (9).

(78) Schedule 1, item 11, page 56 (after line 26), at the end of section 303GB, add:

(10) In this section:

exceptional circumstances has the meaning given by the regulations.

(83) Schedule 1, item 11, page 62 (after line 17), at the end of section 303GH, add:

(3) In deciding whether to transfer the permit to another person, the Minister must consider:

(a) whether the transferee is a suitable person to hold the permit, having regard to the transferee's record in relation to environmental and animal welfare matters; and

(b) the transferee's ability to meet the conditions of the permit.

A lot of these amendments are of a similar type and basically repeat themselves. They seek to ensure that there are no loopholes contained in the act, inadvertently or otherwise. I am sure the minister would tell us that there is no way he would allow the objects of the act to be subverted by loopholes, but even the minister cannot guarantee the conduct of future ministers. These amendments relate to permits and the assessment criteria relating to permits. To some extent they link to what I have spoken about before in relation to bear and cat products. They also ensure that, before issuing a permit, the minister has to be satisfied that the export of a specimen will not adversely affect the conservation status of the species concerned or be inconsistent with any recovery plan or wildlife conservation plan for that species.

These amendments state that the minister 'must not issue a permit authorising the export of a live terrestrial invertebrate or a live freshwater fish prescribed by the regulations'. That is for future regulations, so it is an enabling provision, not a prescriptive one, unless the minister is satisfied that the export would be an eligible non-commercial purpose export within the meaning of this section. Again, it ensures that 'non-commercial' actually means 'non-commercial'. These amendments ensure that the conditions of assessment for the permit do not simply assess the impact on the survival of a species but on the conservation status of the species, which we believe is a more appropriate and
stronger test. They bring in migratory birds, which is certainly consistent with the powers under the existing EPBC Act. They require a recovery plan if it is on a list of threatened species before a permit is issued and ensure that a permit cannot be issued if the time for making a recovery plan under the act has expired.

In a sense, all of these provisions are quite minor, but they ensure that all those different little loopholes that can come into play are not able to be utilised and that things cannot slip through the cracks. We are certainly not talking about preventing commercial activities under all circumstances. We are ensuring that, where commercial pressures do occur, a permit is issued after a proper assessment rather than having the commercial pressures drive it through an inadequate regulatory regime.

The amendments ensure that the import would not be detrimental to the conservation status of a species or ecological community or likely to threaten biodiversity. That is important in terms of allowing imports. We have seen very significant impacts in relation to exotic weeds that have escaped—or, indeed, in many cases, exotic weeds have been deliberately sold as ornamental plants—into the general environment and have had a huge impact on biodiversity. These amendments cover those sorts of hidden impacts. It is certainly easier to notice whether a species of large kangaroo, or even a possum or bilby, is becoming extinct, but it is a lot harder to notice particular species of grasslands or other plant species are being wiped out because of the impacts of introduced species. We need to ensure that there is proper assessment in relation to permission for imports as well. That is what these provisions relate to.

The amendments enable a definition for ‘not likely to threaten biodiversity’ and ensure that permits are for three years rather than five years. They require that the minister must have, rather than may have, regard to the significance of the impact on the operation of an ecosystem, the effectiveness of the management operation arrangements for any commercial operation and the effectiveness of any legislation in the receiving country related to the welfare, protection or conservation of specimens. In effect, they prevent a minister from being able to wash their hands of these issues and say, ‘It’s okay from our end; we’ll just hope that the country on the end deals with things properly in a welfare sense and in a conservation sense and also in terms of whether the relevant state or territory legislation is adequate in relation to the protection, conservation and management of the specimens to which the operation relates.’

The amendments ensure an assessment of the environmental impact of the activities covered by the plan, including an assessment of the status of a species to which the plan relates in the wild and the extent of the habitat of a species to which the plan relates and the threats to the species to which the plan relates and the impact of the activities covered by the plan on the habitat or relevant ecosystems. Again, all of these are small measures but are a tiny tightening of the requirements on the minister in giving approval. They do not prohibit approval; they simply ensure that approval is given in a proper way. In our view, they are not revolutionary amendments in any way, but they certainly ensure that the act will operate tightly rather than in a sloppy sense.

Senator BOLKUS (South Australia) (5.49 p.m.)—I suppose I could say the same as I have said about previous bundles, but I probably do not need to because it is on the record. For instance, this time I am not relaxed about amendment (26). I do not know the full implications of it. For instance, the ALP does not support a ban on the export of inland aquaculture, eels, yabbies and so on. We do not know the real impact of this amendment on that. This is one of the amendments that we will be paying close attention to between now and when the bill comes back to the Senate because the consequences and implications of an amendment like this could be far reaching. I mention that as an example of the problems we have in addressing all of these amendments at a late stage during the debate.

Senator HILL (South Australia—Minister for the Environment and Heritage) (5.50 p.m.)—I would just make a few comments. I understand the spirit behind these amend-
ments, but the issue is whether they might go so far as to be counterproductive. For example, as I read it, the minister is prohibited from issuing a permit for the import of any cat product. I am not sure whether semen, for example, is a cat product. But, if it is, it might mean that the import of, say, tiger semen as part of an internationally sanctioned captive breeding program could be prohibited when in fact the goal is the survival of the species. I think there are some problems in that regard. I might be convinced that it is not a cat product, but that would require some further definitional advice.

On the other hand, at first blush, amendment (21) looks reasonable to me. It says that the minister must:

... be satisfied that the export of a specimen will not adversely affect the conservation status of the species concerned and be inconsistent with any recovery plan or wildlife conservation plan for that species.

Perhaps that is the ‘lack of faith in ministers’ amendment. I would have thought that a minister would take those factors into account in any event, but obviously the Australian Democrats feel that it is better to state it rather than to assume it. That amendment might be one that, in practice, is okay.

I agree with Senator Bolkus: I think amendment (26) will need some further consideration. Amendment (32) is the flip side of an amendment I mentioned a moment ago—this time dealing with imports. It is to ensure that ‘the proposed import would not be detrimental to conservation status’ and so forth. In that instance, that amendment is likely to be okay. On the face of it, amendment (33)—to ensure that the action is not likely to threaten biodiversity—is okay. But under the Democrats’ amendment, it has to have a meaning given by regulations. I am not sure that is necessary. To actually seek to define some of these broad concepts often leads to the potential for matters to slip within the definition and therefore not achieve the objective of the draftsman. I think some of these issues are going to need some further consideration. On that basis, the views that I expressed earlier equally apply to the package of amendments before us.

The amendment that Senator Harris raised, and I presume he is now going to want to pursue, was amendment (62). If it is any help to him, as I interpret it, what is added to the government’s bill by Democrats amendment (62) is:

In deciding whether to declare an operation under subsection (2), the Minister must have regard to—

this is what is additional—

the effectiveness of the legislation in the receiving country relating to the welfare, protection, or conservation of the specimens to which the operation relates;

Again, it would seem to me that that is something one could reasonably assume that a minister would turn his or her mind to in considering such a declaration. But the Democrats nevertheless wish to spell it out. My first reaction to this amendment is that it is probably okay.

Senator BROWN (Tasmania) (5.56 p.m.)—With regard to the business of exporting items and the impact that there might be on overseas ecosystems, I have been in contact with the minister about the export of tree ferns—formerly called man ferns—from Australia and the prospect of half a million of these ferns going overseas, or at least out of Tasmania, per annum. The asseveration by Forestry Tasmania and the people proposing this mass export of tree ferns—Dicksonia antarctica—from Tasmania is that it is because the ferns are otherwise wasted and will be burnt in forestry operations. Of course, in accepting that, the government is accepting that the forestry operations are extraordinarily destructive in Tasmania.

The tree cutting, firebombing and then poisoning regime does tend to kill every living thing in the way. However, one exception to that is Dicksonia antarctica. These tree ferns have a massive ability to withstand fire. If you have been to a clear-felled area in Tasmania, you will have seen lots of them sprouting again after some months. They would, if left to their own devices—very often even if they have been knocked over—begin to grow again in that area. So the advice given to the minister that they are destroyed in the forestry operations is in many cases simply not true.
But the point I brought up with the minister was the impact of exporting a big item like that, even if it goes metre by metre, with all the attendant species that go with it—everything from micro-organisms through to insects and possibly reptiles, frogs and so on. Some years ago one of these ferns turned up in California and was refused entry. It was then transhipped around to British Columbia. The reason it was refused entry was the very thing I am concerned about—that is, the export of incidental species with a great potential to do harm to the ecosystem of the receiving country. On a tree fern there are potentially dozens, if not hundreds, of other species being exported with it. The aim, of course, is to keep them alive until they get to the recipient country.

What is the government’s attitude towards the protection of ecosystems outside this country which are targeted by exports? What analysis is being done of the incidental species that grow on tree ferns in Tasmania and various parts of Australia—they also grow in Victoria and New South Wales—as a part of the minister’s process in making a decision as to whether tree ferns should be exported to foreign places?

Senator HILL (South Australia—Minister for the Environment and Heritage) (5.59 p.m.)—The export of these ferns from Tasmania, as I recall, is under the controlled specimen part of the previous legislation, which might be loosely referred to as an interim step towards a management plan. As I recall, we have been seeking to conclude a management plan with Tasmania for some time. I am told by my advisers that it is expected soon. I think I can remember being told that a number of times before. I do not remember the specific issue that Senator Brown has raised being addressed within the considerations that have been put before me. I might be wrong, so I will need to check that. If I am right, it is presumably because the primary consideration that is being given under our legislation is its effect upon the species within Australia rather than the incidental effect upon the recipient country.

I would think that in most instances the export of these ferns is to developed countries, all of which have well-developed quarantine and other import constraints, in the same way that Australia has its own processes to ensure that there is not the inadvertent import of live materials that can have a detrimental effect upon either our commercial production or our natural systems. I would expect that other countries have similar systems and that their safeguards would ensure that the consequence that Senator Brown is concerned about does not occur. In the case that he quoted of the export of ferns to California, it seems that that was in fact the case if the imported product in that instance was stopped and not permitted entry into the United States.

Senator BROWN (Tasmania) (6.02 p.m.)—The very point I was trying to make there has escaped the minister—that is, the tree fern from Tasmania, which was carrying an unknown other species with it, was refused import to California but then was accepted into British Columbia. If you look at a map, California is very clearly connected to British Columbia by land. So the escape of a species in Canada from that tree fern, if it were to multiply and enjoy the North American climate, would mean that it would be back in California before you could say ‘Jack Robinson’, at least in geological time.

The questions I am really getting at here, and what this particular amendment inherently implies if not directly asks of the government, are: does the government care at all about the impact on overseas ecosystems of exports from Australia; and, if so, what is its policy on protecting overseas habitats and ecosystems from escaped feral entities coming from Australia? They are very serious questions. If you go to Malta, for example, our national emblem, the wattle, has become a weed which is causing enormous difficulties. You would know that a great number of other plants and animals—indeed, you have only to look at New Zealand and the possums—have done a lot of damage to overseas ecosystems.

We are in an age of globalisation where the government sees that as a centrepoint of its policy making, but I wonder if being a good citizen should not be part of that policy making. There is nothing in the export potential of tree ferns, once the minister and the
Howard government agree to it, to say that tree ferns can only go to countries which have very careful quarantine arrangements. They will be able to go wherever anybody likes to export them. So I ask the minister: what is the government’s policy in terms of protecting overseas ecosystems, and will he reconsider the export of tree ferns from Australia in light of the government’s responsibility to ensure that it does not send missiles in terms of potentially devastating species to ecosystems on other continents?

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.05 p.m.)—I do not know the full facts related to the particular case that Senator Brown refers to. If it is implied in what he is saying that Canada has a less rigorous quarantine system or less demanding requirements than the United States, then I would be surprised. So, in accordance with the answer I gave, I would have thought that the quarantine systems of both countries would adequately address that particular issue.

Senator Brown asks whether Australia is concerned about these issues. Obviously, Australia would not want to inadvertently be associated with the release of something that may well become a pest and do damage in another country. I will need to take advice—not from the officials here, because it is not primarily done within my department—but I do not think that any specific measures are taken under our quarantine processes as a form of reverse protection. We assist developing countries in the development of their quarantine processes and their legislative and administrative structures both in the protection of commercial crops and species and in the protection of their biodiversity, but I do not think that Australia does anything beyond that.

Senator HARRIS (Queensland) (6.07 p.m.)—Going back to the issue that I raised previously in Democrat amendment No. 62, through you, Temporary Chair, could I seek clarification from Senator Hill that he will be proceeding to put government amendments Nos 1 and 2? At present, they do not appear on—

The TEMPORARY CHAIRMAN (Senator Chapman)—If I can just interrupt, Senator Harris: they are somewhat later in the proceedings.

Senator HARRIS—Thank you, Temporary Chair. My question in relation to Democrat amendment No. 62 in actuality goes to paragraph (4)(b). If I could ask Senator Hill, through you, Temporary Chair, when framing his response to look at the government’s proposed amendment No. 2, which would require:

In deciding whether to declare that a commercial fishery is an approved wildlife trade operation for the purposes of this section, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.

I believe that Democrat amendment No. 62(4)(b) may have an impact on the government’s intended amendment. My question in relation to that is: who is going to cover the costs of the monitoring procedures that are set out in the Democrat amendment, and what effect could that have eventually on commercial fishermen in light of the government’s proposed amendment No. 2 and the ability to define wildlife trade in relation to commercial fishermen? I seek some guidance from the minister in relation to that interrelationship between those two amendments first.

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.10 p.m.)—I will have a go at it. I do not see that anything substantially changes from what is the existing position. Basically, export fisheries are managed either by state authorities or by AFMA and they are managed under management arrangements, which the authority determines but clearly determines in conjunction with the fishermen and the scientific circumstances of the fishery. As I understand it, the cost of those management arrangements is in part borne by taxpayers of whatever jurisdiction we are talking about and in part borne by the users—that is, by the fishing industry—through various forms of levies and the like. This provision talks about:

Minister must have regard to:

(b) the effectiveness of the management arrangements for the operation—
Whilst it obliges the minister to have regard to that, it is not the minister who is responsible for the management arrangements. That, as I said, is a different minister and often in a different jurisdiction. There is no additional cost that I see in relation to the amendments the government has put before us, except for the process that I made mention of a while ago which exists under the current legislation—which is that the Commonwealth is undergoing a process of assessment of the ecological sustainability of these existing export fisheries. We are primarily expecting the cost of that to be borne by the fishery itself.

Senator HARRIS (Queensland) (6.12 p.m.)—I thank Senator Hill for his detailed response to that. I would like to go back now to Democrat amendment No. 18, which states specifically:

(4A) The Minister must not issue a permit for the import of any of the following:

(a) a bear product;
(b) a cat product.

For the purposes of the members of the Senate, I acquaint you with a surgical procedure that is carried out on a day-to-day basis by the medical fraternity in which they use a product called catgut as a suture, which actually is a by-product of the cat. In that sense, I wonder whether the Democrats are actually capturing unintentionally a medical service that is relied upon within the medical fraternity even today. The Senate may need to take into consideration whether that unintended exclusion could possibly have some repercussions for the medical fraternity.

Senator BARTLETT (Queensland) (6.14 p.m.)—I will address that question from Senator Harris, which is a fair enough question to ask. I could go into the detail of sections 303CE and 303CG, being the differing sections under the bill proper that the amendment links to in terms of the import of any of those products. But perhaps I could refer Senator Harris back to amendment No. 8. That has a definition of ‘cat products’, which means ‘any product derived from, or any part of, a member of the family Felidae, other than a member of the species Felis catus’. I am advised that Felis catus is the domestic cat, from which I understand that products such as the one that has been described are derived. The purpose of that exemption under that definition is so that it does not catch up things like that, but it is also to ensure that it does not enable an expansion of trade in wildcat products and derivatives.

Senator BROWN (Tasmania) (6.19 p.m.)—I return to the matter of tree ferns. The minister will know that, under subdivision B28 of his bill in the section that is being amended at the moment, the first provision is that the Commonwealth ‘must not take inside or outside the Australian jurisdiction an action that has, will have or is likely to have a significant impact on the environment inside or outside the Australian jurisdiction’. Can an assurance be given that the minister will not use one of the exemptions to allow the export of Australian tree ferns which threaten an external jurisdiction—that is, another country—or which contain other organisms of any sort that could be a threat to another country?

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.17 p.m.)—I did say a moment or two ago that the Commonwealth would not wish to take an action that could have a detrimental effect upon flora or fauna of a third country. That is easy to say, but how the principle is to be applied in practice I think needs perhaps a little more thought than I am able to give it at the moment. I think I could fairly say that obviously the minister would not knowingly take an action having that consequence. But the extent to which the minister would have to satisfy himself or herself that there would not be such an inadvertent consequence I am not sure of. As I said a moment ago, we rely primarily upon the quarantine provisions of the other country and, in any event, the knowledge and information upon which such an assessment at the Australian end might be made is really held within the quarantine authorities rather than the ministry for the environment.

Senator BROWN (Tasmania) (6.19 p.m.)—Thank you. I would just ask the minister whether he would look at the matter, because it is worrying me a great deal. If these ferns were coming from overseas into
Australia, I would be horrified. They are very complicated plants. They live in symbiosis with a lot of other entities, and there are many insect and micro-organism species attached to them. Even if you were satisfied that the fern would not get out of a nursery and spread into the wilds in Australia, you would still want to know that it had been effectively sterilised, as far as all other species attendant on it were concerned. I guess I am asking the minister, first of all, to ban the export of these ferns out of Australia. I think they are great native species, and that is the way they should stay. But I am asking him, secondly, to look at a provision whereby, if they are going to be exported, they be sterilised before they go. That is not an easy operation. But if there is a commercial impulsion to export these into temperate climates, particularly in the northern hemisphere but also in New Zealand, South America and Africa, then I think we have a very big responsibility to see that they do not take with them insects and other species that could get out in those temperate climates, multiply and create quite a big environmental impact. We are way past the stage of doing that with our eyes shut.

I hear that a licence provision is imminent; I am very much opposed to it, and I think it has huge environmental consequences. I would just ask the minister to check and see that government instrumentalities, or his fellow ministers, have thoroughly looked at the potential environmental detriment of this trade. I would ask them to think again and, if this trade is going to go ahead—and I counsel against that—to put in some very stringent provisions with certain requirement for those people who are dealing in these tree ferns. Those people are getting these tree ferns for a song out of the Tasmanian forests. If the minister comes to the Styx Valley, I will take him to the cathedral tree. It is 86 metres high and has been threatened with destruction under the Prime Minister’s regional forest agreement—and that has been used as an excuse to allow the fern cutters in there. So there is this track leading to this magnificent tree, in the bole of which you can stand somewhere between 15 and 30 people. It is a beautiful ferny track, with quite a few of those ferns having been decapitated by people coming along with chainsaws and trucks and simply lopping the tops off and taking them off to market. Fostering an overseas trade will see a lot more of that happening. It is a real worry that Forestry Tasmania—not totally renowned for environmental excellence—is now fostering this component of the selling off of the forest ecosystems in Tasmania. That is because it has an impact in Tasmania, but it has a very big potential impact on temperate ecosystems elsewhere around the world to which these ferns, carrying whole microsystems of related entities, are likely to be sent.

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.22 p.m.)—I will seek advice on that matter and I will be happy to share any such advice with Senator Brown. It is an interesting point he makes, particularly in relation to developing countries that may not have a sophisticated quarantine safeguard system. In relation to the Australian end, I have clear recollection from a number of occasions when I have signed off on these exports of being told that they are from a forestry operation in which the fern will be otherwise destroyed—Senator Brown shakes his head, but that is the advice that I have been given—and that each specimen is separately tagged, numbered and basically traced to avoid the sort of abuse that Senator Brown is speaking of. As I understand it, what he is really speaking of is illegal operations. There will always be illegal activity, but the state authorities in Tasmania have a responsibility to act against such activity and we would obviously support them in doing so.

Senator BROWN (Tasmania) (6.24 p.m.)—I thank the minister for that consideration. I will take it in the spirit in which it is given. I just point out that if Forestry Tasmania says that the ferns in logging operations are inevitably destroyed it is supplying the minister with wrong information. I guess that is not a groundbreaking revelation as far as Forestry Tasmania is concerned. Many, many of the tree ferns survive even the worst that Forestry Tasmania can do, and I can provide the minister with pictures of that. It is not true that they are inevitably going to be destroyed. If they were left to their own de-
services many of them would survive. This is just them making a further commercial advantage for somebody out of the tragedy of the destruction of those forests in Tasmania.

Amendments agreed to.

Senator BARTLETT (Queensland) (6.26 p.m.)—by leave—I move:

(3) Schedule 1, page 5 (after line 10), after item 10A, insert:

10B Subsection 266A(1)

After “Division 1, 2, 3 or 4”, insert “or Part 13A”.

(22) Schedule 1, item 11, page 21 (lines 23 and 24), omit paragraph (3)(c), substitute:

(c) must consult other persons and organisations in accordance with the procedures for consultation set out in subsections (3A) to (3E).

(23) Schedule 1, item 11, page 21 (after line 24), after subsection (3), insert:

3A For the purposes of consultation under paragraph (3)(c), the Minister must cause a notice of the application to be:

(a) given to each person and organisation registered under section 266A; and

(b) published on the Internet.

3B The notice referred to in subsection (3A) must:

(a) set out the proposal to amend the list; and

(b) set out sufficient information about the proposed amendment to enable persons and organisations to consider adequately the merits of the proposal; and

(c) invite persons and organisations to give written comments to the Minister about the proposal within the period specified in the notice; and

(d) specify an address for the lodgement of comments.

3C The period specified in a notice under paragraph (9)(c) must not be less than 20 business days after the date on which the notice was given.

3D In making a decision under subsection (6), the Minister must consider any comments about the proposal that were given in response to an invitation under subsection (3A).

3E Within 28 days after making a decision under subsection (1), the Minister must publish written reasons for the decision on the Internet.

(57) Schedule 1, item 11, page 42 (after line 4), at the end of section 303FG, add:

(8) Before amending the list referred to in subsection (4) as mentioned in paragraph (6)(a) or (b), the Minister must cause a notice of the proposed amendment to be:

(a) given to each person and organisation registered under section 266A; and

(b) published on the Internet.

9 A notice referred to in subsection (8) must:

(a) set out the proposal to amend the list; and

(b) set out sufficient information about the proposal to enable persons and organisations to consider adequately the merits of the proposal; and

(c) invite persons and organisations to give written comments to the Minister about the proposal within the period specified in the notice; and

(d) specify an address for the lodgement of comments.

10 The period specified in a notice under paragraph (9)(c) must not be less than 20 business days after the date on which the notice was given.

11 In making a decision under subsection (6), the Minister must consider any comments about the proposal that were given in response to an invitation under subsection (8).

12 Within 28 days after making a decision under subsection (6), the Minister must publish written reasons for the decision on the Internet.

(71) Schedule 1, item 11, page 50 (lines 6 to 15), omit subsection 303FR(1), substitute:

1 Before making a declaration under section 303FN, 303FO or 303FP, the Minister must cause a notice of the proposal to make a declaration to be:

(a) given to each person and body registered under section 266A; and

(b) published on the Internet.

(72) Schedule 1, item 11, page 30 (after line 15), after subsection (1), insert:
A notice under subsection (1) must:

(a) set out the proposal to make the declaration; and
(b) set out sufficient information about the declaration to enable persons and organisations to consider adequately the merits of the proposal; and
(c) invite persons and organisations to give the Minister written comments about the proposal within the period specified in the notice.

Schedule 1, item 11, page 50 (after line 22), at the end of section 303FR, add:

(4) Within 28 days after making a decision whether to make a declaration under section 303FN, 303FO or 303FP, the Minister must publish written reasons for the decision on the Internet.

Schedule 1, item 11, page 60 (after line 16), after section 303GE, insert:

303GEA Public consultation on permits

(1) This section applies to a permit issued under this Part.

(2) Before issuing a permit, the Minister must cause a notice of the application for a permit to be:

(a) given to each person and body registered under section 266A; and
(b) published on the Internet.

(3) The notice must:

(a) state that an application for a permit has been made; and
(b) set out sufficient information about the application to enable persons and organisations to consider adequately the merits of the application; and
(c) invite persons and organisations to give the Minister written comments about the proposals within the period specified in the notice.

(4) The period specified in a notice under paragraph (3)(c) must not be less than 10 business days after the date on which the notice was given.

(5) In making a decision whether to issue a permit, the Minister must consider any comments about the application that were given in response to an application under subsection (1).

(6) Within 28 days of making a decision under this Part whether to issue a permit, the Minister must publish written reasons for the decision on the Internet.

The regulations may prescribe categories of permit applications to be exempt from the requirements of subsections (2) to (6).

These amendments relate to consultation—basically public consultations required for permits or amendments of lists and similar measures, to ensure that there is greater public consultation. The amendments remove a few maybes along the way and put in a few musts, such as: must consult other persons and organisations; the minister must cause notices of applications to be given to persons and organisations registered; must require a notice to be published on the Internet setting out the proposals and details relating to applications or proposals to amend the list. Amendment (57) similarly requires public notification and publication on the Internet before making various declarations, requires notice to be declared on the Net and by notifying registered organisations and individuals, and requires written reasons to be published within a certain time frame of a decision and, again, publication and notification to relevant people and on the Internet before issuing permits.

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.27 p.m.)—This is consistent with the style of the Democrats on a number of pieces of environmental legislation, in which they seek to extend processes of consultation before approvals are given. In this bill we are not only trying to provide a more effective piece of legislation in relation to wildlife protection but also trying to remove a lot of unnecessary red tape that existed in the previous regime and added to cost, added to compliance difficulties, frustrated the users but did not really achieve any benefits in terms of conservation. My concern with these provisions is that they may well be swinging the balance back the other way and I would want to give further consideration to that before this bill reached the other place.
Senator HARRIS (Queensland) (6.29 p.m.)—I am seeking clarification from Senator Bartlett on amendment (79). This goes to inserting:

303GEA Public consultation on permits
and sets out steps (1) to (7). The seventh subsection reads:

(7) The regulations may prescribe categories of permit applications to be exempt from the requirements of subsections (2) to (6).

The clarification I am seeking is: why do the Democrats, after prescribing a process for public consultation on permits, see the necessity to write in the ability for the regulations to exempt certain permits from that process?

Senator BARTLETT (Queensland) (6.30 p.m.)—In response to Senator Harris’s query, it neatly points out the way in which the Democrats have tried to address the concern that Senator Hill raised in relation to the style of Democrat amendments, as he put it. I welcome the minister’s acknowledgment that our amendments have style—I think they have panache as well, and they are also effective. All of us support the principle of the aim of public consultation. I made the point in my speech in the second reading debate that the number of applications for permits would surprise people. I do not know what the precise number is, but it would be significant. If it turns out that clearly huge numbers of permit applications are being published and that it could get to the stage of being counterproductive, where run-of-the-mill permit applications are so numerous that the potentially dangerous ones are hidden amongst the volume, there may be an argument for introducing regulations that allow categories of permit applications to be exempt from the requirements.

It is an enabling provision. If it pans out that in particular areas an established principle is in place in relation to particular activities, and that has been accepted, it may well be workable for regulations to be put in place that would exclude those activities from public notification every single time. The safeguard of course is that, because it is a regulation, if the minister tried to slip in a blanket exemption or an inappropriate exemption it would still be within the power of the Senate to prevent that from happening. Again, it is a balanced way of trying to ensure that public consultation is required and that the minister cannot weasel out of that, but if there is a good argument to be put forward for blanket exemptions, if the Senate agrees at a future time, that regulation can be so prescribed.

Senator BOLKUS (South Australia) (6.32 p.m.)—I am glad that someone has given the minister a bit of a prod, because these amendments have some consequences that have not been thought out. I said that a few times during the second reading debate, and the minister may be right when he suggests that this may tip it too far the other way. Under the regulations, a hell of a lot of people have to be notified directly and personally as well as on the Internet. It may just ossify the whole process, so it would be good for the minister to pay some attention to these amendments and come back to us with a government view on them. For instance, there is reference to ‘each person and organisation registered under section 266A’. At this stage of the debate, I do not know what range of organisations we are talking about. I will not ask the minister or his advisers, because they may not know as well, but we need to have some serious consideration of what is involved before we give final approval to the amendments.

Amendments agreed to.

Senator BARTLETT (Queensland) (6.34 p.m.)—by leave—I move Democrats amendments Nos 4, 5, 90 and 91 on sheet 2224:

(4) Schedule 1, item 11, page 5 (line 19), at the end of paragraph (a), add “and the Biodiversity Convention”.

(5) Schedule 1, item 11, page 5 (line 26), at the end of subsection (1), add:

: (f) to ensure ethical conduct during any research associated with the utilisation of wildlife;

(g) to ensure the humane treatment of individual animals involved in the international movement of wildlife specimens;

(h) to ensure that the precautionary principle is taken into account dur-
These amendments relate to improving the objects of the bill. Hopefully, they do not present any complication for anybody, even given the comments that have been made to date in relation to time frames, et cetera. Under the objects, amendment No. 4 ensures that Australia complies not only with its obligations under the Convention on International Trade in Endangered Species but also with its obligations under the Biodiversity Convention. It is quite appropriate, given that we have signed up to that convention, that that be contained in the objects. It expands the objects that are listed beyond that compliance requirement—protecting wildlife, promoting conservation and biodiversity of Australia and ensuring that any commercial utilisation of wildlife for the purposes of exports is managed in an ecologically sustainable way to promote the humane treatment of wildlife. Those are already in the bill.

Amendment No. 5 is to ensure ethical conduct during any research associated with the utilisation of wildlife. I touched on research issues in my speech during the second reading debate. It ensures the humane treatment of individual animals involved in the international movement of wildlife specimens. Again, that is an important principle that is specified for individual animals. Sometimes, if you are talking about exports, you are talking about only a small number of animals—sometimes only one—but concerns have certainly been raised in terms of the humane treatment of some of those animals when they are exported.

Indeed, we saw—not that this would come under ‘wildlife’ necessarily—the awful occurrence in relation to the live transportation of deer on a Qantas jet and the dreadful deaths that a number of those animals suffered and the consequences of that. As an indication, it was not a huge number. I cannot remember the precise number, but it would have been under triple figures of deer involved. That circumstance highlights the importance of ensuring the humane treatment of individual animals involved in international movement.

Amendment No. 5 also ensures that the precautionary principle is taken into account during decisions relating to the utilisation of wildlife. That links to amendments 90 and 91, which also require the precautionary principle to be taken into account when the minister decides whether to amend the list of exempt native specimens and whether to grant exceptional circumstances permits.

Senator HARRIS (Queensland) (6.37 p.m.)—I would like to speak briefly not to the content of Democrat amendment (4) but to take account of the significance of the reference to the Biodiversity Convention. I understand that, if an international convention is named in an act of parliament that comes before this chamber, that binds us to that convention. I seek some qualification from Senator Hill as to whether Australia has, on any other occasion, through legislation, referred to and included the Biodiversity Convention. If we have not done that, we are about to bind Australia to that convention.

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.38 p.m.)—The Biodiversity Convention is referred to in other legislation and, in particular, in the primary legislation here, the Environment Protection and Biodiversity Conservation Act 1999. It does not seem to me that referring to it in the objects of the bill has the consequence that Senator Harris refers to. I understand that, if an international convention is named in an act of parliament that comes before this chamber, that binds us to that convention. I seek some qualification from Senator Hill as to whether Australia has, on any other occasion, through legislation, referred to and included the Biodiversity Convention. If we have not done that, we are about to bind Australia to that convention.
Biodiversity Convention. I am not sure about some of the other objects. I support the principle in the Democrats saying that the purpose is ‘to ensure ethical conduct during any research associated with the utilisation of wildlife’, but that is not really what this legislation is all about. It is not really about research activities associated with wildlife. It might not be of any consequence, but it is something that I would need to give further consideration to.

Senator BOLKUS (South Australia) (6.40 p.m.)—How does Senator Bartlett anticipate amendment (5)(h) operating where there is a requirement:

... to ensure that the precautionary principle is taken into account during decisions relating to the utilisation of wildlife.

Senator BARTLETT (Queensland) (6.41 p.m.)—That applies particularly when you link it in with amendments (90) and (91) and the operations of section 391, part 3, which inserts some items on page 77 of the principal bill. Obviously, this is ensuring that the precautionary principles are incorporated in the objects of the act. As I understand it, the specifics of how that is taken into account in decisions relating to the utilisation of wildlife.

Amendments agreed to.

Senator BOLKUS (South Australia) (6.44 p.m.)—One of the concerns the opposition had when the primary legislation passed this parliament in 1999 was that it was very dismissive as to the rights of indigenous Australians. This amendment goes some way towards correcting that—I must stress the words ‘some way’. I am looking, for instance, at the words to the effect that the act cannot be taken to exclude or extinguish any such right that might exist. Upon discussion with Senator Bartlett and with the indication that ATSIC have also come up with these words, I think the words that Senator Bartlett has come up with do reflect that sentiment. We are talking about protecting any existing rights, and the language does do that. We support this amendment.
and that we are creating a situation that could be viewed as determining that the indigenous people have intellectual property rights over flora and fauna. I believe the indigenous people justly should have intellectual property rights over their traditions, customs and artefacts, but to in any way imply that they have intellectual property rights over—as the amendment states, as amended—ownership of native plants and wildlife would be unacceptable to the Australian population.

Amendment agreed to.

Senator BARTLETT (Queensland) (6.47 p.m.)—I move Democrats amendment No. 70:

(70) Schedule 1, item 11, page 49 (after line 32), at the end of section 303FP, add:

(10) An instrument under subsection (2) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

This amendment is again self-explanatory. It relates to accredited wildlife trade management plans. It means that any specified plan that is an accredited wildlife trade management plan is a disallowable instrument. This is not inconsistent with provisions that apply in other acts—not just in environmental law but in some of the fisheries management acts around the place. In an area such as wildlife trade, where a management plan is to be developed, it is appropriate to have the final safeguard of that power of disallowance available to the parliament.

Senator BROWN (Tasmania) (6.48 p.m.)—It is a good opportunity for me to ask the minister, briefly, what action he has taken under the obligation to look at foxes as a threatening species to prevent foxes getting into Tasmania, particularly as the population pressure grows on the Melbourne wharves.

Senator HILL (South Australia—Minister for the Environment and Heritage) (6.48 p.m.)—I do not quite see what it has to do with this particular bill. I certainly regard foxes as a threatening species, and I am disturbed at the sightings. I have heard of one fox in Tasmania, and I think I have had a letter from Senator Brown or have seen some communication that suggests that a second fox has been seen. The practical steps that are taken to ensure that foxes are not transported from the mainland to Tasmania are those that are taken in particular by the government of Tasmania and, I would like to think, the exporting government of whatever state in which the fox originates to best ensure that that simply will not occur.

Amendment agreed to.

Amendments (by Senator Hill)—by leave—agreed to:

(1) Schedule 1, item 11, page 21 (after line 12), after subsection (1), insert:

(1A) In deciding whether to amend the list referred to in section 303DB to include a specimen derived from a commercial fishery, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.

(1B) Subsection (1A) does not apply to an amendment mentioned in paragraph (1)(e).

(1C) Subsection (1A) does not limit the matters that may be taken into account in deciding whether to amend the list referred to in section 303DB to include a specimen derived from a commercial fishery.

(1D) In this section:

fishery has the same meaning as in section 303FN.

(2) Schedule 1, item 11, page 46 (after line 9), after subsection (10), insert:

(10A) In deciding whether to declare that a commercial fishery is an approved wildlife trade operation for the purposes of this section, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.

(10B) Subsection (10A) does not limit the matters that may be taken into account in deciding whether to declare that a fishery is an approved wildlife trade operation for the purposes of this section.

Progress reported.
DOCUMENTS
Consideration
The following government document was considered:
Centrelink—Compliance activity for Family and Community Services—Report for the period 1 July to 31 December 2000.
Motion to take note of the document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

ADJOURNMENT
The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! There being no further consideration of government documents, I propose the question:
That the Senate do now adjourn.

Vietnam: Religious Rights
Senator HUTCHINS (New South Wales) (6.52 p.m.)—I want to speak briefly tonight about information that I have received from constituents of mine in New South Wales, regarding a petition that a number of men and women have sent to the Hon. Kofi Annan, the Secretary General of the United Nations, calling for the appointment of a special rapporteur for religious rights in Vietnam. The men and women who sent this petition to Kofi Annan were protesting about the religious persecution and intolerance that is under way against religious leaders in the Socialist Republic of Vietnam. At the moment, there are three particular gentlemen who are being persecuted by that socialist regime.

You may be aware that the population in Vietnam is 80 million. Eighty per cent of the population is Buddhist. 10 per cent is Catholic, and the remainder belong to various other religions, including Protestantism and Hoa Hao. The Socialist Republic of Vietnam is a signatory to the International Covenant on Civil and Political Rights and its constitution allegedly guarantees freedom of expression, religion and association. However, if you look at the track record of this government, you will see that in the three particular instances that I want to highlight to the Senate tonight that is not the case.

The highest ranking leader of the Unified Buddhist Church of Vietnam, the Most Ven-erable Thich Huyen Quang, is currently under house arrest. He is an 80-year-old resident of Vietnam and since 1977 he has, on and off, been imprisoned or under house arrest for insisting upon the basic human right to practise his religion without fear or favour. Another man who is currently incarcerated and has been under house arrest since 1 June this year is the Most Venerable Thich Quang Do, the secretary general of the Unified Buddhist Church of Vietnam. Since 1977 he has been, in one form another, obstructed in being able to perform or practise his religion: he has been tortured, he has been put into a position where they have tried to make him admit that he has worked for the CIA, and on a number of occasions he has been persecuted and put under house arrest. He is under house arrest at the moment, and has been since 1 June this year.

Another gentleman who is also incarcerated is the Reverend Nguyen Van Ly, a Catholic priest. Father Nguyen was ordained in 1974 and on many occasions since 1974 or 1975 he either has been in internal exile or has been punished for insisting upon the basic right to practise the religion that he holds close. He was arrested on 17 May this year for calling for greater freedom of religion in Vietnam. Father Nguyen is currently on a hunger strike. His life is in danger and he may die at any moment.

On 22 May a petition was made available to the Secretary General of the United Nations, calling upon him to appoint a special investigator to ensure that the Socialist Republic of Vietnam, which is a signatory to the Declaration of Human Rights and the International Covenant on Civil and Political Rights, practises what it has signed up for. Unfortunately, that is not the case. These three religious gentlemen have only sought to practise the freedoms that the Vietnamese people sought when trying to rid themselves of their colonial oppressors. They are now oppressors themselves. Any number of us may recall the terrible conflict that occurred in that country. A number of Australians died—in fact, one of my old mates had a son killed in Vietnam. There were a number of Australians wounded both psychologically and physically. A number of those men and...
women have never recovered and may never recover. It is with angst that I highlight to the Senate this evening this persecution of these quite honourable men because of the practise of their religion. The Vietnamese government, which is a signatory to those protocols I mentioned, is not living up to what it should do: allow these men and women in Vietnam to continue to practise their religion. In the case of the Unified Buddhist Church, they have been practising, obviously in one form or another, for nearly 2,000 years. In the case of Catholicism, I suppose it is a religion that they have practised since they converted as a result of French colonisation. With the other religions, I am not sure. I understand the Montagnard people are the most significant followers of the Protestant faith in Vietnam. They, too, are subject to internal discipline or internal exile.

At the moment, we have three honourable men who have been placed under house arrest: the secretary general on 1 June; Father Nguyen on 17 May; and, also in May, the Most Venerable Thich Huyen Quang. It is simply not good enough for us to have in our country a right that we hold dear and not at least advise and protest about what is happening in a country with which we have had a significant relationship—in one form another, whether adversarial or diplomatic—for many years. I am ashamed that this government continues to persecute its internal opponents because they are not following the party line. I would have thought that the raison d'être for our presence in that country, and at some stage or another the protest about that presence, was the fact that we believed that those men and women had the right to determine their own future free of any interference from any foreign powers. We should have expected that they would allow the freedom of association, religion and speech that we hold dear and that we would fight for and die for if called upon.

As I said, this goonish government has hypocritically signed the Declaration of Human Rights and the International Covenant on Civil and Political Rights and is yet not carrying out its obligations. I wanted to highlight that to the Senate this evening because there are a number of people of Vietnamese descent in Australia who are very annoyed, angry and upset that their fellow countrymen—maybe even their relatives—are now subject to this persecution, persecution that we would not put up with in our country.

Work for the Dole: Remnant Bushland Protection Program

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (7.00 p.m.)—I rise tonight to talk about a successful and unique Work for the Dole presentation I had the pleasure of attending on Friday, 15 June 2001 in Wollongong. The Remnant Bushland Protection Program, sponsored by Wollongong City Employment and Training Inc., was highly commended in the Work for the Dole 2000 achievement awards as a most innovative activity.

It was the first such program for reformed drug users on methadone. In formulating this special program, Wollongong City Employment and Training Inc., a community work coordinator for the unemployed in Wollongong, decided that they would not put reformed drug users in the too-hard basket. The forward thinking team, headed by Mr Mike Betts and Mrs Lyn Watkins, put a lot of planning and creativity into the formulation of this program, specifically, how to engage participants who had a background of substance abuse. This program has received acclaim and support from the Wollongong community and has encouraged other unemployed people with drug related issues to participate.

Between July and December 2000, the 19 participants were involved in regenerating Mangerton Park as well as building walking tracks and stairs and improving the drainage of the park. They also developed skills in bush protection techniques, weed control and identification, occupational health and safety and basic first aid. In addition, they developed communication and teamwork skills which they recognised as being important in any workplace and for their ongoing rehabilitation. The Remnant Bushland Protection Program gave the participants an opportunity to move closer to realising their potential, gain a greater sense of self-esteem and valuable skills.
I would like to take this opportunity to acknowledge the hard work of those people who contributed to the success of this program, particularly the participants. After their sad and sometimes horrendous upbringing, they have decided to develop their skills and build their confidence to become part of the working society. Some of the participants have gained full-time employment since the completion of the program.

My trip to Wollongong last Friday will go down in my log of parliamentary experiences as one of the highlights. It was a great experience for me to meet and chat with a group of young Australians who had in many cases experienced the least advocacy, the worst of dysfunctional childhood and a complete betrayal of their rights to safe passage through the years of innocence.

This was demonstrated to me in a frank discussion with a young man whom I described to the assembly as a ‘legend’. This young man—after an observation by me that he looked as if he had done it hard—told me of his chilling childhood experiences. At the age of three he was not taken, as might reasonably be expected, to football, cricket, swimming or basketball, but to learn shoplifting at which he became quite proficient. It made me feel ill when he described his family who, deciding when he was 11 that he was old enough to keep the family, put him on the street as a child prostitute. This remarkable young Australian who had been forced to take the streets, drugs route has courageously eluded the often unpredictable outcome of suicide and has put his past behind him and now works as a drug and alcohol counsellor. In my eyes he has gained legend status.

It is a sad experience to meet young people who often, through no fault of their own, become easy prey for people who trawl for sexual gratification among youth on our streets and take advantage of these young Australians’ despair and vulnerability. To see the same young people able to overcome the streets, drugs and suicide option is a memorable and moving experience. To hear them describe the Sydney and Wollongong client base of judges, lawyers, politicians, community services officers, clergy and others is sickening. There is no doubt in my mind that many people in our society lack advocacy but those with the least advocacy and political representation are the thousands of victims of child sexual abuse and sex crimes.

Senator Conroy—I knew we had to get to this—

Senator HEFFERNAN—My pledge to those victims is my unrelenting advocacy of their plight and my unrelenting pursuit of their predators. My plea to the wider community is for them to understand, Senator Conroy—and you might be one of those who might understand—and recognise that, if we took child abuse and family violence as seriously as we take other important issues, if we dealt with the social and economic aftermath of child abuse and switched the shame to the perpetrators and away from the victims, we would stop building and start closing jails and drug centres. We could stop jailing the victims and start jailing more of the predators, many of whom with clever legal representation and often in a compromised legal climate escape the law. In so doing, these often high public profile and charming predators re-victimise the victims and continue as serial offenders seeking self-gratification at any cost. Our children no longer have an unconditional guarantee of safe passage through their years of innocence. They should have. If we can spend billions on saving the planet, what price do we put on our children?

Finally, I commend the efforts of all associated with Wollongong City Employment and Training Inc. and congratulate the Work for the Dole participants who, as methadone users, have shown that success in tackling unemployment and drugs can be achieved. In winning an Australia-wide award, they are models of effort and commitment for all Australians and especially those Australians who feel swamped by the tide of life.

Detention Facilities: Study Tour

Senator MCKIERNAN (Western Australia) (7.07 p.m.)—Tonight I want to put on the record some events from my recent study trip to the United States of America, Canada, the United Kingdom and Thailand. I went to each of these countries to have a look at the
border control laws and the detention facilities that those countries operate. I did not go to each of the countries to do a comparative analysis between Australia and the various countries that I went to—that would be a very difficult thing to do. But I certainly went on a learning experience, and I think that it was a very good learning experience. In accordance with the guidelines for study trips, I have compiled a report which I have provided to the Special Minister of State, Senator Abetz. I just want to put a few remarks on the record with regard to what I saw and the information I collected during that study tour.

Firstly, I want to record my indebtedness to Mr Fred Baker, Principal Migration Officer, Department of Immigration and Multicultural Affairs, in Los Angeles; to Steven Weeks, First Secretary, Immigration, in Ottawa; to Barry Welsby, Counsellor, Immigration, in Washington; to Peter Watters, Regional Director, Immigration, in London; and to Christopher Callanan, Counsellor, Immigration, in Bangkok, Thailand. All of those gentlemen went out of their way to facilitate the very high level meetings that I had in each of the places that my wife and I visited during our tour, which extended over two weeks.

I want to highlight some matters from the report. Unfortunately, the time available will not allow me to go through each and every item and piece of information that I collected, but it is my intention before I conclude my remarks to seek leave to table a copy of the report. I have already cleared it with the government whip.

I had the opportunity while in the San Diego area of the United States to visit the CCA, the Corrections Corporation of America, detention facility in San Diego. It was indeed an experience to visit that facility. It was almost like walking into a prison. I can only relate that to my own experience in Australia of going into detention facilities in this country and also from time to time having the opportunity to visit prisons. In the United States, the facility I visited in San Diego and another I visited in San Pedro—located between Los Angeles and San Diego—had very prison-like conditions. That is not something that we in Australia do—that is, we do not put people into prisons unless, of course, they have broken other laws of ours.

I also had the opportunity while I was in San Diego to visit the San Ysidro border area. It was here that one could not do a comparison between Australia and the United States. The San Ysidro area is the largest land border crossing in the world, with an average of 40,000 vehicles passing through the border crossing per day. It also has one million to 1½ million pedestrians per month. In the year 2000, approximately 50 million inspections of vehicles were carried out at that particular border crossing. Having 24 gates for vehicles to pass through is something to behold.

At Laguna Niguel I had the opportunity of a very extensive briefing by various immigration and naturalisation officers from the United States with respect to people smuggling, in particular something that we have not yet seen in this country; that is, people smuggling using sea containers. In 1998, 13 containers were detected with a cargo of 750 people. In 1999, 47 containers were detected with 4,000 people in them. In the year 2000, 10 containers were detected with 340 people in them. At the time of my visit, one container had been detected with a cargo of three people in it.

There have also been deaths as a result of this notorious traffic in people. It is a very lucrative trade and I have gone into some detail in the report on the amount of money that can be earned by the people smugglers who facilitate these transfers of people. I was also told during this briefing that there are currently in the region of 800,000 absconders in the United States. These are people who are in detention and apply for refugee status in the country. They front the courts and are released from the courts, and of course are never seen again. So 800,000 people are wandering around and they do not know where they are.

I went on to Canada. I think the highlights of the visit to Canada were two meetings I had with the Minister for Immigration, the Hon. Elinor Caplan. The matter that dominated my discussions both with the minister and with other senior officials of the Cana-
ian Immigration Department was the new immigration legislation that is before their parliament at the moment. It is actually before a parliamentary committee that is conducting hearings on the matter. I had the opportunity of meeting with a number of the members of that committee.

I then proceeded to Washington, where the highlights of my visit were the meetings that I had with the Chairman of the Congress Immigration Committee and the Chairman of the Senate Immigration Committee. I made reference in my report that the then Chairman of the Senate Immigration Committee, Senator Sam Brownback, should be invited to Australia. I felt—indeed, our ambassador to Washington felt the same—that it would be beneficial both to Australia and to the United States if the Chairman of the Senate Immigration Committee could visit Australia and look at some of the things that we do here and get some appreciation of the migration difficulties of Australian citizens in the United States. Unfortunately, events have overtaken that suggestion and there is now a new chairman of that committee.

I was told during a briefing with the Deputy Executive Associate Commissioner of the Office of Detention and Removal of the Immigration and Naturalisation Service that the average daily detention rate in the United States is approximately 18,200 people, with more than 10,000 people being held in jails rather than in detention facilities. I make a point of mentioning that because it is often said in the media in Australia that there are no detention facilities in the United States and that people are actually released. That is just not the case. In 1996 the average detention rate in the United States was 800; in 1997, 11,200; in 1998, 14,500; and in 1999, 16,400. I then proceeded to Ellis Island, which holds a particular memory for any migrant who goes to the United States, particularly any person of Irish blood. But people who are interested in that can read about it.

I now want to move on to London, where I had the opportunity of a very detailed briefing with Mr David Wilson, Deputy Director of Detention Policy at the Home Office. During the 1980s, Britain was receiving 4,000 claims for asylum each year. In 1999, when the government changed the legislation, that number increased tenfold, to 40,000 per year. I also read recently that there are no detention facilities in Britain. This surprised me because I visited Tinsley House, which is a purpose-built detention facility at Gatwick Airport that holds 150 people, and where 50 of the beds are reserved for females. There are two other detention centres in Britain and a further three are being constructed. To cap off the visit, I went to Thailand and visited a detention facility in Bangkok. What I saw there has no comparison with what I saw in other places.

I think Australia is indeed the lucky country, because we are surrounded by water. Immigration to Australia is not something on which you do a comparative analysis with the United States, with Canada or, indeed, with Thailand. We do not have the land borders, and I think we have to be grateful for that. That is not to say that we do not have to be vigilant in patrolling our own borders, and I would hope that we would never see that pernicious trade of trafficking people in containers. Mr Acting Deputy President, I seek leave to table a copy of the report.

Leave granted.

*Senate adjourned at 7.17 p.m.*

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- **Airservices Australia**—
  - Corporate plan July 2000 to June 2005.
- Sydney Airport—Maximum movement limit compliance statement for the period 1 January to 31 March 2001.
- **Australia-Korea Foundation**—
  - Reports for—
- **Australian Wool Research and Promotion Organisation**—Report for the period 1 July to 31 December 2000 (Final report).
Centrelink—Compliance activity for Family and Community Services—Report for the period 1 July to 31 December 2000, including a statement by the Minister for Community Services (Mr Anthony).


**Tabling**

The following documents were tabled by the Clerk:

- Australian Capital Territory (Planning and Land Management) Act—National Capital Plan—
  - Amendment 32.
  - Approval of Amendment 32.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Communications, Information Technology and the Arts Portfolio: Parliament House Employees**

(Question No. 3513)

Senator Faulkner asked the Minister for Communications, Information Technology and the Arts, upon notice, on 13 March 2001:

1. How many Australian Public Service (APS) officers whose salary is being paid, either in whole or in part, by the department or any portfolio agency, are currently employed in any capacity in Parliament House (excluding all persons employed under the Members of Parliament (Staff) Act).

2. For each of those persons currently employed in Parliament, and without naming those persons, please provide: (a) the capacity in which they are acting; (b) the senator’s or member’s office in which they are employed, or the functional area if they are employed in a parliamentary department; (c) the APS Salary level paid to that person; and (d) the period of employment.

3. Please provide the same details for any such persons not currently employed but who have been employed at any time during the past year.

Senator Alston—The answer to the honourable senator’s question is as follows:

1. Four

2. (a) Those staff are employed as Departmental Liaison Officers; (b) two are employed in the office of the Minister for Communications, Information Technology and the Arts, one in the office of the Minister for the Arts and the Centenary of Federation, and one in the office of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts; (c) three are paid at the APS Executive Level 2 level and one is paid at the APS 5 level; and (d) one has been employed since 11 January 1999, one since 9 March 2000, one since 18 April 2000 and the other since 29 January 2001.

3. Three people have been employed as Departmental Liaison Officers in the office of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts in the past year, prior to the change of staff on 29 January 2001. One was paid at the APS Executive Level 1 level for the period 14 February 2000 to 19 July 2000, one at the APS 5 level for the period 26 July 2000 to 1 September 2000 and the other one at the APS 5 level for the period 4 September 2000 to 16 January 2001.

The Department has provided short-term relief staff to the office of the Minister for Communications, Information Technology and the Arts and the office of the Minister for the Arts and the Centenary of Federation to cover personal staff absences.

In addition, one officer was on an exchange with the Committee Office of the Senate for the period 10 July 2000 to 17 January 2001. This officer was paid at the APS Executive Level 1 level.