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The DEPUTY PRESIDENT (Senator West) took the chair at 9.30 a.m. and read prayers.

PLANT BREEDER’S RIGHTS AMENDMENT BILL 2002

First Reading

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.31 a.m.)—I move:

That the following bill be introduced: A Bill for an Act to amend the Plant Breeder’s Rights Act 1994, and for related purposes.

Question agreed to.

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.31 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator PATTERSON (Victoria—Minister for Health and Ageing) (9.31 a.m.)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The purpose of the proposed amendments to the Plant Breeder’s Rights Act 1994 (the Act) is to

• clarify the rights of plant breeders in certain circumstances where restrictions are imposed

• enhance the access of breeders to the Plant Breeder’s Rights (PBR) scheme

• improve the administration of the Act and of the PBR scheme.

I take this opportunity to flag the simple fact that plants are indispensable to our daily lives. Pharmaceuticals, fruit and vegetables, insecticides, industrial starch, field crops, essential oils, flowers, dyes, wine/beer, textiles, livestock forage, edible oils, timber, glues, rope, ethanol, varnish, paper—an endless list testifies to the importance of plant life to human life.

Of course, the benefits that derive from new plant varieties do not simply fall into our hands. They are the result of significant intellectual effort and the skilful application of knowledge.

Australia is fortunate to have innovative people skilled in the breeding of new plant varieties—because innovative varieties are essential to meet Australian and world demands providing, inter alia

• the building blocks for a diverse range of industries

• competitive, high quality food and fibre products to meet increasing world demand

• practical solutions to health and environmental concerns.

The Act is based on Australia’s membership of the International Convention for the Protection of New Varieties of Plants (UPOV) 1991, a United Nations multilateral agreement establishing an internationally harmonised regime for exclusive intellectual property grants relating to new plant varieties. The UPOV system, built on uniform, clearly defined principles, encourages investment, innovation, multiplication and release of new plant varieties in, and between, member countries.

Australia’s PBR scheme is a significant success story. One new variety is registered each day, with over twenty new major export crop varieties registered each year. PBR also stimulates a steady flow of new varieties from overseas bringing investment and technology—approximately 60% of all applications for registration are from overseas.

Australia’s achievements in plant breeding are significant in their own right. We need look no further than CSIRO which is leading the world with its seed retaining phalarises, high yielding, rust resistant winter wheats and starch-enhanced barleys. Similarly, the export flower industry is based on our unique native varieties, so well displayed in the 2000 Olympic bouquets.

However, in this competitive world, others are also capitalising on our plants. If we are to make the most of our unique mega-diverse flora, we have to encourage plant breeding. The PBR scheme provides such encouragement, directly promoting innovation by establishing a legal intellectual property right in a new plant variety.

The certainty of this legal ownership and the opportunity to commercialise the innovation stimulate the intellectual effort, private investment and technology transfer that Australia requires. The PBR owner is provided with opportunity for re-
ward, subject to certain provisions which safeguard the public interest.

Under the Act, PBR is the right to disallow others from acts of production, reproduction, conditioning, offering for sale, sale, import, export, and stocking in relation to the above of propagating material of the plant variety.

It is not the right specifically to carry out those acts. This is because PBR is a form of patent legislation, as confirmed by a recent High Court ruling. Implicitly, PBR coexists with other laws of the land and those laws, may, for example, be capable of regulating PBR commercialisation activities. For instance, competition policy legislation may regulate PBR related commercial activities, or state legislation may regulate the sale and marketing of varieties. In other words, there are a number of potential public interest influences affecting the exercise of PBR.

All the proposed amendments are consistent with Australia’s membership of UPOV and have wide industry and community support.

This Bill includes significant clarification to section 18 of the Act.

Section 18 was designed to protect public interest concerns regarding limitations that might be placed on the use of the propagating material. For example, reflecting the concern that the PBR owner should not be able to prevent, say, the making of bread or the brewing of beer from legitimately purchased grain.

However, it is not intended to deny the holder of PBR the opportunity to exercise their right of disallowance in normal commercial circumstances. As a consequence, some 90% of PBR protected grain varieties in Australia pass through the commercial system without the PBR breeder having any opportunity to seek reward for their innovation.

The inequity of this is obvious. Moreover, it is a clear disincentive to investment in plant breeding and is a likely explanation why innovation in plant breeding in the field crops sector is lagging that of other sectors.

By deleting section 18 of the Act we remove the possibility of misinterpretation, promote investment in plant innovation and better align the Act with UPOV 1991. Public interest concerns related to preventing limitations on how propagating material may be used are picked up under the amended section 49 which empowers the Minister to set conditions relating to existing and proposed PBR grants.

A further amendment, to be inserted as new section 18, allows for certain public interest restrictions to be placed on the exercise of PBR. The amendment provides that when other laws of the land restrict the normal exercise of PBR, and when such legislation authorises a person to do an act that would normally be subject to the PBR owner’s right of disallowance, ‘equitable remuneration’ must be paid. For example, the amendment will ensure that statutory marketing authorities are able to exercise their legally enforceable rights regarding exports and that PBR owners will receive remuneration if their rights are restricted as a consequence. This restriction is entirely consistent with public interest considerations and with international best practice as exemplified in the international treaty on these matters, UPOV 1991.

In summary, section 18 amendments clarify that the PBR owner has the opportunity to exercise their right of disallowance in normal circumstances. They confirm that coexisting legislation, implicitly in the public interest, may modify the exercise of PBR, and, in certain circumstances, the breeder must be remunerated. They reaffirm the intent of the legislation; promote greater harmony with the UPOV international intellectual property system; provide more certainty for our international trading partners; and, thereby, facilitate the inflow of plant variety investment and technology transfer.

The remaining amendments are administrative. They are diverse and include:

- providing for equity between domestic and imported varieties in the use of synonyms and making the unauthorised use of a synonym an infringement;
- clarifying the circumstances in which the breeder’s right is exhausted;
- providing discretion to cancel provisional protection in certain circumstances;
- correcting inequities regarding the payment of fees;
- further protecting commercially sensitive information;
- compelling the reasonable provision of materials for test growings;
- clarifying the priority date for lodgement of application;
- making explicit the grantee right to initiate infringement actions;
extending Plant Breeder’s Rights Advisory Committee appointments from two to three years;

• amending and making cross-references, correcting transcription errors, various clarifications and associated simplification of language.

I will not comment on each of these amendments. However, let me take as an example, the amendment that facilitates experimentation. I refer to the proposal to exempt on-farm testing and research as activities that could threaten the ability to register new varieties.

Researchers must enlist the help of farmers to test new varieties and products in normal farming situations. This practice is essential if the true potential of the innovation is to be realistically evaluated.

While in no way offsetting their contribution, farmers expect, in many cases, to harvest the residual material and to dispose of it in the marketplace along with their normal commercial product.

Under PBR this could qualify as a ‘sale’ of the variety and start the ‘one-year’ time clock within which a PBR application must be lodged. However, many varieties take more than one year of testing. Some take 2, 3, or more years before a decision can be made to register and the new variety can be released.

Activity enabling the registration of new varieties in the circumstances that I have outlined should be recognised as valid, and is consistent with what is envisaged under UPOV.

Therefore, the Government proposes to recognise extended periods for on-farm and experimental testing as valid pre-registration activities.

In conclusion, these amendments will clarify certain aspects of the legislation, enhance the access of breeders to the PBR scheme and improve its administration. The amendments underpin the broader initiatives announced by the Prime Minister in the Backing Australia’s Ability package. They will further improve the environment for increased plant innovation and investment in Australia and for our exports of IP intensive products and services.

Ordered that further consideration of the second reading of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.
phy gave some good examples of how these are breached.

Under the Forest Practices Code in several states, and certainly in Tasmania, when it comes to river buffers around streams, 40 metres on either side of the stream must be protected. When it comes to permanent streams, 10 metres more from the tops of banks, not from the centre of the river but the tops of the banks, should be protected, but they are not. Time after time, Forestry Tasmania breaches the Forest Practices Code. Senator Murphy pointed to a case where, even though it is somewhat of a watchdog on its own activities, it was fined $1,000 for a breach of the Forest Practices Code. It is doing it repeatedly. In almost every coupe that you go to in the Tasmanian forests there are massive breaches of its own code.

This commission does not abide by the law or the ethics of law that it has drawn up itself. The Australian Greens are asking, by moving a proposed new section, for the components of the law which apply to Forestry Tasmania and which apply under this legislation relating to the environmental commitments and the good management commitments, because some of them are certainly not what I would call environmental, to be made binding. The Labor Party joins the government in saying that it does not want to make them binding.

The question here is: why not make these provisions binding? That is a question that Senator Macdonald for the government and Senator O’Brien for the opposition are not going to answer. The minister was wrong when he said that the RFAs already make these provisions binding. I pointed to the RFAs themselves, which explicitly state that that is not the case, and then he went silent on that particular measure.

Senator Ian Macdonald—It is not World Heritage forest that is being logged.

Senator BROWN—World Heritage value forests are being logged, and the minister can hang his head in shame about that. That is a very good point that the minister, Senator Macdonald, brings up by interjection. The forests in the Weld, the Picton and the Huon, for example, have been described as World Heritage value, not only by Australian scientific authorities—

Senator Ian Macdonald—You said, ‘World Heritage listed.’

Senator BROWN—If I said, ‘World Heritage listed’, the minister might read it out. You will find him changing, ducking and altering—

Senator Ian Macdonald—You will not answer it because you know you have been caught out.

Senator BROWN—It is becoming a habit of this minister now to misrepresent people and to try to divert—

Senator Ian Macdonald interjecting—

Senator BROWN—You might note that I am being interjected upon, Mr Temporary Chairman. It is becoming a habit of this minister to try to divert this debate from the issue at hand—the forests—toward vilifying the people who want to protect the forests. He has brought up the matter of World Heritage value forests. The forests of the Great Western Tiers are of World Heritage value. It is my submission, and scientists will agree with this, that the forests of the Tarkine, the largest temperate rainforests in Australia, are also of World Heritage value. But they have not been included in the World Heritage listing—to use the word the minister uses—because the state Labor government in Tasmania and the federal Liberal government and its predecessors in the Keating government have simply refused to carry out their international obligation, which is that once you understand that you have an area of World Heritage value you ought to list it. Australia once led the world in endorsing the World Heritage convention; unfortunately, Australia now comes at the back of the pack because it breaches the spirit of that convention time and again. These forests ought to be in a World Heritage area; instead, they are being logged.

Finally, I want to appeal yet again to the Labor Party. It is a very serious matter that we are dealing with. Senator O’Brien knows that the Forest Practices Code is broken by Forestry Tasmania. I went to Mount Arthur on the same day he did. There, a stream that should have a 10-metre buffer from each
bank has been logged right through, with the trees felled into that stream. The erosion into that stream, which feeds into the Launceston water supply, is prodigious. It is a clear breach of the Forest Practices Code; therefore, it is a clear breach of the regional forest agreement; therefore, it is a clear breach of the Prime Minister’s commitment that there would be environmental protection. Yet here we have the means of ensuring that that does not happen in future by making the Forest Practices Code binding, and Senator O’Brien, who has seen this with his own eyes, says, ‘I turn my eyes away from this breach of the law as far as the Forest Practices Code is concerned. I will ignore it, because it does not serve the interests of the woodchip corporations in Tasmania for me to do the right thing and insist that they stop breaking the Forest Practices Code and that they be brought to book over it.’ If the state government will not do it, then the federal government ought to. I commend this amendment to the chamber.

Senator MURPHY (Tasmania) (9.42 a.m.)—I know that what is proposed here was proposed on a previous occasion when we debated this bill. I note that the ALP are proposing a different approach in respect of dealing with parliamentary scrutiny of RFAs. With regard to RFAs and the legally binding issue, it is also my view that they ought to be legally binding. I think I said earlier that the Commonwealth has, in large part, paid a lot of money to the states, for various reasons. We went through a long process. With regard to why these things should be legally binding, what I would like to highlight to the minister and his officials is that it is primarily because the states are not upholding their end of the bargain. The Commonwealth, as it says in the Regional Forest Agreements Bill 2002 and in the regional forest agreements, is expected to legislate to maintain its commitments—and the principal commitments relate to the exemption of regions covered by RFAs from certain Commonwealth legislation. That is a very significant step, particularly if you have the states, who are required to legislate for a whole manner of things, not in their turn upholding their end of the deal.

I want to use a factual example—and I would ask, Minister, that your officers take note of this, because I want them to check it. My example goes to the issue of threatened species. The state of Tasmania has threatened species legislation. Up until late November or early December last year, the threatened species legislation had effect in Tasmania in respect of harvesting operations within RFA regions—and Tasmania is a total RFA region. Drawing again on the wonderful expertise of the Forest Practices Board of Tasmania, I draw the attention of the officers and the minister to page 13 of their current annual report, which states:

(b) Native forests—area (hectares) of operations covered by Forest Practices Plans certified in 2000/2001 by harvesting method, future land use and tenure

It then sets out a graph that demonstrates the amount of state forest and private land that has been harvested and regenerated. The total in respect of clear-felling is 17,850 hectares. If you analyse that further, what has actually happened is that approximately 17,850 hectares have been partially logged or, if you like, selectively logged, leaving 10,000 hectares which have been clear-felled—and I would ask the officers, again through you, Mr Temporary Chairman, to check this, as the minister might want to verify that what I am saying is actually true. If you then look at the operation of clear-felling and say, for instance, that approximately 20 per cent—and we will be fair here—of the coupes that have been harvested by the clear-fell method are left in streamside reserves and not harvested for some other reason, that leaves about 8,000 hectares that have been clear-felled and burnt.

Under any legislation in respect of flora and fauna—threatened species—that is a breach. There is no question about that: that is a breach. You cannot comply with the Tasmanian Threatened Species Protection Act 1995 and conduct that sort of harvesting practice. What has happened is that, in order to allow the Tasmanian government to permit the forest companies to comply with this act, they have amended it. I say to the government and the minister: that was not the situation when the government negotiated
the regional forest agreement. What the state has done is to change state legislation to allow it to breach its own legislation, through the regional forest agreement—because the regional forest agreement actually mentions the Tasmanian act. That is why at some point the Commonwealth has to stand up and say, ‘When we made this agreement, we had an expectation that you would honour those commitments.’ This is where it comes back to ecologically sustainable forest management. The state of Tasmania is legislating to avoid that obligation, and that is why the Commonwealth has to take a stand and make some of this legally binding. It is imperative that we do that. If we do not, we will continue to allow the states—Tasmania, Victoria, South Australia or wherever—to legislate away at the state level the obligations that they have given. That is what you will allow them to do, because the regional forest agreement, if you read it, Minister, does not stipulate any requirement on the state. You wrote a letter to me, arguing a case for why things are not legally binding. Indeed, you raised the issue of constitutionality. All I can say is that I draw to the attention of your officers—

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Do you mean my officers, Senator Murphy?

Senator MURPHY—I do apologise, Mr Temporary Chairman: through you, I draw the attention of the officers of the department of the minister to section 51 and subsection (xxxix) of the Constitution. There are enough Roman numerals there to sink a ship. I seem to recall that the Commonwealth was not too backward in coming forward some years ago in respect of laws that related to human rights in terms of gay and lesbian rights. The Commonwealth seemed to be prepared to use its powers then, and I suggest to the minister that the Commonwealth has every right, particularly when it is being duded by a recalcitrant state government, to put legislation in place at the Commonwealth level to ensure that the state upholds its end of the agreement and the commitments it has given to the Commonwealth through a regional forest agreement—because the Commonwealth and the state are the only parties to that agreement. I am not going to argue about whether Senator Brown’s amendment is the correct form in which to do that, but I support the thrust and the principle of doing it. It is important. Otherwise, the Commonwealth is just going to allow the state of Tasmania—or any states or, indeed, territories—to legislate away at the state level the obligations to do certain things. You only have to look at the state’s own, if you like, checker, the Forest Practices Board and to read its annual report to see that the state is not complying with the thrust of the regional forest agreement.

As I said the day before yesterday, I think, I had cause to visit some people in the northwest of Tasmania with regard to a property that had been purchased by Gunns. A report had been prepared that the land proposed to be harvested had been left by the owners two times previous to the present owners, Gunns, for the express purpose of protecting a threatened species—namely, the freshwater crayfish. Because of the amendment in November or December last year to the state’s Threatened Species Act, Gunns can now harvest that property. To me, that is unacceptable. Nobody knows some of these things better than I, because I argued with the Labor Party and Labor ministers about a lot of this. I was a member of the Forest and Forest Industry Council in Tasmania, appointed by the state minister, and I can say that during the course of all those meetings it was never the intention to end up with the situation that we now have; the intention through the National Forest Policy Statement was to have a regional forest agreement. I say again to the minister and to others that this is the last chance for the Commonwealth to do something, and it should do it. I hope that at some point we will put something of substance into this legislation, to ensure that the states uphold their end of the bargain.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (9.57 a.m.)—Senator Murphy raises a couple of issues. As well as being advised by officers from my department, I am advised by officers from Environment Australia that the Tasmanian legislation that Senator Murphy speaks about was changed in accordance
with the RFA. That is, it had to have Commonwealth involvement, and that involvement was with Environment Australia, taking into account the threatened species legislation and the Commonwealth’s obligations in relation to that. So it was done in accordance with the arrangement. Unfortunately, that adviser has just left to check on another matter, but my understanding of his advice to me is that that was actually done in conjunction with Environment Australia. I cannot give you the nature of the consultation, but there was consultation with Environment Australia.

Senator Murphy—I would appreciate a briefing on that consultation.

Senator IAN MACDONALD—I am very happy to do that for you, as I have indicated to you privately and publicly. I am happy to do that for anyone who has a serious and genuine interest in this, and I am sure you have, Senator Murphy, and I am sure the Labor Party has as well. We are quite happy to do that, because this is not a political exercise; this is trying to bind the Commonwealth to its obligations under the RFA. That is all we can do constitutionally. We think the RFAs are well done, and we have all agreed with them. You agreed with them, Senator Murphy, in a previous life. Now you say you did not, but you did. The debate has been going on for more than 15 years, and what this whole arrangement was about was trying to have the arguments, the debate, the consultation and the negotiation, to look at the science and make sure it was all all right and to embody that in legislation, so that everybody would know where we were going and so that those very substantial reserves that have been set aside—and they are better than international requirements demand—would be certain and people’s jobs and security and small businesses would be secure and people could invest to continue those jobs in those small townships with certainty. That was the whole purpose. The debate has been had for 15 years. There are certain people who will never accept the will of the people and the principle behind it. It is a free country, and that is their business. So, if you want a briefing on anything, Senator Murphy, please let me know, and I will arrange it either with my office or with Environment Australia. That is my advice.

I make this comment in passing: when natural fires go through areas, certainly threatened species are endangered, and there is nothing anyone can do about that. Of course, there have been wildfires throughout Australia for many years.

Senator Murphy, you are interested in the point—and I guess we all are, although, unfortunately, we do not always have time to follow these things through as closely as we would like, and I am no constitutional law expert—but my understanding and advice is that the Commonwealth does not have the power to legislate in relation to forest practices. They are clearly matters for state governments. Perhaps we might, under our international obligations, have some ability to legislate in relation to threatened species, but again I am told that this may be in the nature of the Commonwealth enacting legislation that says, ‘If you deliberately endanger an endangered species then you are liable to fines and penalties’—so there are consequences. I suspect there is legislation that says that, although I will have to get advice on that. It is not germane to this particular debate today, so I do not want to spend more time on it.

I am very anxious to get this legislation through. I am anxious to answer any legitimate questions that are asked of me here or, in the case where they are not germane to this bill, perhaps we could get you that information some other time. Like you, Senator Murphy, I think that, even though our Public Service is world class, sometimes it slips up, sometimes our advisers slip up and sometimes governments slip up. Where that happens, if you are interested in the outcome, come and talk to us and the officials, put your case and let them put their case. You may be able to give them information they do not have; perhaps they can give you information you do not have—they do have fairly wide resources. If you are right and they are wrong, let us fix it. I am very happy to do that.

I am very happy to work with anyone who has a genuine interest in these sorts of debates. I am not terribly interested in working
with people who get up and publicly say, ‘World Heritage listed forests have been logged. The government have the power to stop it; why aren’t they stopping it?’ We all know that that is a complete and absolute misrepresentation of the truth. I am not interested in those sorts of people. They are obviously in the business for reasons that are not related to our country or our environment, the ecology and threatened species—they are pursuing some other agenda. I am interested in people who are genuinely interested, and there are a lot of those people. I am very happy to work with them. This probably is not the place to do it.

We are in a situation where this bill has been through a number of times, and it has been through committees. Different people have put up amendments and the government over the years have taken what is appropriate out of those amendments. We have included it in our legislation. We brought it back—this is the fourth time. We hope that we have covered everything. But we do not want to be in a situation where, every time it comes forward, people start thinking of another amendment they can put forward and so delay the process. We want to get it through.

That is why I do not want to enter into long debates, Senator Murphy, at this stage about matters that are in the area but not really relevant to this legislation. I would like to see this legislation go through. I understand that the Labor Party, you and Senator Harradine, perhaps with amendments, want to get it through. Other legislation is going to start building up in the Senate. There is talk that we might sit Saturday and Sunday to get through it.

Senator Murphy—There is plenty of time in April and May.

Senator IAN MACDONALD—Senator Murphy, you know, as I do, that we all have other things to do, including you. You are not the easiest person to contact, as I have proved. You are out doing other things. You have a constituency to serve. We do want to get it through. We want the full time for adequate debate on the legislation, but we do not want filibustering about things that are vaguely related but not germane to the legislation just so there will never be a vote on the subject. If people who are opposed to this think they are right, let us put it to the House of Representatives and see what the representatives of the people actually say.

I will try to answer Senator Murphy and other senators who have a genuine interest in this and make genuine inquiries on the legislation. Where their inquiries are not on the legislation, I am very happy to arrange, at your convenience and that of the department—although I am sure we can make their convenience mirror yours—to go through these things.

Senator BROWN (Tasmania) (10.07 a.m.)—I have two very specific and easy questions to ask the minister which are very important in this matter of whether or not we should support a Greens clause to make the regional forest agreements binding. Firstly, is it a fact that none of the East Gippsland RFA is binding? That includes the no compensatory provisions. Secondly, is it true that the East Gippsland five-year review of the RFA has been deferred? If so, was the Commonwealth asked? Did the Commonwealth agree? Where was that made public? When will this five-year review be completed?

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Senator Murphy, do you want to ask the minister some questions at the same time?

Senator MURPHY (Tasmania) (10.08 a.m.)—Yes, I do. As somebody who has been involved in this process since 1978, let me assure you, Minister—

The TEMPORARY CHAIRMAN—Perhaps you could assure the minister through the chair, Senator Murphy.

Senator MURPHY—Of course. I assure the minister, through the chair, that, having argued this to and fro through 13 years of Labor government, I do not want to prolong this either. I can assure you I have other things I would like to do; I have one which I enjoy very much and I would much rather be doing that than sitting in here arguing the case about the Regional Forest Agreements Bill 2002.

I do have a genuine concern about these matters, and it worries me when I see evidence of circumstances that I fully believe—
from the intention of this whole program, commencing at the National Forest Policy Statement level—were never intended to happen. This goes to the question I was asking before about the Threatened Species Protection Act of Tasmania, which you say was done in accordance with Environment Australia. The Threatened Species Protection Act said that the Forest Practices Plan would be sufficient—if there were in place a forest practices plan that was required to take account of the threatened species in a particular area to be harvested—to exempt the harvesting from the Threatened Species Protection Act. It has now been demonstrated in a recent case, known as the Dudley case, which is before the Resource Management and Planning Appeal Tribunal, that the Forest Practices Plan did not adequately protect two threatened species in the north of the state. I ask, through you, Mr Temporary Chairman, whether the minister would like to check this or ask Environment Australia what its views are about that.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (10.10 a.m.)—Again, Senator Murphy, that is not particular germane to this debate. I will take it on notice. Perhaps if you could give us some more detail—

Senator O’Brien—Privately.

Senator IAN MACDONALD—Perhaps Senator O’Brien could give us the detail.

Senator O’Brien—Privately, I would suggest.

Senator IAN MACDONALD—Privately, yes; give us the information privately and we will follow that through. Again, if there are breaches of either the RFA or the Commonwealth’s obligations, we will pursue them. As I said to you in a letter and publicly, even though I have no jurisdiction I am very happy to join you in approaching the Tasmanian government if you have evidence and clear facts. If you can say, ‘On this day or at this time these particular things happened in this particular locality,’ then let’s try to follow it through.

Senator, you made in your previous speech a reasonably good point that, if you clear-fell and burn, the chances are that some endangered species might be harmed. But you probably, again, know better than I that—I think it is under the RFA and under the code in Tasmania—there is a very precise process: before there is any logging they send in forest practices officers—are you saying they are corrupt as well?—who must assess all of the values of the proposed area for harvesting. If there is a threatened species in the area, then prescriptions would be incorporated into the harvesting plan to protect those values. I have seen areas that have been clear-felled—not cleared; I know you know the difference, Senator Murphy, but others here would suggest that clear-felling means clearing—and there are stands left. You say, ‘What’s that all about?’ and they say, ‘There was something of value there that the forest practices officers looked at and dealt with.’ We try to address the sorts of issues you are talking about.

I recall—having just checked—that, where the forest practices officer assesses values, they then bring in specialist flora and fauna assessment officers and specialist heritage assessment officers. You are nodding in agreement, Senator Murphy; you know that. I can only assume that you are saying, ‘Yes, but it does not work.’

Senator Brown—You’ve got it.

Senator Murphy—You’ve got it in one.

Senator IAN MACDONALD—Senator, if you are alleging that people are deliberately not doing their job, or they are doing it wrongly, or they are being threatened and overborne, that is a matter for the relevant state authority who has control over this. Of course, you have the ability not only to put the point in a proper submission but to raise public interest in that. Public interest can be a powerful tool when it is reasonably and responsibly used. It is not much of a tool where there is a genuine issue, I am sure you know better than I do how to arrange those things.

If you are alleging malpractice, inability or just plain lack of skills, perhaps those are things that should be addressed by the rele-
vant state government. Whilst I have no particular authority in that, I am happy to lend whatever assistance I can in getting to the bottom of those things. That is not directly germane to the bill that we are debating at the moment, but I am very happy to take those matters on and help if I can, even though it is beyond my constitutional ability.

**Senator BROWN** (Tasmania) (10.16 a.m.)—The minister did not answer the very clear and specific question I asked him.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Perhaps you would like to take this opportunity to repeat those questions when the minister is not seeking further information to enhance the debate.

**Senator BROWN**—The questions were: firstly, is it true that the East Gippsland Regional Forest Agreement is not binding in any way and does not have a compensation provision to be bound by, anyway? Secondly, is it true that the five-year review of the East Gippsland RFA, which was due this year, has not taken place and therefore we see another effective breach of the regional forest agreement as publicly proclaimed five years ago? I ask the minister: was the Commonwealth consulted to allow a delay or even a complete acquittal from this obligation to have a five-year review? If so, what action has the minister taken to see that that review gets under way? What consultations have taken place with the Victorian Bracks government, which has failed to undertake this review as the regional forest agreement required?

**Senator MURPHY** (Tasmania) (10.17 a.m.)—We should not take longer than we can afford to, but there are some important matters. Minister, when you raised the issue with me and I indicated that this thing is not working, it is in fact not working. I will come to that in a minute, but I would try to impress on you that it is relevant to this legislation—

**The TEMPORARY CHAIRMAN**—Are you trying to impress on me or on the minister?

**Senator MURPHY**—Through you, Mr Temporary Chairman, I am trying to impress on the minister.

**The TEMPORARY CHAIRMAN**—Perhaps you would care to do that indirectly through me.

**Senator MURPHY**—I will endeavour to do that. Through you, Mr Temporary Chairman, I would like to impress upon the minister that it is relevant to this legislation. With regard to the process, what you outlined is correct. They do have forest practices officers who go out and do the flora and fauna assessments. They also have other officers who do assessments of the likely harvest outcomes, yield outcomes et cetera. They also employ the services of specialist people—scientists who are specialists in the fields of fauna or flora—to write reports, and they may feel that there are some species that may be of significance or may be threatened, et cetera. But what happens? Again I refer to this great body known as the Forest Practices Board, for whom the forest practices officers work. The problem is that some of those reports are not being adhered to.

You say to me, Minister, ‘You should go to the state body, to the state authorities, or to the state government.’ I say to you, Minister—through you, Mr Temporary Chairman—that I have done that on any number of occasions, and I have also approached ministers at the Commonwealth level. I have approached them for, I would think, at least 20 years, but more particularly I have approached them on a stronger basis since 1989. That is still a very lengthy period of time. I have shown information to officers of the Department of Agriculture, Fisheries and Forestry and, when they watched the videos and saw the photographs, they thought that there was something wrong. They said, ‘We will go and talk to the minister about this and come back to you.’ That was last year.

**Senator Ian Macdonald**—When?

**Senator MURPHY**—I cannot remember the specific date, but I can give you the specific date if that is what you want. It was well before the last federal election.

**Senator Ian Macdonald**—So it was about mid-year.
Senator MURPHY—No, it was after July. I will give you the specific date. If my staff are watching this debate, which I hope they are, they will be looking for that date right now.

The TEMPORARY CHAIRMAN—You will give that to the minister, will you, Senator Murphy?

Senator MURPHY—that is a diarised date. There were two officers: the senior officer for forestry at that time—

Senator Ian Macdonald—Why don’t you just let me know and I will follow it through and write to you about it—

Senator MURPHY—that you can, Minister, but at the end of the day we are debating a bill that, sooner or later during the course of this week, I hope, will pass this Senate. That is the problem. If you gave at least some consideration, which you wrote to me about, in respect of what I have put up as an amendment with regard to monitoring this process—

The TEMPORARY CHAIRMAN—Senator Murphy, it is rather difficult to understand, when you are saying ‘you’, whether you are referring to the chair or the minister. I am feeling rather superfluous. You could rectify that malady if you would be kind enough to direct your contribution through the chair.

Senator MURPHY—I am sorry I am making you feel somewhat superfluous, Mr Temporary Chairman Lightfoot, because you are not.

The TEMPORARY CHAIRMAN—Thank you very much, Senator Murphy, that is very kind.

Senator MURPHY—Mr Temporary Chairman, I am pointing out to the minister and I am referring to the minister, and I apologise because I should be referring to the minister in the third person. Through you, Mr Temporary Chairman, I say to the minister that I would not mind if the minister telling me to do certain things if I had not tried these things. I have tried these things. Almost six years ago I wrote to the Forest Practices Board. This was at a time when we had export controls for woodchip export licences. I wrote about an allegation of saw-logs being in the Hampshire woodchip mill yard in the north-west of Tasmania. Indeed, I pleaded with them to come out and inspect six kilometres of logs—six kilometres in length—11 metres long and on average over four metres high in stacked form. They wrote back to me and said, ‘No, we’re not coming out with you, Senator; we won’t come out and check anything.’ They said that since the inception of the mill there had been two sawlogs found in the Hampshire woodchip mill yard and that they had been recovered and sent back to sawmills. I can tell you that that was the greatest lie of all time. But would that department come out and inspect? No.

I have, likewise, as I said earlier, asked the Regional Forest Agreement Monitoring Unit, which is supposed to monitor this process, to come down to Tasmania—not take my word for it; not cause me to have to get up in this Senate chamber and, in effect, take a lot of the time of the Senate debating this matter. I have said to them, ‘Get off your backsides and get down here and have a look. Don’t take my word for it; make your own judgment.’ But would they do that? No; they said, ‘No, Senator, we can’t do that.’ So I asked them, ‘What is your role? You are listed in this RFA newsletter as the monitor of this supposedly great exercise,’ to which they replied, ‘We’ll have to ask the minister, Senator.’ ‘Okay, ask the minister,’ I said. And what did I get back from the minister? I got a letter that said, ‘Don’t harass my staff.’ Senator, if I should so get an expert opinion that there is somehow a breach occurring in the forests of Tasmania in respect of the regional forest agreement, I then might consider whether or not I will cause an investigation to take place.’ What a joke!

Through you, Mr Temporary Chairman, I say to the officers that they know it is a joke. It does not work, and this is the place where we should be trying to fix it. And I open the door again: get off your backsides and get down there and have a look, but do not do it through the process listed in the regional forest agreement that says that you have to give three weeks notice, because if you do you will get the Cook’s tour—the old sanitised version of a forestry exercise. That is
what you have been getting all of your life. The quicker you come to the realisation that that is not what should be happening, the better.

We have a public responsibility to ensure that these forests are managed, for a whole range of reasons. My involvement throughout this debate has been on the principal reason of employment. I am sick and tired of seeing thousands of jobs go out of this industry because of the way it is managed. That is what is happening. I get sick and tired of hearing members of this Senate, including ministers, get up here and say that this bill is relevant to employment, when that is the greatest load of crap of all time. It is not relevant to employment because it is doing nothing for employment. That is the problem.

As a former secretary of the Timber Workers Union, which subsequently became the CFMEU, I argued for workers’ rights. As I said, I participated on the Forests and Forest Industry Council. I arranged blockades, demonstrations and everything else that you drive to try to get a better outcome for workers. When I see the forests being trashed and logs being piled up on the wharves at Burnie and Bell Bay to be exported to China or Korea, I ask myself: what does that do for the workers in the timber industry of Tasmania? It does not do a thing. When I see logs being left in the bush to burn and tens of thousands of man ferns being destroyed, I ask myself what that does for employment in Tasmania. It does nothing.

When you look at that and you look at the state government of the day—I do not care; Liberal or Labor—you see that it does not matter whether it is Liberal or Labor. They have both been as bad as one another and have not been prepared to do anything about it. When I was a member of the Labor Party, Jim Bacon and Paul Lennon gave a commitment to the union, in front of other union officials, that if they were successful in coming to the government benches they would do something about this problem, but then they did not do it. They tell me that they will not do that because of financial contributions from certain companies. I find that abhorrent. That is doing nothing for the workers in this industry. I will not cop that.

We have a responsibility in public life to uphold the interests of the people, and in this place in debating this bill we have a responsibility to ensure that we do it not only for the people who work in this industry but for the future generations of this country. That is why we must ensure that the Commonwealth maintain some sort of control over this process. It is not sufficient for us, for political reasons or for political opportunity, to handball this to states that are demonstrating no capacity to manage the resources of their own forests in the best interests of the community.

I again say, through you, Mr Temporary Chairman, to the minister: come and have a look; let us defer this bill; let us have your eyes opened and the eyes of your officers opened to see exactly what is going on and then you can come back here and see whether you will respond to me in the unfortunate way that you are responding at the moment. I have great sympathy for you, Minister, because you have come to a new portfolio and it is very difficult one. I do not want to be disrespectful to you in any way at all, because it is a difficult job, but it is important that you are informed to a greater degree than you currently are about what is really happening, not what some people want you to believe is happening. You might say that I am doing exactly the same, but I am not. I am asking you to go and have a look for yourself and then make your own judgment, and that is what I will continue to ask you to do.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (10.32 a.m.)—I was asked about the five-year reviews in the Victorian forests. I can indicate that the RFAs for East Gippsland and Central Highlands were signed in February 1997 and March 1998 respectively. The Central Highlands RFA provides for its first review to be conducted concurrent with the first five-yearly review of the East Gippsland RFA. On this basis the first five-yearly review for the RFAs was due for completion in February this year but, recognising difficulties from the 2001-02
review of sustainable yield and the associated timber licence renewal process and the input to be provided by the review of the Victorian state of the forest reports in June 2002, both parties have agreed informally to extend the review time line to March 2003, the fifth anniversary of the Central Highlands RFA. The Commonwealth has made it clear, though, that we wish to use this extra time to institute a robust review process incorporating the principles of independence, consultation and good science.

In relation to Senator Murphy’s comments, I indicate that I have absolute confidence in the advice given to me by my advisers and my department. They are very professional, very sincere and very able officers, and the advice I am given from them I accept. I have to say, Senator Murphy—I do not want to be provocative here—that I have raised a number of the issues you have raised with me and they have said, ‘Yes, we have looked into that and this is the answer, this is what happened, this is what was done.’ To me, it sounds reasonable, and it is a different point of view; it is looking at it a different way.

You mentioned that you are very concerned about jobs. We all are. One of the reasons that I am so committed to this bill is that it does give security, and security provides jobs. Whilst you might, if you trawl through this long enough, pinprick and find holes in the legislation and in the RFA—nothing is perfect; I accept that—let me ask you this question: what does it do for jobs if this bill is not passed? If all the limitations you mentioned are accurate—and I do not accept they are—then, by defeating this bill, how does that make provision for better jobs in Tasmania? If you want to get the Commonwealth involved in forest management and think there is a way constitutionally to do it, put up another bill about that.

**Senator Murphy**—I put up an amendment.

**Senator IAN MACDONALD**—No, put up a bill about that. You are very critical of this legislation and you are arguing against it. I again ask you: what will it do for jobs if this bill is defeated? This bill might not do all you want it to do, but certainly you would be further backwards if this legislation is not passed. While I respect your view, Senator Murphy, I also respect the view of the CFMEU, who, as I understand it, want this bill through. I understand the view of workers in the forests who have approached me and said that they want this bill through. I understand the view of Timber Communities Australia, a group that you are familiar with, comprising unionists and people who live in small country towns, and they tell me they want it through. I am sure the CFMEU would not be wanting this bill through if it was going to impact on jobs, if it did not at least take things forward a step—though perhaps not as far as you want; perhaps there are other things we can do to assist with jobs.

But I ask you again: by defeating this bill or by delaying it to such an extent that there is never a vote on it, what does that do for jobs? I will tell you what it does: it creates uncertainty and insecurity in the industry, there will be absolutely no investment, jobs will be lost and small communities will shut down.

There are a lot of interesting things that you have said, but can I bring you back to what this bill is all about. Under the RFAs, which evolved over a 15-year period, the Commonwealth made certain commitments on what it would do about things for which it has constitutional power, and the bill has embodied what the Commonwealth could and would do in regional forest agreements which we have signed with four states. This bill holds the Commonwealth to account, and it should not be necessary but it does say that the Commonwealth will abide by the obligations it has made. Different governments may come in the future and may have different views, and things can be changed, but anyone who has relied on this, who has invested money on the strength of these agreements, and who then suffers loss by a change in the future would be adequately compensated. Who could argue with that? That is a fair principle of law; it is embodied in our Constitution in other areas. That is what this bill is about. It is really giving legislative backing to the agreements that the Commonwealth has made. You are saying that perhaps we have not made the right agreements. I do not agree with that, but you
might be right. Whatever is there, this bill confirms, cements, makes certain that the Commonwealth will at least abide by its part of the RFA; and that is what this bill is about.

Senator Murphy—Why should it not also take account of the states’ role?

Senator IAN MACDONALD—Senator, there is such a thing as the Australian Constitution. There are certain things the federal parliament can do, and land management is not one of them. Land management, which includes forest management, is a matter for state government. We can have the argument—and the more I see of this the more perhaps I become a centralist and the more one wonders what purpose states serve—but to even imagine that you are going to get a change in the Constitution to do away with the states is fantasy land stuff, even though many of us at times might think that that is a good idea. The states are there; they have constitutional powers. The federal government is there; it does have some constitutional powers, but it specifically does not have others. We can only legislate for what we can do; that is what this bill is about. It is very important to the industry to give that security and to give that understanding so that the forest industry can go ahead, so that jobs can be created and so that people and their families, those who rely on them, do have a future.

Sure, some of what you say might be right. But by not passing this bill we are not going to increase the security of workers in the forest industry. So I urge you that if you have other issues, if you want to put forward other bills, if you want to ask questions, if you want me to do things, let us pursue all of that at the appropriate time, but let us get this bill through so at least the security that is there through legislatively backing the agreements made by a Commonwealth government in the RFAs is passed and then we can move on and continue considering the areas that you want to.

Senator BROWN (Tasmania) (10.40 a.m.)—I want to commend Senator Murphy for the speech he gave a while ago. It was one of the finest and most compelling speeches on this issue, or on a range of issues, that there has been in the Senate chamber for a long time. It deserves to be widely read by everybody who has an interest in the forest issue in Australia and, indeed, the issue of jobs that the Minister for Forestry and Conservation just referred to. Whatever else can be said in here, there is no greater defender in this parliament of the jobs component of the forest industry than Senator Murphy. Senator Murphy and I, in the past, have been at great loggerheads over that. Senator Murphy has referred to the blockade of the Wilderness Society on which I sat some years ago. It is very important that a member of the Senate who has such a clear and long working knowledge of what is going on on the forest floor be listened to and be heeded.

I noted that during his speech Senator Murphy again said to the minister, ‘Come down and have a look; in fact, suspend this bill while you come and have a look.’ The minister’s response was, ‘No, I will take the word of my advisers.’ Let me say to the minister that that is a huge political mistake. Where a minister says, ‘I myself will not make it my business to know what is going on in this industry; I will leave it to advice and I will turn down a request from such a knowledgeable Independent as Senator Murphy to come and see what is going on,’ that minister is saying in effect, ‘I close my eyes to all the evidence that is coming forward. I will not look at it with an even hand; I will not be judicious in this.’

That is the trajectory of a minister and a ministry who will get into trouble because, as Senator Murphy averred—and I can corroborate this—time and again those people who are meant to implement the Forest Practices Code and good management practices in Tasmania are prevented from doing their job, are overruled, are threatened or are sacked. Those people who are involved in the watchdog system are meant to ensure that the Forest Practices Code is properly implemented but that does not happen. Senator O’Brien knows
that does not happen, Senator Murphy knows
that does not happen and I know that does
not happen.

Indeed, looking into Senator Murphy’s
speech, there are very grave allegations of
corrupt influence at the highest levels in the
Tasmanian government, and they simply
cannot be dismissed in a debate like this. I
have foreshadowed the bringing of a bill into
this place calling for an inquiry into the
whole rotten edifice in Tasmania which fails
to deliver the Forest Practices Code, eco-
logically sustainable management and the aspi-
rations of the people of that state that their
forests should be managed in their long-term
interests—and that does not happen. What
the minister is doing is, before the chamber,
determinedly saying, ‘I will not accept an
invitation to go and see what is alleged’—
very serious allegations—‘about the mis-
management of this huge industry that is
based on a public resource.’ Senator Murphy
refers to whole logs sitting on the wharves at
Burnie and elsewhere in Tasmania that are
destined to go to China and Japan. Why is
that?

Senator O’Brien—Korea.

Senator Brown—China and Korea.
Senator O’Brien, I thank you for that correc-
tion. The question is: why is that? How can it
be that, in a state where some sawmillers
cannot get supplies and many have gone out
of business, we are told that it is essential to
keep cutting into contentious wild forest,
some of World Heritage value, and that there
are whole logs—these are native forest
logs—on the wharves waiting to be exported
for downstream processing to other coun-
tries.

Logic says that there is something wrong
here—something very wrong indeed. How can
it be that people routinely go into the
forest coupes, after they have been logged
and left by the woodchippers, and take out
truckloads of sally, sassafras and myrtle—
high-value timbers—for backyard wood-
turning, for furnishing and so on? The people
who do that are acting illegally: it is illegal to
go in and clean up after the loggers without a
licence from Forestry Tasmania. But what
happens is that Forestry Tasmania comes
along and firebombs that same resource.

There is massive mismanagement of the for-
est in Tasmania, and the minister says, ‘I
won’t go and look at it; I’ll depend on my
adviser system’—which has led to this mis-
management.

This is a very important moment for the
chamber. We are supposed to be the watch-
dog of government behaviour, of the delivery
of the executive of government, but particu-
larly we are a watchdog of the Australian
resource base, in the interests of the people.
In this chamber, Senator Murphy, Senator
O’Brien and I represent Tasmania—we rep-
resent the interests of our state as well—and
here we have legislation whereby the Com-
monwealth is ceding its powers back to the
states to protect forests and ensure that they
are managed properly. I have an amendment
before the committee that says, ‘Let’s make
the agreement at least binding on the states
as well as the Commonwealth.’ The minister
says we cannot do that: we can give our
powers away but we cannot insist that the
state implement its side of the agreement.

I would point to just one of a huge litany
of breaches of the forest agreement signed by
the Prime Minister—a simple thing like a
five-year review of East Gippsland. Without
any public announcement, without any refer-
ce to the owners of those forests or the
people of Victoria, we now find in the Senate
chamber the minister saying, ‘Oh well, there
was a behind-door covert agreement between
the governments that we put that off.’ It was
a very simple tenet, loudly proclaimed at the
signing of the original forest agreement for
East Gippsland, that there would be a
five-year review. That has been changed. It is
now not going to be for six years. The min-
ister just says, ‘Well, I am part of that breach
of public faith in the regional forest agree-
ment,’ and the public has not been told about
it.

The minister refers to the inability of the
Commonwealth to be able to have the states
bound in this matter. He is totally wrong, and
constitutional advice will show that he is
wrong. Indeed, he will not be furnishing ad-
vice in here—and I ask him to furnish advice
if he has it—which says that the Common-
wealth, in a position where it is ceding pow-
ers, does not have the ability to get a recipro-
cation from the states and have it legislated. I therefore ask the minister, if he can, to give constitutional authority to this amendment binding the states as well as the Commonwealth to the regional forest agreements—poor as they might be—so that they are implemented. I am not going to get an answer, and the Senate chamber is not going to get an answer.

We should and we must support this amendment. When the Commonwealth cedes its power to the states to ensure that there is good management of Australia’s forests, we should and must expect the states to be obliged to carry through, particularly when we have such a powerful exposition as the one we have just heard from Senator Murphy that since the signing of the regional forest agreement the state with the biggest industry, Tasmania, has manifestly been breaching the regional forest agreement, not just at the level of surveillance by Forest Practices Code officers but right through to the leaders of the state government, the Premier and the Deputy Premier. What could be a more serious indictment of failure of process at a time when we have amendments here that can fix it?

When the minister says, ‘Well, we’ll leave it to see how it goes,’ that is not acceptable. It is not working. The minister resorts to the old shibboleth, ‘We have to get this legislation through for jobs.’

At the outset of this debate, Mr Temporary Chairman, you will recall that I asked the minister to present the figures showing that 550 jobs would be created in the native forest logging industry in Tasmania. Prime Minister Howard promised on that day in 1997, when he signed the regional forest agreement with the then state Premier of Tasmania, that these jobs would be created.

I said to the minister, ‘Where are those jobs?’ because at least 450 jobs have in effect been shed from that industry. So the industry got $80 million plus of taxpayers’ money. In the woodchip industry particularly, the bigger the corporation the more it gets in flow-ons and Gunns is the biggest hardwood woodchipper in the world. Where are the jobs it has created vis-a-vis the absorption of North and Boral in the last two years? Right now, Gunns is shedding more jobs. It is what you call rationalising. Its objective is profit; it is not jobs. The concept that this regional forest agreement is for job creation is a total deception. The way that concept is being used and the way it was just used by the minister is very dishonourable in purporting to create jobs when the record is that jobs are being lost and will continue to be lost. It is known politically that it is a very strong driver. The CFMEU, in my book, falls into this all the time—‘This will create jobs.’ The record shows that it sheds jobs, that massive amounts of money go into the big corporations, which get bigger, and small ones lose out further down the line. Forests are not being managed for the small operator; they are being managed for the big operator.

In Tasmania, 90 per cent plus of the forests are going to woodchippers, and amongst those are millions of tonnes of sawlog value logs which should be being kept for generations of sawlogging to come, but they are not. They are being wood-chipped and sent to Japan to make a quick profit for Gunns, its shareholders outside Tasmania and the five or six board members of Gunns who recently voted themselves a pay increase from $200,000 to $500,000 per annum. It is a sheer windfall for them. Their jobs are secure, but they do not care at all about the jobs of the people who work in this industry. I will be testing this shortly with an amendment. In the meantime, this amendment, which requires the states as well as the Commonwealth to be bound by regional forest agreements, is compelling, is important, is good practice and ought to be supported.

Senator MURPHY (Tasmania) (10.55 a.m.)—I do not intend to make any other contribution to this debate other than to speak to my own amendments—primarily because I think it is just a big waste of time. Minister, in respect of the questions you asked me, I raised this matter with Michael O’Loughlin, head of the RFA Monitoring Unit, in either late September or early October 2000. I subsequently wrote to Mr O’Loughlin on 19 October 2000 as a result of not hearing back from him after the phone call I made. I then received a letter from the minister on 2 November 2000. I wrote back
to the minister on 7 November 2000 and made the same offers that I have made to you with respect to visiting the forests as I made to Michael O’Loughlin of the RFA Monitoring Unit and I have never received a response to that letter. Moreover, on 10 August last year I had a lengthy meeting with Rob Rawson and another officer from AFFA, during which I showed them video material and still photographic evidence of what I believed were breaches, but as I have said consistently, ‘Don’t take my word for it, don’t believe what you see on the video; come down and have a look.’ I do not wish to misrepresent their view, but I got the impression that they were pretty horrified by what they saw. They said they would talk to the minister and come back to me and I have not heard anything from that day. So I hope you can understand that I am not too confident about how things work.

As I said previously, I have written to state authorities, the Forest Practices Board and the minister. Indeed, in two coupes which were harvested in the north-west in Mawbanna State Forest, Dip 21(c) and I think 21(a)—I cannot remember off the top of my head—which were mixed forest, primarily myrtle, there was a significant residue of logs. I received a call from a contractor, a person working in the industry. Shayne Murphy does not have time to wander around every single forest looking for things to pick holes in, to try to find arguments. I have better things to do with my time. If I have any spare time, I like to go fishing. I assure you that I do not want to spend any more time wandering around the forests than I have to. So I got a call from a contractor, whom I did not know from a bar of soap, and he said to me, ‘You need to come and have a look at this. I am concerned by the circumstances I am confronted with.’ So I went down to have a look. I said, ‘What are you doing here, because I was here when this coupe was harvested?’ In fact, I still have the video of the harvesting of the coupe, which has never been shown, and I have a voice-over of a contractor who did the harvesting, which I will never produce because the views he expressed to me at that time would jeopardise his employment. Coming back to the contractor who was in this coupe, he said, ‘I was asked to come in here to clear out some of the residue so that they could windrow this and burn it. The windrow contractor wanted almost three times the normal rate because there were so many logs left on the forest floor.’ Forestry Tasmania can verify this because I have had them out there. The contractor said, ‘I’m there cutting this wood, myrtle logs. I’ve taken 32 ten-yard tip truck loads of sawlogs out of this coupe. I have asked Forestry Tasmania for a sawlog permit. They won’t give me one. I am now afraid that I could be prosecuted’—which he could have been—‘for illegally taking sawlogs out of a state forest coupe.’ He was seeking my assistance to address that problem.

I went to Forestry Tasmania and I got the District Forester, Paul Smith, and his second-in-command, Islay Robertson—this can all be checked—and I asked them to come out to the coupe to do an inspection, and that we did. There were significantly more sawlogs recovered from those coupes—a significant number. What happened was that, before the windrowing was to proceed, I wrote to the minister and asked the minister if we could send in an on ground sawmilling operation at no cost to the government and at no cost to Forestry Tasmania. The response was no. So they windrowed the two coupes and they burnt them. We then conducted an inspection after the coupes had been burnt and it was the view of some sawmilling people that there was still a significant amount of sawmill material that could be recovered. So I wrote to the minister again and I asked whether we could now proceed, at no cost to the government and at no cost to Forestry Tasmania, to put an on ground sawmilling operation in those coupes and endeavour to recover what we considered to be a significant amount of high-quality valuable resource. The response was no. So I went to have an inspection after the coupes had been burnt and it was the view of some sawmilling people that there was still a significant amount of sawmill material that could be recovered. So I wrote to the minister again and I asked whether we could now proceed, at no cost to the government and at no cost to Forestry Tasmania, to put an on ground sawmilling operation in those coupes and endeavour to recover what we considered to be a significant amount of high-quality valuable resource. The response was no. I cannot accept the minister’s criticism that I have not endeavoured to pursue these matters through the proper processes—which they really should be; that should be the process that works. We should be able to go to the relevant authorities and/or state government to get these matters rectified. Clearly, that ought to be the case.
I had been in the same area of the Mawbanna Forest two years before. I raised the same problem with Forestry Tasmania. I videoed material to show to Forestry Tasmania the number of myrtle sawlogs that were being left behind. Myrtle is a very valuable timber. After I had shown them that video I asked them, ‘Why have you not recovered these logs?’ I cut one log with my own chainsaw. I went to Forestry Tasmania and asked, ‘Can I get the log?’ It was less than 30 metres from the road. It was over seven metres long and one metre in diameter. I offered to pay for it. They said no. There was a range of timber lying about the place that anybody would have been pleased to have at a saw-mill where it could be milled. I certainly would have been pleased with it. The amount of timber I could have recovered was amazing. I would not have wanted to sell it because it was beautiful timber to use in a house, furniture et cetera. It was proposed that that be burnt.

I went back 12 months later and the only reason it had not been burnt was that it got too wet and Forestry Tasmania could not light a fire, which is unusual for them because they are pretty good at it. They could not get it to burn so they did not burn it. When I went back 12 months later and the log was still there I thought I would try it again. I asked, ‘Can I get that log?’ I was told no.

Minister, I do not accept your criticism that I have not endeavoured to pursue these matters through the correct processes, because I have. The only reason I stand in this place and argue the case for the Commonwealth to maintain some control and right is because of the failings of the system at the state level. I would not be bothered otherwise. We have the constitutional right to do this, and we have used that right on any number of occasions previously. I again refer to part 5 of the Constitution, ‘Powers of the Parliament’, and section 51, which states:

The Parliament shall, subject to this Constitution, have the power to make laws for the peace, order, and good government of the Commonwealth with respect to: ...

There is a whole range of things. I particularly want to refer to placitum (xxxix) which states:

Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judiciary, or in any department or officer of the Commonwealth.

It is my view that that does provide the Commonwealth with the right.

Senator Ian Macdonald—Unfortunately your view is not shared by the High Court.

Senator MURPHY—Is that right. I would like you to produce some evidence that what I am suggesting by way of amendment is not right. If you can do that then I may be convinced of that at the time.

Senator Ian Macdonald—I’ll write to you about that.

Senator MURPHY—I have received a lot of letters, as I said. In regard to the people I have spoken to, I hope you will understand why I have a sense of frustration—having identified problems, or having endeavoured to identify problems, and having been confronted by a significant failing in the system at both the state and Commonwealth level. That is why I want to continue to pursue this issue and make sure that the Commonwealth has a capacity to at least ensure that some integrity in this whole system is maintained. It is of vital importance.

Finally, with respect to jobs, it is critical in some aspects to get this legislation through—there is no question about that. As I said before, Labor governments in the past used the forest industry as a political football. Former Senator Graham Richardson, in the process of seeking to extract what was perceived as a two per cent green vote, used the forest industry. I was very dark about that and I have voiced my opinion about that to any number of former and current Labor members of parliament. No-one wanted to see this matter progressed more than I—that is, taking away the right of the government of the day, for political win purposes, to use the forest industry as a political football.

I clearly support this process for those reasons. But I also want to ensure that integ-
rity in the process is maintained, that—this word we keep hearing about—security for the industry will deliver some investment et cetera. I can tell you that I have heard so many announcements about investments, so many announcements about a feasibility study into a feasibility study to see if we are going to have a this or a that. I took the opportunity to ring the state government again the other day and they rang me back yesterday. I asked them about their Industry Development Plan 2001. In relation to the section on forestry, timber and paper it says: South African company, Kortas Veneer and Plywood, has undertaken a study into the feasibility of a 120,000 cubic metre veneer mill in Tasmania. I thought I should find out how well that was going so I rang the Treasury—there is a phone number in the document—and they could not tell me. (Time expired)

Senator O’BRIEN (Tasmania) (11.10 a.m.)—I have a couple of points I should put on the record which may assist the debate. The first point relates to whole native hardwood logs being exported from Tasmania. I do not know which particular logs Senator Murphy was referring to. I do know that a trial project is currently running whereby hardwood logs are exported to Korea and also to Finland for the rotary veneer peeling process. If the project is developed—and I understand that all indications at the moment are positive—the intention is to establish rotary peel veneer factories in the state of Tasmania to manufacture construction grade ply, which will be export as well as import replacement. That is the advice that I have, but that may not involve the logs in question. So there are valid reasons why hardwood logs would be exported. It may be that there are other areas where logs are also being exported.

As far as the federal opposition is concerned, the intent behind the opposition’s philosophy on resource security for this industry is to confirm a long-term future within this country for downstream processing of the products of the forest. I have spoken to a number of people from the forest industry and it is our view that this cycle of regional forest agreements provides the opportunity for the industry to prove to the Australian community that it can provide a long-term and sustainable future for the forest industry, including substantial downstream processing of its product in this country, and that its performance over the lives of those regional forest agreements will have a significant bearing on whether agreements are renewed—and, if they are renewed, in what form they are renewed. I do not pretend to know which particular logs were sitting on which particular wharf at a particular period of time—that is impossible. I am sure Senator Murphy would appreciate that, but what I am saying is that there are reasons why whole logs might be exported, particularly as part of that process.

I also understand there is a process in train where a laminated interlocking flooring system, which is a commonly used floor covering around the country, is being trialled using Tasmanian hardwood as the top veneer of that particular product. That process is probably unlikely to find its way as a manufacturing process into Tasmania because of the economies of scale involved, at least at this stage. It would be my hope that the matter continues to be investigated and if there are opportunities for that sort of downstream processing it should find its way into the state.

But I reiterate that we see the process of establishment and development of downstream processing opportunities as integral to this cycle of regional forests agreements and therefore I agree with Senator Murphy that there are aspects of this legislation that are crucial to the process of establishing those opportunities. The industry tells us—and I am sure that they have told Senator Murphy and the government—they need to be able to assure the people who will finance those developments that they are not going to find a couple of years down the track that the resources have been so manipulated that they do not actually have the wherewithal to conduct a viable business in the industry. So security of the resource and the security that the Commonwealth will not capriciously breach agreements it has already entered into require the passage of this legislation.

Let me say in relation to the matters Senator Murphy raised, with regard to what he
says are particular problems in particular localities with the administration of the Tasmanian Regional Forest Agreement, that an amendment—I will come to that later—in our view will deal with the provision to this parliament of the opportunity to review those matters. If they are proven in the context of, for example, public hearings before a joint parliamentary committee, there would be, I think, compelling pressure on any state government to correct deficiencies in the operation of its regional forest agreement. I suspect there would also be compelling pressure on the Commonwealth, where it had the opportunity to do so, to require compliance with provisions of regional forest agreements in accordance with the necessary review clauses in particular agreements. We believe our amendments provide the wherewithal to do that. That view may not be shared by other senators but that is the view of the opposition. I look forward to the debate on that particular provision at the appropriate time and, hopefully, in the not-too-distant future and in the context of the conduct of this debate.

Senator BROWN (Tasmania) (11.17 a.m.)—Senator O’Brien has just said that effectively where there is broad-scale breaching of the regional forest agreements in the application of the Forest Practices Code, as in Tasmania—which we have had so cogently outlined by Senator Murphy—we will leave it to some future inquiry by a Commonwealth and/or state committee. If these breaches are found to be actually occurring, and we know they are—who here is going to say that Senator Murphy is wrong in what he says—then we will get them fixed up after that because the states would have to fix them, wouldn’t they, even though we know that they have a whole edifice of policing of forest practices, which is failing totally.

Senator Murphy, on behalf of the Crean Labor opposition, which is totally in support of the Howard coalition on the matter of getting this legislation through, says he will not support the Greens amendment which would make the regional forest agreement binding on the states as well as the Commonwealth. So the one mechanism that might put some teeth into this legislation in terms of ensuring so-called ecologically sustainable management and would ensure the reserve system, Labor will not allow. The Labor Party will block that.

That brings me back to the very learned letter from Mr John Haywood in Tasmania to Senator O’Brien, the shadow minister for Labor on forestry, earlier this month, which has gone unanswered. I read the first part of that letter last night.

Senator O’Brien—In the last few days you mean.

Senator BROWN—Thank you, Senator O’Brien. I will continue the letter from Mr Haywood. It says:

A … wasteful 94% of all logs felled were chipped … [and] While this may see a wanton stupidity, the minimal labour, time, and processing required for woodchipping, combined with enormous volumes of trees obtained for virtually nothing, means that it is extremely profitable for the well-connected few. Newly emerged market dominator Gunns Ltd recently announced a 191% increase in profits along with a profit target double that again. The fault lies with the public officials who are sanctioning the give away of public resources and attendant environmental destruction. Despite the already mind-boggling inefficiency, Forestry Tasmania (FT), the caretaker of public forests, has offered loggers an additional 2.5 million tonnes of publicly owned wood p.a. if they can find a buyer. This level of exploitation is made possible by extraordinary administrative arrangements in which the woodchip industry has been given virtually total self-regulation, with immunity from planning and environmental legislation. Industry representatives control the Forest Practices Board, the industry regulator, which approves almost 99% of logging plan applications, as well as the Forest Practices Tribunal, which upholds the Board’s decisions against public objections by a similar percentage.

The industry, including its GBO agencies, campaigns vigorously and often deviously against a wide range of planning and conservation proposals, while actively promoting its sympathisers for strategic positions at both levels of government. It also exercises a blatant power to dictate the passage of legislative amendments to eliminate the most minor constraints—a process which we are seeing enhanced here today, I might add. Back to Mr Haywood’s letter:
In 1998, after a Supreme Court decision upheld a council’s power to refuse approval for harvesting a rural residential zone, the Bacon government—in Tasmania—passed amendments to enable a landowner to bypass council by direct application to the Forest Practices Board for Private Timber Reserve (PTR) status. The PTR is itself an extraordinary legal device, is an easement to the industry which expressly removes the subject land from all planning and environmental legislation.

So a private forest is removed from all planning and environmental legislation under state law. Back to the letter:

It also makes the easement irrevocable if any money is owed by the landowner to the plantation manager and contains a dormant provision which could make PTRs irrevocable if the minister simply declares that they have been recognised by another act, as all of them are.

Mr Haywood said in this letter to the Labor Party shadow minister for forests just a little more than a week ago:

In November 2001, the Tasmanian parliament voted to exempt forestry from a key provision of the Threatened Species Protection Act 1995 a few months after forestry suffered its first and only loss in the Resource Management and Planning Appeals Tribunal over a threatened species issue. There have also been major misuses of public funding, with some $67 million in federal conservation funding being diverted to the replacement of native forest with plantations.

Forestry Tasmania, which has been given control of some 1.6 million hectares of public forest (out of Tasmania’s total area of 6.8m hectares), operates openly as a service provider for the woodchip industry.

Mr Haywood says that in 1999-2000, despite a 48 per cent increase in logging volume, Forestry Tasmania:

... reduced its annual public dividend to a ludicrous $2.8 m, down from $11.2m paid the previous year (for which they needed to borrow). Last year, with a 20% increase in the native forest harvest, the dividend fell 34% to $5.75 m. The $2.8 m was later declared to have been increased to $8.68 m, but the following year’s annual report indicates the amount paid was the smaller figure—

that is, $2.8 million. It continues:

Most of the very modest royalties received are recycled back to the private operator in the form of logging roads and other infrastructure.

I want to continue with this letter, but I will comment on those figures later. They are in fact worse than Mr Haywood presents, in terms of Forestry Tasmania, which is regularly running at a loss. His letter continues: FT has never paid a dividend sufficient to pay the interest on the $272 million in forestry debt transferred to the public account in 1990.

That was by then Labor Premier Michael Field. The letter says:

This was reduced by $40 m a few years ago through the sale of pine plantations to a US conglomerate for a fraction of the normal value. In 2000-2001 the dividend fell to about 40% of the dividend from 1997, when the harvest tonnage was less than half as large. FT has in September 2001 admitted having generated further liabilities of $112 million. Some $500 million in public funds have been poured into Forestry Tasmania since 1988. The royalty rates for export woodchips, which FT refuses to divulge in detail, are very low by national standards, reportedly often in the $4-7 per tonne range, which encourages both waste and clear-felling. The biggest private operator is believed to enjoy after-tax profits of a staggering 45-50% on investment, based on 30% returns for a much smaller and more heavily taxed Harris-Daishawa operation in NSW whose accounts are more accessible.

Tasmania’s subsidised use of 1080 poisoning against native wildlife is routine, massive, and indiscriminate; the 109,500 kgs. of poisoned carrots prepared last year were sufficient for a bait line 7,000 km long, enough to kill 13 million rufous wallabies. The use of the poison has been described by some RSPCA officials as being in breach of the state’s anti-cruelty legislation.

I depart from the letter. This is a massive poisoning of native fauna in Tasmania by the logging industry once it has destroyed their forests, and that mass killing of Australian wildlife will be implemented and enhanced by the passage of this legislation, supported by the Labor Party, which comes from the government. Back to the letter:

The use of the poison has been described by some RSPCA officials as being in breach of the state’s anti-cruelty legislation. Studies have indicated that sublethal doses of 1080 cause residual damage to the reproductive systems, brains and kidneys of relatively resistant and often endangered species, such as Spotted-tail Quolls, White Gosawks, and Wedgetail Eagles, a fact studiously ignored by the forestry industry and its subordi-
nates in the Tasmanian Department of Primary Industries in all their publications.

The task of assessing the conservation values of prospective logging coupes, and of monitoring their biodiversity, has been assigned to employees of the logging companies or Forestry Tasmania. They also have the task of deciding if it is necessary to test waterways for residues of their heavy application of herbicides, including those of the carcinogenic atrazine group. The salient quality of Tasmanian logging is its crude expedience, most prominently expressed in the cable logging and clear-felling of steep slopes, banned in many developed countries.

Until recently, the chair of the Threatened Species Scientific Advisory Committee was an employee of Forestry Tasmania, who busily and successfully applied himself to the de-listing of a threatened snail which inconveniently inhabited forest areas.

I add here that they wanted to log those forest areas and some of them have since been logged. Back to the letter:

It is no surprise that Tasmanian forestry is not approved as sustainable by the Forest Stewardship Council (FSC), the most influential international certification body, nor that a Forestry Tasmania manager heads the puppet certification body, Australian Forestry Standard, being set up to circumvent this fact.

The smash-and-grab methods of the woodchip industry mean that Tasmania’s potentially very valuable sawn timber is excluded from mainstream world markets which observe Forestry Stewardship Council, FSC, certification. Mr Hayward, in his letter to Labor’s shadow forestry minister, Senator O’Brien, which has not been answered, went on to say:

As if chipping was not wasteful enough, the state government is pushing for three wood-fired power generators which would consume close to another million tonnes. It is unlikely that this would come from the 10+ million tonnes annually burnt in smoke-belching and health-threatening pyres on the forest floor. It is expected that these generators will be seen as a profitable way to dispose of clearfelled native forest timber, which is increasingly spurned by Japanese paper mills in favour of specialised pulpwood. The rationale for clearfelling is that, where pulpwood or pine plantations are planted on the sites of cleared public forests, which was the case in 57% of coupes logged in 2000-2001, those plantations became the property of the private plantation managers who establish them, effectively acquiring the land beneath rent-free. (It should be noted that Victoria, recently the subject of the scathing Vanclay report on excessive logging, does not permit the replacement of native forest with plantations).

The plantations which are supplanting both native forests and farmland are a high-volume, low-value, low-employment industry which is having an increasingly destructive effect on Tasmania’s far more important tourist and agricultural industries. Some 10% of Tasmanian farms have already been swallowed up by plantation managers in an artificial boom created by the lavish tax concessions currently being attacked by the ATO. Because plantation managers routinely destroy or remove farm infrastructure so as to minimise the property’s value for rating purposes, council revenue in forestry areas is being severely reduced (forestry on public land is, unlike the case in Victoria, completely exempt from council rates). Plantations are also exempt from land tax.

The proximity of plantations has also been found to reduce the market value of neighbouring properties by a third or more, a fact that both the industry and the state government strenuously refuse to acknowledge.

This is a compelling letter from a constituent to the Labor Party. It can be assumed that it will fall on deaf ears on the part of the government, but how the Labor Party could line itself up with the Howard government in this matter is beyond belief when it comes to the economic, employment and environmental aspects that are involved. It is such an important letter that I will present the rest of it to the Senate in a moment. (Time expired)

Senator BROWN (Tasmania) (11.32 a.m.)—I will now continue with the letter from Mr Hayward to Senator O’Brien and the Crean opposition, appealing to them not to support this legislation but to intervene and ensure that good forest practices are instituted in Tasmania, where good forest practices, at the moment, are not the norm. Mr Hayward goes on to say:

Plantations employ only about 15% as many people as would farms on the same acreage, a ratio which is worsening along with total forestry employment as the industry becomes more mechanised and the percentage of the harvest chipped continues to increase. Since woodchip export quotas were abolished in November 1997 by the Tasmanian Regional Forest Agreement, with a resulting huge increase in the volume harvested,
employment in forestry has fallen from 6558 to 3440, or 47%, with only about 700 people now reported to be employed in the main activity of native forest logging. Wages and conditions in the industry have also fallen sharply with the concentration of corporate control.

I depart from the letter for a moment to ask the minister to respond to this committee on those job figures. He has said this is about jobs. The Prime Minister said the regional forest agreement was going to create 550 jobs in Tasmania. What Mr Hayward is saying is that, in fact, hundreds of jobs have been shed since the regional forest agreement was signed, even though the volume of forest being destroyed has dramatically increased. That is a challenge to the minister. I ask him to answer these questions in the chamber: where are the jobs that would be produced? Where are the jobs that have come from the massive investment of taxpayers’ money and the so-called security which the regional forest agreement the Prime Minister signed in 1997 promised would be brought about?

Mr Hayward goes on in this very compelling letter to say:

A number of economic studies, such as that released recently by economists Marsden Jacobs Associates, and earlier ones by KPMG and the Victorian Auditor-General, have concluded that Australian native forest logging, when properly costed, is economically indefensible from the public perspective. Amazingly, no cost/benefit analysis has ever been conducted on Tasmanian forestry, by orders of magnitude the most intensive and wasteful in the country, but inferences may be made from the fact that over $231 million, a quarter of the state’s debt, has been generated by forestry. No Tasmanian minister or forestry official has ever responded to the substance of these reports.

A standard response of the logging industry and the Tasmanian government to the facts and arguments cited above is to ignore them—something which Senator O’Brien, as shadow forestry minister for the Crean opposition, has done so far, but I challenge him now to answer them—and continue repeating baseless platitudes about “jobs”, “sustainable development” or “world-class industry”. Another is to cite the ‘Tasmanian Regional Forest Agreement (RFA) process as proof of the wisdom of what has followed. While submissions were received from all sectors in that process, the RFA’s final form was determined by logging industry wishes. The most disastrous feature of the Tasmanian RFA was the abolition of woodchip export quotas, which has led to the runaway increase in native forest logging and environmental damage.

What provisions for conservation and other competing interests that remain are rendered largely illusory by the fact that the RFA is administered by Forestry Tasmania and the Forest Practices Board. The travesty of that administration was most recently illustrated by FT’s abolition of 1000 ha of the 1800 ha of rain forest reserve on Mt Arthur in NE Tasmania, despite it being the habitat of a listed threatened species found nowhere else on earth, the Mt Arthur burrowing crayfish, and despite the fact that the area is unsuitable for plantations. The area was clear-felled.

It is notable that this letter is addressed to Senator O’Brien. Senator O’Brien has been to see the Mount Arthur disaster and the breaches of the Forest Practices Code there but, consistent with the Tasmanian Labor Party and those sections of the forest industry which are totally malfunctioning in Tasmania, refuses to give an account of those breaches of the Forest Practices Code in this house and defends the process which allows those breaches to continue.

The letter goes on to say that Forestry Tasmania’s:

... professed reason for removing reserve protection, that similar rainforest existed elsewhere, ignored the fact that it had been reserved for local significance. Despite the documentation of 64 breaches of the Forest Practices Board by local residents—

at Mount Arthur, that is, north of Launceston——the Forest Practices Board refused to take any action against the logging firms or to give local citizens the required leave to undertake legal actions themselves.

We have a process here which is binding everybody’s hands except the loggers’. This legislation continues and enhances the process at the highest level—that is, through Commonwealth legislation—where Mr Crean and Mr Howard together support a process of depriving citizens of their rights to defend their localities, their environments
and their jobs from a marauding forest industry. Mr Hayward goes on to say:

It is difficult to see more than one plausible explanation for the brazen looting of Tasmanian forests, and that is the same as applies to Indonesia and other Third World competitors—a corrupt political establishment.

With virtually free access to a vast public resource, logging has considerable resources to invest in cultivating the major political parties and sympathetic candidates. They have been spectacularly successful. A reported seven members of the Bacon government are or have been members of a logging industry front group known as the Forest Protection Society until recently, when it renamed itself Timber Communities Australia. This is of a type known as an “astro-turf” organisation, an artificial grass-roots group developed in the US by industries such as tobacco and forestry to lobby and agitate on a remote control basis. A few years ago Forestry Tasmania announced a “Community Forest Agreement” had been signed under which FT would consult with the FPS as a representative of the public on the management of Tasmania’s forests. No genuine community groups have been accorded this privilege.

The log trucks roll day and night in Tasmania, pulverising the landscape to the financial benefit of the well-heeled and well-connected few, including former premier Robin Gray, now a director of Gunns. Despite the constant barrage of forestry propaganda (much of it funded by taxpayers), the comprehensive Tasmania Together survey—which, I interpolate, was set up by the Bacon government—discovered 80% of Tasmanians helplessly oppose the pillage. Groups of medical, veterinary, teaching, timber working, and legal professionals have been formed recently to oppose the destruction. But with both the state’s major political parties deep in the industry’s pocket, and with an ineffectual or compromised media, outside help will be needed to stop the looting of a unique and economically priceless environment.

That comes from Mr Hayward in Weegena in Tasmania, and copies were sent to ABC TV, ABC Radio National, the BBC, Channel 9, the Australian, the Sydney Morning Herald, the Age, Senator Ian Macdonald and House of Representatives member the Hon. Carmen Lawrence.

What an extraordinary indictment this is of the industry and of the political edifice which allows it to happen. What a demand this is in this letter for Senator O’Brien to respond. He shakes his head at the minister opposite. The nature of politics is that those who have the power can buck their authority to do the right thing by the populace, which does not have that power. The minister ought to know that one of the travesties behind this whole process is the system of largesse from the big industries to the big parties. This means that, in the wash-up, while 70 or 80 per cent—and, in some cases, opinion polls as high as 89 per cent in Western Australia—show public opposition to the logging of these forests, the tragic reality is that 90 per cent plus of politicians, the big parties included, support the destruction of the forests and will do so under this process here today.

The amendment is before the chamber to say, ‘There is a process here which many of us oppose’—I oppose it vehemently—but, if this is the process that is to be implemented, let the industry stick by it.’ The bill talks in grand terms about ecologically sustainable management, protecting forests and wildlife, reserving areas where there are rare and endangered species. The Greens amendment says, ‘Let’s make that binding.’ The bill itself says it is binding on the taxpayers of Australia to compensate woodchip industries if, somewhere down the line, they are denied the opportunity to destroy forests. We are saying: let the industry and the state governments who are employing the Forest Practices Code be bound by what they say in the legislation and all attendant documentation about their adherence to environmental principles. But, no, there are double standards here: give the industry the money, bind the taxpayers to give the industry the money but deny the taxpayers their wish that the forests shall be, if not protected, properly managed and don’t put any impulsion into that.

The Labor Party—the Crean opposition—supports John Howard, the honourable Prime Minister of this country and leader of his party, to the hilt in this denial of the Australian people’s wishes. This legal binding of the Australian people to give woodchip corporations huge payouts of millions of dollars if any forests that are currently unprotected are protected in the future. What extraordi-
nary legislation! What an extraordinary get-together by the big parties to deny the Australian people their wish in this matter at the behest of big industry.

One hundred years ago, President Roosevelt in the United States said that we cannot have a functioning democracy until we get the influence of the corporate sector out of it. He would turn in his grave if he could see how politicians have failed to get rid of that corrupting influence. We have heard today about how it goes to the highest levels in Tasmanian politics. I will be introducing a bill for a thorough investigation into the lot; but you know what is going to happen: the Labor Party will again join with the Liberals to deny an investigation, because it is not in their interests to have their friends in the logging industry—who are getting their pockets lined at public expense through this legislation—open to public gaze and cross-examination.

There is widespread corruption in the industry in terms of adherence to even the law, and the Forest Practices Code is laid down in several states. It is a deplorable state of affairs. It may not be interesting to the media at the moment. Very often these matters are not covered by the media, because, on the one hand, there is massive advertising by the industry in the media, and, on the other hand, for an issue to be big it needs to be one in which the Labor Party puts a difference between itself and the government. On this occasion, the Labor Party in Tasmania is worse than the Nationals and the Liberals when it comes to the destruction of forests.

The Bacon government, and the real power behind the throne down there, Deputy Premier Paul Lennon, have a deplorable record when it comes to their obligation to manage these forests—if not in the public interest then at least according to the tenets of the Forest Practices Code. The numbers are not with the Greens, the numbers are not with Senator Murphy, and the numbers are not with the absent Democrats in this debate.

Senator Ian Macdonald—It is called democracy.

Senator BROWN—Go to the polls, Minister. You will find you are in the minority on this one. Neither Prime Minister Howard nor the Leader of the Opposition once raised this issue in the run to the election. They know how unpopular and on the nose the government’s destruction of forests is.

Question negatived.

Senator Brown—I want it recorded that I was the only voice in the chamber that supported that call.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Yes. Thank you, Senator Brown.

Senator BROWN (Tasmania) (11.48 a.m.)—I move Australian Greens amendment (6) on revised sheet 2432:

5A Parliamentary scrutiny of RFAs

(1) The Minister must not enter into an RFA on behalf of the Commonwealth except in accordance with this section.

(2) Where a Minister has already entered into an RFA on behalf of the Commonwealth the Minister must cause a copy of that RFA to be tabled in each House of the Parliament within 15 sitting days of the commencement of this section whereupon it becomes subject to this section.

(3) Before signing an RFA on behalf of the Commonwealth, the Minister must cause a copy of the proposed RFA to be tabled in each House of the Parliament.

(4) Either House of the Parliament, within 15 sitting days of that House after an RFA or a proposed RFA has been tabled, may, under motion upon notice, pass a resolution disapproving of the RFA or the proposed RFA in whole or in part.

(5) Where:

(a) a notice referred to in subsection (4) is given with respect to an RFA or a proposed RFA; and

(b) at the expiration of the period during which a resolution disapproving of the RFA or a proposed RFA would have been passed:

(i) the notice has not been withdrawn and the relevant motion has not been called on; or
(ii) the relevant motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;
the RFA or the proposed RFA is deemed to have been disapproved of.

(6) If:
(a) either House of the Parliament passes a resolution in accordance with subsection (4); or
(b) a proposed RFA is deemed to have been disapproved of under subsection (5);
the Minister must not enter into the proposed RFA on behalf of the Commonwealth.

(7) If:
(a) neither House of the Parliament passes a resolution in accordance with subsection (4); and
(b) a proposed RFA is not deemed to have been disapproved of under subsection (5);
the Minister may enter into the RFA on behalf of the Commonwealth on or after the day immediately following the last day on which a resolution disapproving of the proposed RFA could have been passed.

(8) In this section:
RFA includes an amended RFA.
This amendment is about the democracy the minister has just been speaking about, which is to ensure parliamentary scrutiny of the regional forest agreements. One of the things that is happening here is that the government, with the opposition, are moving through this legislation to remove parliament’s overview of what is happening on the ground in the forests of Western Australia, Victoria, New South Wales and Tasmania. The amendment, under the heading ‘Parliamentary scrutiny of regional forest agreements’, says:

(1) The Minister must not enter into an RFA on behalf of the Commonwealth except in accordance with this section.
(2) Where a Minister has already entered into an RFA on behalf of the Commonwealth the Minister must cause a copy of that RFA to be tabled in each House of the Parliament within 15 sitting days of the commencement of this section whereupon it becomes subject to this section.
In other words, the regional forest agreement has to be brought into both houses of parliament within 15 days. It goes on:
(3) Before signing an RFA on behalf of the Commonwealth, the Minister must cause a copy of the proposed RFA to be tabled in each House of the Parliament.
(4) Either House of the Parliament, within 15 sitting days of that House after an RFA or a proposed RFA has been tabled, may, under motion upon notice, pass a resolution disapproving of the RFA or the proposed RFA in whole or in part.

(5) Where:
(a) a notice referred to in subsection (4) is given with respect to an RFA or a proposed RFA—
that is, the minister has caused a regional forest agreement to be tabled—
(b) at the expiration of the period during which a resolution disapproving of the RFA or a proposed RFA would have been passed:
(i) the notice has not been withdrawn and the relevant motion has not been called on; or
(ii) the relevant motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;
the RFA or the proposed RFA is deemed to have been disapproved of.
This is a very strong way of saying that the RFA must shape up before parliament. Parliament needs to look at it. If it is not looked at and approved, it will be rejected. It continues:
(6) If:
(a) either House of the Parliament passes a resolution in accordance with subsection (4); or
(b) a proposed RFA is deemed to have been disapproved of under subsection (5);
the Minister must not enter into the proposed RFA on behalf of the Commonwealth.
(7) If:
   
   (a) neither House of the Parliament passes a resolution in accordance with subsection (4); and 
   
   (b) a proposed RFA is not deemed to have been disapproved of under subsection (5); 

   the Minister may enter into the RFA on behalf of the Commonwealth on or after the day immediately following the last day on which a resolution disapproving of the proposed RFA could have been passed.

Finally, the amendment has a definitional component. This amendment is saying that regional forest agreements should come before parliament, be vetted by parliament and not be entered into finally until parliament has given authority. Why should that be? There are a number of reasons. The first is that over $300 million of taxpayers’ money has been given through the regional forest agreement process to the forest industries. That is a massive amount by anybody’s reckoning.

Are we as a parliament acting responsibly if we say in return that we will not have scrutiny of those agreements? I reiterate: the regional forest agreements have not been vetted by parliament. They were signed by the Prime Minister. The Prime Minister flew to Perth, to Melbourne, to Sydney and to Perth in Tasmania—where he was met with a huge protest—on a number of occasions in the last several years, and he signed the agreements together with the then state premiers. The federal parliament has not been party to those agreements, yet they involve hundreds of millions of dollars of taxpayers’ money. It is incumbent on the parliament not to allow the executive to behave solely in that fashion with taxpayers’ money. It is incumbent on the parliament to make sure it scrutinises massive amounts of taxpayers’ money given to an industry which should be profitable in itself but which is actually being propped up by taxpayers.

But then you look at what the taxpayers themselves think of this industry and whether the industry itself is necessary. I am referring here to the broadscale logging of old-growth forests in Australia. The answer is negative in both cases. Australia has a two million hectare suite of plantations which has enough wood to provide all this nation’s wood needs. Native forest logging was meant to be tailed off as the plantations came on stream—and these plantations were paid for largely by public money in the past in make-work schemes—so that the native forests could be saved as the plantations grew. The plantations provide wood for house building, paper and a multitude of other needs. But, in effect, the industry is making so much money out of destroying the forests that it wants to continue doing it. It is doing this subsidised by the taxpayers.

So what is happening with the plantation wood as these plantations reach maturity? It is being exported overseas as whole logs, and the downstream processing, the jobs and the money are going to Korea, China and other countries. There is always the promise of some new investment. We heard some from Senator O’Brien this morning when he was talking about whole native logs from Tasmania being exported to Finland a while ago. But it just does not happen because it is too lucrative for the industry to be wood-chipping huge amounts of forests and sending them overseas and to be diverting the small percentage of those forests into the sawmilling industry when the woodchippers arrive. Sawmilling these days is a by-product of woodchipping. That sawn timber coming out of our native forests at the behest of the lucrative woodchip industry then floods the market, displacing the plantation timbers which are exported overseas. Australians lose out all the way down the line. The jobs are exported, the forests are destroyed and the opportunity for job creation in the much more job-prospective industry of presenting those forests to visitors from overseas is lost at the same time.

I have yet to see a Japanese visitor to Tasmania who did not say that they preferred to see Tasmania’s forests vertical than on the back of a log truck being sent to a woodchip mill to go to Japan. Japanese visitors do not know about it and they are horrified when they find that their country is a major recipient of the devastating woodchip industry in Victoria, New South Wales and Tasmania.
Japanese visitors are coming in bigger and bigger numbers to see what? To look at log trucks? I doubt it. To look at clear-felled areas? Of course they are not. To look at Forestry Tasmania plantations? No, they are not. They want to come and see the wildlife in Tasmania. They want to come and see the intact forests. They want to come and enjoy the experience of nature.

Recently in the south of Hobart an idea long put forward by conservations was taken up, and an airwalk was built at taxpayer expense—some $5 million—in the Huon Valley. Forestry Tasmania thought that this would be a good way of expending taxpayers’ money to put its ecotourism veneering on display and to distract from the increasing destruction of nearby forests. It does not do that. While it has had a massive number of visitors, they have not gone to see the clear-felled areas. Indeed, Forestry Tasmania did not put up an airwalk in a clear-felled area—although the airwalk paid for by the taxpayers is of such size that you cannot miss seeing clear-felled areas when you get up there. It put the airwalk in a remnant area of intact forests—namely, the Tahune Reserve on the Huon River. I will give Senator O’Brien a little geography tip: it is just downstream, not upstream, of the conjunction with the Picton River. When you get to the end of the airwalk you are confronted with a massive clear-felled area on Pear Hill above the junction of those two rivers—ugly, diverting, distracting and degrading of that experience. Many people comment on it.

What of the Styx Valley to the north, which has even bigger forests much more intact? This is terrain in which, in future, millions of visitors from around the world will delight. It has the tallest trees in the Southern Hemisphere, the biggest hardwood trees in the world; indeed, the biggest trees in the world outside North America. When I was out there a week or two ago there were people there from Western Australia, New South Wales, Germany and America. They look at these gigantic living creatures soaring up to nearly 100 metres high and they marvel at them. Then they drive on to the next lot of tall trees but in the meantime have the inter-

vention of a clear-felled area—total destruction of the selfsame forest.

We have got this extraordinary deception whereby Forestry Tasmania say, ‘We will protect any tree that is over 85 metres high.’ That is nearly as long as a football field turned on end. It is much higher than the Wrest Point Casino in Tasmania. It is much higher than the sails of the Opera House in Sydney. These trees are soaring from water level right up into the high arch of the Harbour Bridge in Sydney. What do Forestry Tasmania say? They say, ‘We will protect a tree if you can show it is that high.’ In the meantime they have undoubtedly logged many trees that high or higher in a postage stamp sized protected area.

That brings me to the asseveration of the minister, Senator Ian Macdonald, about these areas, that you will see little areas which are protected when you go to clear-felled areas, which are for the good of nature. I can show him a photograph of such an area in the Tarkine Wilderness in north-west Tasmania left to protect the nest of an endangered Tasmanian wedge-tailed eagle, bigger than the mainland wedge-tail. Forestry Tasmania came along after logging and had left this area and were very proud of it and set it on fire, because that is the next thing—the firestorm—and burnt down the eagle’s nest and that copse of trees with it.

We go back to the Styx, and the minister says in this place that the Forest Practices Code officers are not corrupt—’If they are, tell me about it’—that they do not breach their principles, that they go on in front of the bulldozers and make sure that the environment is looked after. Not so. Let me give a very simple but startling example. The Skelton Creek road was driven south of the Styx up onto the ridge and Forestry Tasmania, backed by the Howard government and the Labor opposition, was moving in to cut it down. At the end of 1998 the Wilderness Society in Tasmania went in and decorated one of the trees, which happened to be 76 metres high, with thousands of coloured lights and on top a four-metre-across huge star which is still there and lights up each night on a solar panel system, which is a phenomenal thing to see. The attendant
worldwide interest, because this is the tallest Christmas tree ever decorated anywhere on the face of the planet, saved the day. Forestry Tasmania did not want the bad publicity it would get from destroying that particular batch of trees. In looking around there, the Wilderness Society found what the Forest Practices officers did not and Forestry Tasmania did not—that is, an eagle’s nest in the vicinity. Under the Forest Practices Code, it is illegal to road or log within 200 metres of an eagle’s nest, but Forestry Tasmania had already roaded right through the middle and knocked down huge trees in the process, breaching its own code. The minister is not even listening to this because he knows he cannot answer it. It was left to the Wilderness Society to do that work, and now there is a temporary stay of execution on these grand forests in the vicinity of that eagle’s nest. (Time expired)

Senator O’BRIEN (Tasmania) (12.03 p.m.)—The opposition will not be supporting this amendment. Senator Brown will no doubt suggest there is some irony in the fact that we supported a similar but not identical proposition when this bill was before the Senate in 1999, almost three years ago. Certainly it is three years since we inquired into the 1998-99 legislation. Of course, in our amendment we did say that the regional forest agreements then in effect would not be the subject of the so-called disallowance provision now proposed by Senator Brown. We are now in a situation where almost all of the regional forest agreements have been signed and we are not proposing now to support an amendment which would allow for disallowance of all those agreements, and particularly those which we stated in 1999 we did not believe should necessarily be the subject of that process. So we will not be supporting this amendment. We do say that the amendment which I believe has been circulated in my name on behalf of the opposition in relation to the joint parliamentary committee will provide adequate review provisions for the parliament in relation to this matter.

I guess I should take this opportunity to comment on Senator Brown’s apparent possession of correspondence sent to me. I did not note him saying that it had been forwarded to him directly, but apparently it has. Perhaps it went to him before it came to me; I do not know. The reality is that I did receive a letter in the last few days. I cannot attest to the time because I do not operate a date stamp system here in Canberra. It is a substantial letter which will, like the great many other pieces of correspondence that I receive, receive the appropriate attention and will receive a response. I do not propose to respond to my correspondence in the chamber, but it is curious that Senator Brown has this letter, is familiar with it—he is obviously familiar with its author—and chooses to seek to use the time of the chamber, in fact about 30 minutes of the debating time so far, in referring to that piece of correspondence. If it assists Senator Brown, I can tell him that that correspondence will be responded to in due course, like other correspondence that is received. Perhaps he can convince the government to increase resources for the opposition so that we can attend to those matters expeditiously. Perhaps in those circumstances there would be a moderate decrease in the time that it takes to respond to substantial matters raised in correspondence such as that. In any event, the author of that letter, together with other authors, is entitled to a response and will receive one.

In relation to this suggestion again by Senator Brown that there is broad scale logging of old-growth forests—I think those were his words—I repeat that, of the old-growth forest in public forests in our—his and my—state of Tasmania, about 85 per cent will never be logged because they are in reserved areas. In addition, although fewer of the old-growth forests on private land are so protected—I think it is in the vicinity of 68 per cent at the moment—measures are in train which are day by day increasing the amount of old-growth forest which is protected and which will never be logged. So it is incorrect to say that there is broad scale logging of old-growth forests.

The assertions with regard to responses from tourists about what they observe from the air walk in relation to a small area that currently does not have any trees on it are inconsistent with the fact that we are looking
at one of the most successful forestry based tourism attractions—or, indeed, any tourism attraction—in Tasmania. It is a phenomenal attraction, which is outdoing its own predictions. There was a tremendous underestimate of the attraction of members of the public to go and see for themselves not only, as Senator Brown described, the remnant old-growth forests in and around the Tahune Reserve but also the forests in various stages of regeneration—forests which have been logged over the years and which are in the process of regrowing and are available for harvest. One could not say that Forestry Tasmania were in the process of setting up an attraction which shielded viewers from the realities of a working forest. They did not. What did happen when this attraction was opened to the public was that the Greens demonstrated and harassed people who were attending, including the wife of the mayor who was there because the mayor of the region had been part of the team.

**Senator Calvert**—Betty Norris.

**Senator O’BRIEN**—The lady’s name is Betty Norris. Her husband had been part of the impetus to get the project off the ground. She was the subject of some physical jostling—she was jostled around, quite inappropriately so, by people who were trying to discourage members of the public from going to attend the opening of this venture. It is very popular and there is the expectation that, over this first year of its opening, some 200,000 visitors will attend.

**Senator Calvert**—It was vandalised, too, if you recall.

**Senator O’BRIEN**—Senator Calvert reminds me that there has been some vandalism of the air walk, and that is regrettable. It has not detracted from its popularity. The scale of the amenity there is a bit too small for the amount of attraction that this facility has. It is good to be able to criticise the planners on the basis that they underestimated its value, but it certainly is a very valuable and attractive forestry based tourism attraction.

I agree with Senator Brown that no-one finds log trucks attractive. They are certainly not going to be a tourist attraction in any part of the world. He does state a self-evident truth when he says that no-one is going to travel to Tasmania to see logs on a log truck. But there are a great many opportunities for visitors to Tasmania to see working forests, forests which will never be logged—and there are a great many of both of those—and many other beauties of the state while they are there. I would hope that he encourages those that he is associated with to do so, as would I. I did think it was important to say that there is nothing in what Senator Brown says that detracts from the fact that working forests are part of the state—any state—having an industry based on forestry, and that is what this legislation is, in part, about achieving.

There are already a number of regional forest agreements. They have been in place for so long that, as we have heard in the debate, they are coming up for or are at their first five-yearly review. We have an amendment later which will enhance the ability of the parliament to scrutinise the operation of the industry over the life of the first cycle of the regional forest agreements. In relation to the performance of the industry, as I said earlier, it is the opposition’s view that this industry has this first 20-year cycle of regional forest agreements to establish that it will deliver to the Australian community value in return for the community making available to the industry, in a secure fashion and in a way where they do not have the excuse of saying, ‘We could not get finance because we did not have a secure resource,’ some sort of downstream processing development so that the value of the industry is maximised to the community, and indeed that jobs arise from downstream processing in the industry. I did give the example of the proposals for rotary peel veneer operations which, as I understand them, are going to be directed towards using regrowth forest and logs which might otherwise be substantially suitable only for woodchip and, in fact, converting part of the resource that Senator Brown suggests is available only to the woodchip industry to an industry which will involve significant employment, export opportunity and import replacement opportunity for this country. That is just an example of a number of opportunities that arise for the industry which, it is the opposition’s
hope, will be enhanced by the passage of this legislation. We really do not see the point of endorsing a process which Senator Brown, I believe, intends to be used to try to undermine further the confidence in the industry.

I know there are groups who are going around trying to undermine the company Gunns in terms of investment and trying to undermine its share value. We heard in the debate today that a forestry company is not an ethical investment, in the same way that investment in a tobacco company is not an ethical investment. I completely reject the comparison that, by implication, is made between the two industries. On the one hand, we are talking about companies that are producing products that are injurious to health in a very direct way; on the other hand, we are talking about an industry that is using a renewable resource. Trees do grow; I do not think there is any doubt that it is a renewable resource. It is also a sustainable resource when properly managed, and that is what this legislation is about. I think it is entirely inappropriate to seek to compare the forestry industry with the tobacco industry, and I think that shows you the level to which the debate in this country seems to have degenerated. Perhaps we should get back to the realities and not make ridiculous comparisons like that.

Senator MURPHY (Tasmania) (12.16 p.m.)—I said that I would not get up in this debate again until I came to my amendments. Unfortunately, when you have these sorts of debates issues come up and senators say things that, if they need to be corrected, should be corrected at the appropriate time. Senator O’Brien spoke earlier about his knowledge of shipments of logs from Tasmania. He alluded to the matter of logs being shipped to Finland or Korea, or both, and that they were the only logs he was aware of that were being shipped out of Tasmania. For the record, logs have been shipped to China from Tasmania, from both private and public forests. Indeed, I should have taken the time to check the quantity, but I think either 10,000 or 20,000 tonnes or cubic metres went to China.

This is not the first time that logs have been sent to Korea. As Senator O’Brien indicated, some of these logs are being sent away for the purpose of trialing the material to determine its suitability for processing into veneer or plywood. Back in 1996, I think it was, we sent a significant shipment of logs from Tasmania, through the port of Hobart, to Korea supposedly for that purpose. It was organised through a Korean by the name of Mr Simon Kang. If I recall correctly—and I must check my information on this—at that time it was found that the wood was not really suitable.

With regard to trials, earlier I mentioned the industry development plan for Tasmania and spoke about the South African company Kortas Veneer. Kortas Veneer’s parent company is actually a Korean company by the name of Sam-O. The interesting thing about it is this: it has undertaken a feasibility study—in fact, it is not quite correct to say that, because it was actually a pre-feasibility study—funded jointly by the Commonwealth, the state and the company. It cost about $150,000. I understand that the pre-feasibility study has been completed but that the results have not yet been made public. I also understand that the amount of money expended will probably be mentioned in the five-yearly review of RFAs, and I find that rather intriguing. Although they are not out yet, I understand they will come out shortly—which is another process I find quite interesting.

We have a review of the RFA process that is supposed to assess how it is all going. On this occasion, which is the first occasion for Tasmania, for instance, the five-yearly review process has been conducted by the Resource Planning and Development Commission—which is interesting. Again—and I say this to the Minister for Forestry and Conservation and his officers through you, Mr Temporary Chairman—there was no public process. The terms of reference—which, unfortunately, I did not bring down with me—which were established by the state minister were so limited that it would have been almost impossible for the Resource Planning and Development Commission to make any real assessment of how the state was going in delivering the objectives and some outcomes of the regional forest agree-
ment. They would have had to rely entirely on the advice given to them by the state authorities, because the terms of reference were so restricted. The only capacity for the public to have input into this debate in respect of the review was to make some comment about the terms of reference.

The draft review report, which is imminent, will be available for public comment. That public comment comes in the form of me and/or other members of the public being able to write in and say, ‘We think your findings in this or that aspect of the report are inaccurate.’ That is the end of that—no further public debate, no further public input. Obviously, the Resource Planning and Development Commission will take note of the public comments that they receive and, hopefully, will write back to those who write to them. They will probably say, ‘We don’t agree with you. On the great volume of evidence that we were given, we have concluded thus.’

I come back to my point that this is where the problem lies in this process: there are no checks and balances. There is no real capacity for anybody to go out there and take account of what is really happening. That is the issue we must address. To suggest that the Commonwealth take a position of greater monitoring of what is happening with the management of the forests is not to suggest in any way that we are somehow seeking to block the ability of an industry to develop or to threaten the security of resource to the industry. What I have been suggesting is merely that we want to make sure that what we are told is being done is actually being done. That is why we must pursue these matters.

I cannot understand anybody in this chamber saying, ‘We do not want checks and balances; we will have an argument about constitutionality.’ It is not for this place to determine constitutionality; that is a matter for the courts. If this parliament puts matters that are unconstitutional into legislation, it is the right of the states and territories to challenge that. It is not for us to determine that, and so I cannot understand why, on those grounds, we would reject suggestions for improving legislation we are to pass through the parliament. Even if it is only my view that what I have suggested by way of an amendment will improve the legislation, it is not for this parliament to question the constitutionality of that; that is a matter for the courts. Therefore, it comes back to this point: either we are prepared to take the steps that we think can deliver greater integrity to the system because we will have more checks and balances or we are not. That is what we should stand up and say: we are prepared or we are not. It is that simple. I note what Senator Brown has proposed. It has been proposed before, I also note what has been proposed by the Labor opposition. I am happy to support either approach, but at the end of the day we must take up the responsibility of putting in place a mechanism that will give credibility to this process and restore public confidence in it because right now there is none.

I know that the minister has said on a number of occasions that there are all manner of people who are supportive of just getting this legislation through. Of course there are. This is a funny debate: it has been going on for umpteen years and it has often been the case that there have been two very polarised views. That is an unfortunate consequence of what I think was bad government policy at the time and poor government management of the issue at the time. That is what has happened; nevertheless, by the same token, the great bulk of people have a view that there is no credibility in the process. That is what we ought to seek to rectify. It is our public responsibility. I would urge that at some point, as I have said before, we actually take that step, and I sincerely hope we do.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (12.27 p.m.)—The government will not be supporting this proposal or any other proposal along these lines. As a result of discussions over a long period, the government has put in place in the Regional Forest Agreements Bill 2002 as it is presented to parliament a series of measures which will provide for parliamentary scrutiny of the RFAs. I remind senators that sections 1 and 2 provide that a copy of the RFA must be tabled in each
house within 15 sitting days of the commencement of the section or within 15 days of the RFA being entered into, whichever is the latter, except where the RFA has been tabled in that house previously. The bill goes on to provide that a copy of the amendment to the RFA must be tabled in each house within 15 sitting days, whichever is later. These are to be tabled after the RFAs have been agreed, and the agreements have been signed by two sovereign governments. Sections 4 and 5 provide that a copy of the RFA annual report must be tabled in each house of the parliament. The bill, as proposed, goes on to provide that a copy of any RFA review must be tabled in each house of the parliament, and the bill as it stands defines the RFA review report and the RFA annual report.

Those of us in this chamber know this, but anyone else not familiar with the workings of this chamber and the House of Representatives may not know that, every time these are tabled and every time a report is put in, there is opportunity everywhere for comment to be made and debate to be had and points to be raised. These chambers, of course, always have the ability to set up select committees or to refer things to existing committees, and so there is ample opportunity for full and adequate parliamentary scrutiny of every aspect of the regional forest agreements. So we will not be supporting this amendment or any of the others.

Senator Murphy—Will you support my select committee?

Senator IAN MACDONALD—I am not sure what you are talking about, Senator Murphy, to be honest. I should not say ‘no’ off the top of my head because I am not aware of your proposal for the select committee. There is opportunity for parliamentary scrutiny and that has been deliberately written into the bill. We have heard the discussions over a long period and the previous proposals to put this bill through the parliament. The government is determined this time to get this bill through because of what it does for people’s jobs, what it does for the families in the forest communities, what it does for small timber towns, what it does for certainty and security in the industry—which relates back to people, which relates back to the economy of the various states, particularly Tasmania, which is so reliant on this—and it takes away mischievous government intervention, which has been a great preventant of the industry over more than a decade.

We agreed over the last 10 years through negotiation, through consultation, through arguments and through debates between governments of all political persuasions that it was important to get this out of the political process and give the industry a chance, give those who rely on the industry for jobs—the small timber communities, the small country communities—a chance to get on with it. In spite of the best attempts of people like Senator Brown to destroy this industry, to destroy jobs, and to destroy small country communities, they are there. They stay there in confidence and in hope that once these RFA bills have legislative backing that will give them a sense of certainty and security, which they have not heretofore had.

We will not be supporting this or any of the other proposals unless there is some debate that causes me to change my mind. I have looked through them very carefully. I have had considerable advice on them and discussed them with the people in the small communities whose jobs are reliant on the provisions and those in the industry whose investments will create jobs. As a result of my consultations, we will not be supporting this or any other proposal. There are other perverse legislative impacts of Senator Brown’s amendment which I will not bother to go into. With respect, these proposals are about gutting the bill and causing legal minefields that would make it unworkable and therefore contrary to the whole purpose of the RFA in the first place. That is why we will not be supporting these proposals.

I think it is important to again look at the purpose of the bill. Senator Murphy made the comment in his contribution that, if there is any suggestion of unconstitutionality of any proposal he puts up, the parliament should accept that and should leave it to the courts to decide. Unfortunately, Senator Murphy, governments do not have that luxury. We have to try to act responsibly. Where things are obviously not constitutionally ap-
appropriate then it behoves governments to deal with them at the appropriate time and not say, ‘We know it is unconstitutional, but we will let it go through and let some court determine it later.’

Senator Murphy—No, I did not say that.

Senator IAN MACDONALD—I thought you did.

Senator Murphy—You have not produced any evidence to prove that what I have proposed is unconstitutional.

Senator IAN MACDONALD—I am really not commenting on your proposal, Senator Murphy, because we have not addressed that in full yet. I thought you were making the general point that whether or not it is unconstitutional we should pass it anyhow because it is not for us to determine but for the High Court to determine. That is what I thought you said. If you did not say that, I withdraw my comments and apologise to you.

Senator Murphy interjecting—

The TEMPORARY CHAIRMAN (Senator Forshaw)—Any comments should be addressed through the chair, Senator Murphy and Senator Macdonald.

Senator IAN MACDONALD—You are quite right, Mr Temporary Chairman. I make that general point in passing. Again I say to Senator Murphy that we think this bill is appropriate and it will achieve the intended purposes of this government, previous governments and state governments of all political persuasions. You think it has flaws, but passing this bill will give greater job security and greater encouragement for investment, which creates jobs, than rejecting it or having the bill filibustered to such an extent, as with the previous bills, that the will of the people will never be properly tested by a vote on the bill in this chamber.

There are some senators who know that the people who represent by far the great majority of Australians support this bill and want to get it through and attempts to stop the vote—and I am not suggesting this is you, Senator Murphy, because I accept your confirmation that that is not your purpose—are not helpful. Even if it has the flaws that you think it has—I do not agree with that—it is better than nothing. It is very important to get this through and to continue to address any other issues relating to forestry operations over which the Commonwealth government has constitutional jurisdiction henceforth as these issues arise.

Senator Brown or Senator Murphy spoke about a rare Tasmanian eagle. The stand of trees containing the eagles’ habitat is retained but then it is fire bombed at a later stage so the eagles are destroyed anyhow. My advice is that the firing processes provided will take that into account and the fires will not damage this rare species.

I am also advised by Environment Australia that the particular species of bird is one to which the Environment Protection and Biodiversity Conservation Act applies. I am trying to get advice about the complaints that have been made regarding the particular incident that the senator spoke about. If there is destruction of species that are subject to the EPBC, we would be very keen to know whether complaints have been made and, if they have, what has happened to them. If they have been dealt with inappropriately, then it certainly is something we should have been aware of. We would have appreciated it if the senator’s office which made the allegation had brought it to our attention earlier. I suspect that this probably did not happen because so much of this debate goes on lies. I would like to accuse Senator Brown of lying, but that would be unparliamentary, so I will not.

The TEMPORARY CHAIRMAN—I am glad you recognise that, Minister. Otherwise, I would have had to draw your attention to it.

Senator IAN MACDONALD—the comments that he makes about there being logging in World Heritage listed forest would fall into the category of that definition because they are just wrong. I have challenged him about it. I know he says it all the time, but he usually says it in places where he is not challenged. I have asked him to name the World Heritage listed forests where he says logging is going on at the present time, but there has been no response; he has been caught out. He continues in that vein by alleging in this debate that I refuse to go and
see a forest. I expect that sort of thing from Senator Brown, but people listening to the debate might get confused. They might not have heard on the day we were not on broadcast that I indicated to all senators that I was very happy to accept invitations. Senator Murphy has issued invitations and so have a lot of other people—people in the industry and conservation groups. I indicated right at the beginning of this debate that, as my time permits, I will be down there. I cannot wait to get on the skywalk that Senator O'Brien spoke about.

Senator Calvert—The airwalk.

Senator IAN MACDONALD—The airwalk. Senator Calvert tells me it is absolutely magnificent. I am very proud to learn that the Commonwealth government contributed to the airwalk with funds flowing pursuant to the RFA process and was something done by the Tasmanian government to encourage ordinary citizens, ordinary mums and dads and families to come in and have a look at these magnificent forests. But these are the sorts of activities that Senator Brown and his colleagues try to prevent anyone from doing. They think that the forests are only there for people who have five days during every working week not to work but to wander through the forests and enjoy these experiences. Great if you can get it, I guess. For the ordinary mums and dads who have to work, these airwalks are a fabulous way to let people experience the benefits of the forest.

I know from Senator Brown's contribution that he is anti-industry, antipeople, antijobs, anticompany, anti any government and all governments. He even says that there is a conspiracy with the media and that everyone is against him. It is the sort of comment that people like Stalin and Hitler used to make—you attack everyone, you are antiestablishment, you are an anarchist, you disagree with everyone, you are the only one who is right. Well, that is not the way the world is. Most people, including this government, are genuine; we are trying to do the right thing by conservation practices, by the industry and by looking after jobs. This bill is part of that and that is why we are determined to get it through. (Time expired)

Senator BROWN (Tasmania) (12.42 p.m.)—I bring the minister’s attention back to the eagle’s nest he was talking about, and the fact that it took the Wilderness Society to discover this eagle’s nest, but the damage had already been done. The road and the destruction of the tall forest through the 200 metre so-called ‘safe zone’ that is supposed to be around these eagles’ nests had been bulldozed. The chainsaws had been in. No doubt the eagles in that season were driven back out.

Senator Ian Macdonald—But you said they were firebombed. Be consistent!

Senator BROWN—The minister interrupts yet again to say that they were firebombed.

Senator Ian Macdonald—No, you said that.

The TEMPORARY CHAIRMAN (Senator Forshaw)—Order, Minister!

Senator BROWN—Let me reiterate in the two minutes I have. There are two lots of eagles’ nests. If he looks at the 1992 magazine of Forestry Tasmania, he will see—

Senator Ian Macdonald—That is 10 years ago.

Senator BROWN—That is correct, it is 10 years ago. The minister is certainly sharp this afternoon. He will see that the eagle’s nest that was so-called ‘protected’ in one of the copses he mentions, which Forestry Tasmania say are for protection, was burnt to a cinder. Forestry Tasmania lit a conflagration—it is in their own magazine—and burnt the copse with the eagle’s nest in it—that was in the Tarkine. These birds are down to some 200 breeding pairs in the Styx River Valley, where Forestry Tasmania broke the Forestry Practices Code and drove a road through the 200 metre exclusion zone. It was left to the Wilderness Society to discover this, and that area is now under temporary protection. It would have been totally logged by now, in breach of the Forest Practices Code and in breach of all the promises and the EPBC, had that not happened.

Progress reported.
MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Order! It being 12.45 p.m., I call on matters of public interest.

Royal Women’s Hospital, Melbourne: Abortions

Senator McGAURAN (Victoria) (12.45 p.m.)—I rise to speak on a matter which I previously raised in the Senate on 29 November 2000. It was regarding a sad but controversial incident that occurred at the Royal Women’s Hospital in Melbourne on 3 February 2000. The incident was a late-term abortion of some 32 weeks undertaken on the grounds that the baby had dwarfism. In that address I claimed, firstly, the 32-week-old abortion was illegal under section 10 of the Victorian Crimes Act which creates an offence of child destruction after 28 weeks. The reason this law is black and white in making late-term abortion a criminal offence is that the baby can live separately from the mother. That is, there is no contest of life between the rights of the mother and the child; the child is viable without the mother. Secondly, I claimed in my address on 29 November 2000, the incident that occurred at the Royal Women’s Hospital was not a one-off but rather one of many. The evidence came from a freedom of information request showing that over the past 10 years there had been on average a late-term abortion performed 44 times a year. Moreover, the statistics showed an alarming culture of acceptance by the Royal Women’s Hospital of this practice, a culture running rife from the hospital board down to the doctors. This shocking procedure of the 32-week-old baby being terminated was referred to the Victorian State Coroner for investigation under criminal law. It was regarded as a test case as to the legality of late-term abortions beyond 28 weeks. I remind the Senate that early-term abortions have already been ruled legal under the 1969 Victorian Supreme Court decision known as the Menhenit ruling.

So that is where the matter rested until December 2001 when the Coroner handed down her ruling on this controversial case. Her opinion was a remarkable abdication of responsibility in regard to this test case. The Coroner formed the opinion that her office had no jurisdiction to investigate a perinatal death as the baby was born dead. The coroner’s reasoning was preposterous. I rely on the very advice given to the Coroner by the Acting Victorian Solicitor-General to prove my point. He advised that the Coroner does have the power to investigate a stillbirth under section 17(3) of the Coroner’s Act. The Solicitor-General said:

This provision clearly recognises that the coroner has power to hold an inquest into the death of a child whose death may have been brought about by circumstances constituting ‘child destruction’, an offence against section 10 of the Crimes Act 1958.

The absurdity of the Coroner’s position is that of course the baby was stillborn because it was destroyed. The truth is the Coroner has power to hold an inquest into the death of a child whose death may have been brought about by circumstances constituting ‘child destruction’, an offence against section 10 of the Crimes Act 1958. The Coroner has failed to grasp the enormity of her decision.

What would dismay the public are the consequences of this failure to investigate. We now have a situation in the state of Victoria where nine-month abortions are allowed and will occur particularly given the culture at the Royal Women’s Hospital. The
danger is that in time it will be seen as normal and as acceptable as the 4,000 early-term abortions that occur each year at this hospital. While section 10 of the Criminal Code lay credibly on the Victorian statute books, there seemed to be a line drawn at what was acceptable practice, an acceptable time for choice. It was a moral and legal standard. It is a moral and legal standard now turned on its head.

Not to bring the hospital to account means that this law has become unenforceable. There is now no line in the sand and, for this, society deserves some answers to the major shift in law and morality. To this end it is incumbent upon the Victorian State Attorney-General to now do what the Coroner failed to do—that is, make a decision regarding the law on late-term abortions. His decision is simple; there is either a law against late terminations or there is not. We await his deliberation.

Furthermore, given there has been no thorough medical or procedural investigation of this tragedy, it is incumbent upon the Medical Practitioners Board to convene a hearing regarding a complaint of possible malpractice. The police report undertaken for the Coroner was not a sufficient investigation into the medical and ethical matters surrounding this case. The police report can best be described as shallow as it was a mere compilation of unchallenged statements by the offending team of doctors at the hospital. Only the Medical Practitioners Board has the capability to hold a hearing into the complaints and have the offending doctors questioned and their procedures investigated. This is their charter. Not to do so will perpetuate the belief that there is a cover-up going on, a cover-up to protect the very doctor who carried out the ultrasound and performed the foetal reduction. The offending doctor’s statement to the police—and I use the word ‘patient’ in place of the real name—said:

... it was arranged for—

the patient—

to come to my rooms in Lygon Street that afternoon for the procedure of foetal reduction ... On that day—

the patient—

arrived at my rooms in Lygon Street. I performed foetal reduction under ultrasound control …

Given the Lygon Street clinic of the doctor undertakes ultrasound examinations and abortions under the one roof, the doctor leaves himself open to accusations of unethical behaviour by running a one stop shop. How many women attending this clinic for a regular and natural ultrasound examination would be horrified to know only a connecting door separates them from the worst of all abortion chambers! The gravity of combining these services was born out by a discussion I had with a reliable medical source. The greatest deception of all had occurred: there was a misdiagnosis of the child’s disability of dwarfism. The baby did not have dwarfism but was found to be normal on delivery. Further to this, source papers I have received may bear out this allegation. I quote from a theatre document from the Royal Women’s Hospital, which has been undertaken in handwriting, which states: ‘On delivery: baby doesn’t look small’. The reason I do not table this document is that there is other confidential information on it which I would not like to make public.

These matters really do require investigation and clearing up, matters of illegality, unethical practice, misdiagnosis and misreporting. I urge the Medical Practitioners Board to meet their responsibilities in this matter. This is an inquiry the general public would support, to get to the truth and to have the law clarified. While I accept that in the Senate the issue of termination of pregnancy is a matter of conscience, nevertheless I believe the general public do not accept the fundamental move in society’s standard morality as shifted by the Royal Women’s Hospital and waved through by the leaders of our main institutions. To leave this new wave of ‘child destruction’ unchecked will place us on a roller-coaster ride to the outer limits.

Australian Labor Party: Shadow Public Administration and Home Affairs Portfolio

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.55 p.m.)—It is timely that I take this opportunity to explain the rationale for creating a shadow home affairs portfolio. The
government last night introduced a package of security measures and it is important that the framework through which the opposition is approaching these matters is fleshed out. During the election we announced that our plan was to create a cabinet level minister for home affairs. It would have covered and overseen all Commonwealth security functions outside those provided by Defence, including law enforcement and counter-terrorism, aviation security and telecommunications interception. We would also have set up a coastguard to protect Australia’s maritime borders 52 weeks of the year. The coastguard would fall under the department of home affairs except in times of conflict.

A home affairs ministry would be a powerful and focused peacetime arrangement for coordinating Australia’s domestic security—a first in Australia’s history. We are still committed to such a plan and that is why Simon Crean has chosen to create the new shadow portfolio of public administration and home affairs. This shadow portfolio has coverage not only of Commonwealth security functions but also of nonsecurity and administrative functions, including the Public Service and ministerial and parliamentary services. It seeks to achieve better coordination between law enforcement, intelligence and security agencies as well as civil authorities and the Defence organisation. Areas of responsibility include ASIO, aviation security, information infrastructure protection, international cooperation on terrorism, national security and counter-terrorism, protective security policy and coordination. Accordingly, the shadow home affairs portfolio will cover agencies such as the Australian Federal Police, Australian Security Intelligence Organisation, Australian Protective Service and Protective Security Coordination Centre. Further, this portfolio will be handling the package of security laws currently before the federal parliament.

The opposition believes the creation of a cabinet level home affairs ministry would provide a more efficient and effective way to coordinate and integrate the various Australian government activities involved in securing our nation, particularly in the light of the escalation of international terrorism manifested by the September 11 attacks on the United States. Labor believes that, after the events of September 11, greater efforts must be made to ensure that Australia is as effective as possible in the coordination of its homeland security. The entire notion of threat to national security has been transformed as a result of the terrorist attacks on that day and we must rethink the way we look at national security issues.

Since September 11, the United States has taken a fresh look at its homeland security. Tragically, what was evident from the September 11 attack was a lack of communication and coordination between the different security departments. The Bush administration acted quickly to rectify this situation by establishing the Office for Homeland Security. This office aims to develop and coordinate a comprehensive national strategy to strengthen protections against terrorist threats or attacks in the United States by coordinating federal, state and local counter-terrorism efforts. The office headed by Tom Ridge, former governor of Pennsylvania, is a cabinet position, directly reporting to President Bush on homeland security matters.

In the USA, the idea of creating an Office of Homeland Security originated from the United States Commission on National Security/21st Century. In January 2001, after 2½ years of research, the bipartisan commission, headed by former senators Gary Hart and Warren Rudman, and including former Republican House Speaker Newt Gingrich, claimed the US needed to create a Homeland Security Office that would plan, coordinate and integrate various US government activities involved in homeland security. They argued, in the face of an attack on US soil:

[A] direct attack against the American citizens on American soil is likely over the next quarter century.

The Canadian government has also established the Ad Hoc Cabinet Committee on Public Security and Anti-Terrorism. Headed by the Minister for Foreign Affairs, John Manley, its aim is to develop a strategy to
address immediate challenges facing the government in the area of public security. The committee is also charged with coordinating antiterrorism efforts with other countries, especially with the United States. The United Kingdom already coordinates its national security and home protection measures through the Home Office. The Home Office minister is responsible for all home matters, including combating terrorism.

The opposition believes that Australia should adopt the Home Affairs model. Yet, when this idea was announced during the election, the Howard government simply dismissed it. When the Prime Minister was asked if a cabinet level home affairs ministry was a good idea, he responded:

Well, you need responses not bureaucratic changes ... It’s not a response to the problem.

When asked if the Attorney-General was able to coordinate such measures, the Prime Minister again dismissed the question. Lynnton Crosby, the Liberal Party director, argued that Kim Beazley’s decision to ‘set up a new and powerful ministry of home affairs’ was ridiculous because, in his own words, ‘We had one. It was abolished by Labor in 1998’—I interpolate there that I think he may have the wrong year—’and now Beazley says he will bring it back.’

Mr Brendan Nelson, then Parliamentary Secretary to the Minister for Defence, suggested that what was being proposed here by Labor was simply the ‘establishment of another level of Commonwealth bureaucracy’. Meanwhile, Peter Reith dismissed the idea as merely ‘bureaucratic reshuffling’, rejecting our proposals—particularly the idea for a national coastguard which would form part of the home affairs department. Now that the election is behind us, it is to be hoped that the government sets aside these simplistic and knee-jerk responses and takes a fresh look at the opposition’s proposals. There are encouraging signs that this may be happening. There have been suggestions in the media that the government might create a home affairs ‘superministry’. Fred Brenchley’s speculation in the Bulletin in December last year that a home affairs ministry remained an option for the Prime Minister as he formulated ‘a long-term response to Australia’s counter-terrorism in the wake of September 11’ is just one example.

The Secretary of the Department of Defence, Dr Allan Hawke, admits that Australia must place greater emphasis on ‘our domestic security environment’. Dr Hawke’s words are that in 2002 there is a whole range of national threats which could undermine our national security, such as terrorism, people-smuggling, money laundering, drug trafficking and so on. These new kinds of threats require a re-examination of the traditional organisation and coordination of our home security agencies. As Tom Ballantyne, aviation correspondent for Hong Kong’s Orient Aviation, wrote in the Australian of 4 October 2001, a home affairs ministry is the ‘key to defeating terrorism’, at least where airlines are concerned, because it totally coordinates the myriad of agencies involved.

Although Australia, fortunately, has had limited experience of terrorism, September 11 indicated how vulnerable we could be to such attacks. And, though it would be foolish to claim that we are in the same position as the United States, we are not divorced from the global threat either. As President Bush indicated last year, we are now dealing with terrorism on a global scale. This is something new—something that we have not experienced before. We believe that it warrants the establishment of a home affairs portfolio.

The September 11 attacks also indicated how highly organised international terrorism groups like Al-Qaeda have become. Of the 19 hijackers or terrorists believed to have been responsible for the September 11 attacks, the majority entered the United States on business or tourist visas. At least six of the hijackers attended flight school in the United States. Some of them lived in the United States for months or even years before September 11. They were so secretive about their views that even their family members could not believe they would do such a thing. Some of them were well-educated, well-spoken men. Most of them entered the United States legally.

What this indicates is that we must be highly organised to target these groups through tighter border controls; air and sea, better security at airports and greater security
coordination. The US Director for Homeland Security, Tom Ridge, recently remarked:

... one of the important aspects of the ‘Office of Homeland Security’ is that we’re creating ‘a different language of preparedness as we go into the future, so we’re just not either high alert or no alert.’

Global terrorism is a new challenge and one that calls for new responses. A recent report in Jane’s Intelligence Review suggested that the South Asian region is possibly now a stronghold for the Al-Qaeda terrorist network. Al-Qaeda has been significantly disrupted in the USA, Europe and East Africa, but in Asia its network and support structure seem to remain almost intact. Recently we have heard that an Al-Qaeda cell had been planning since 1997 to target and bomb a number of buildings in Singapore. The targets included the Australian and British high commissions as well as the US and Israeli embassies. Fortunately, the relevant authorities were able to find and arrest those involved in the plan before it went ahead.

In this era of potential threats to our national security, we need a better organised and coordinated home security effort. Labor is committed to a comprehensive plan for home security, ensuring it is effective for the times we now live in. A home affairs ministry is a vital part of that plan.

Health: Waste

Senator LEES (South Australia) (1.09 p.m.)—I want to look at waste in our health system. I am not talking about $5 million being diverted to a building in Canberra; I am talking about billions and billions of dollars being wasted and not being spent appropriately. As we know, our health system is under increasing pressure from a range of sources, and so we cannot afford to waste even as much as a few cents. The increased pressure is coming from a more informed and more demanding consumer, from an ageing population and from new medicines and technologies that are expensive. It is coming because there is better and earlier detection of disease; and it is coming from more defensive medicine, from increasing costs for those who are going private and from ongoing blame shifting and buck-passing between the state, territory and federal governments.

We spend about 8½ per cent of our GDP on health—and that is less than do many comparable OECD countries—and from that we achieve above-average health outcomes. So the total amount of money that we are spending is roughly sufficient. As we can see from the United States experience, spending more money does not mean a better health system, nor does it guarantee improved access. I argue that we can find the extra money that we need within the existing health system if we eliminate, or at least substantially reduce, waste.

In my brief time today I want to look at five general areas where waste is readily identified, and many of these are interrelated. They include: waste in how we are using our hospitals; waste in the Pharmaceutical Benefits Scheme; waste in subsidising insurance products, particularly the 30 per cent rebate; waste because we are not adequately funding our GPs, nurses, allied health professionals and others in the preventative part of the system; and waste because of the structure of our health system—and that brings in many of those things I have just mentioned.

In looking at each of these, I will begin with our hospitals. These are very much at the expensive end of our health system, but they have become a place of last resort. If you cannot get the appropriate service you need then it is off to your nearest public hospital. So we have a lot of people in hospital who should not be there: they should never have been there, they should not be there at all or they have been there far too long. On the other side of the coin, we have many people urgently trying to get into our hospitals who should be there, but the beds are taken or there are not sufficient nurses to staff beds—and that is a separate issue.

Provision of more hospital beds, as some state governments tend to promise us at election time, is not the answer. We must look at ensuring that appropriate services are available to patients, such as older Australians who get stuck in hospital beds because they cannot go home after an illness or surgery: they cannot go home because home services are not adequate or not available, or
families are not able to look after them or, indeed, because they need a higher level of care. This need for a higher level of care may be only temporary; it could only be a few days or maybe a couple of weeks. But respite beds are no longer available in our nursing homes. These beds are either permanently taken or fully booked, and there are very few rehabilitation places or step-down facilities. From time to time we have 20, 30, 40 or more elderly folk who are stuck and bored in teaching hospitals in beds that are urgently needed for others.

People with severe drug and alcohol problems can also spend time in general wards in our hospitals, as appropriate services are frequently unavailable. You can add to the list people with mental illness who, thanks to the closing of many specialist facilities, have nowhere else to go. In Adelaide, in at least two of our major hospitals, we have a policy of employing security guards, one on one, for mental health patients who have to wait in casualty. On occasions this wait can be not a few hours but days, because of the shortage of mental health staff and mental health beds. People in crisis suffering psychotic episodes have entered our hospitals and ended up having bones broken by those unqualified people employed to restrain them: they may be qualified to act as bouncers in nightclubs, but they are certainly not qualified to deal with patients in crisis in our hospitals.

People with disabilities can also find hospitals to be their last resort. For chronic conditions such as asthma, where coordinated care trials have proved to be so successful, programs to help people to stabilise their condition and keep them out of hospital are underfunded or, indeed, no longer funded at all. Also there is pressure on emergency departments, because many doctors can no longer bulk-bill or are not practising after hours. Families simply cannot afford to put $40, $80 or $120 down on the table if they have two or three sick children, and so they head for emergency.

There are some new initiatives assisting with this particular issue, but you still look at waits of four and five hours just to be seen by a doctor if the condition with which you have reported to emergency is not life threatening. I just looked at one example, and that was New South Wales: 25 per cent of patients are waiting at least eight hours to get a bed. They have been classified as in need of admission, and they are still waiting hour after hour.

To finish with hospitals, I want to mention one other issue, that is, maternity services. I am not suggesting that new mothers should be immediately pushed out as soon as baby comes in order to free up a bed. Certainly mothers should not be discharged from hospital until breastfeeding is established or unless there is a midwife available to follow her home. Full community midwifery programs will shorten stays in hospital and save costs overall. One recent analysis was conducted at St George Hospital in Sydney and reported in the Australian Health Review last year. It found the cost difference favouring midwifery care of $2,579 versus $3,483. That is a saving of almost a thousand dollars per birth. The evidence in New Zealand and in South Australia’s program in the northern suburbs and in Fremantle in Western Australia’s midwifery program all back this up: giving women choice actually saves money.

Moving on to the Pharmaceutical Benefits Scheme, the PBS: cutting money from the PBS across the board just to save money is absolutely counterproductive. To restrict access for the sake of saving money is counterproductive and, indeed, can lead to higher costs to the health budget as a whole. There are a number of research papers on this, and the most recent I have seen is research in the US by Dr Susan Horn.

However, there are some improvements we can make to our PBS. These need to be aimed at appropriate prescribing; a cooling-off period before new medications, new drugs, that are listed become available; and a system where a script—with a similar appearance to the regular script you get from a doctor—for other alternatives should be trialed. About 60 per cent of GP consultations end with a script for medication, and this is what the public is generally used to. Let us support doctors, let us help them with the software they need for their computers, to give scripts that look much the same as those
currently used but which set out things like maybe an exercise program, maybe a dietary regime, maybe some support mechanisms to help someone quit smoking. The media coverage that often goes with the approval of new drugs can leave doctors the next day facing someone across the desk who has heard all about this wonderful new drug, wants it and is absolutely sure that it will help their condition. But the doctor may have absolutely no details on this drug or, at best, perhaps has just received a brochure from the drug company saying how wonderful it is. There is no chance for the doctor to get some detail on any adverse side effects, for example, and no chance for independent information.

What we need is a break of perhaps a couple of weeks. Some doctors have recommended they want a break of four to eight weeks between the listing of a new drug and the actual prescribing of that drug. We need time to get information out to doctors, similar to the information now provided to pharmacists and, in particular, to get information out to specialists. The National Prescription Service has a role to play here, but time is what is needed to get the details out. There are some positive things happening in the PBS area, but a lot more has to be done, including ensuring the availability of sample packs and some limits on the lobbying activities of drug company representatives directly to doctors. In some countries, this is simply not allowed at all.

I will move on to the enormous amount of money this government is splurging on the private health insurance rebate. We are now looking at $2.5 billion being flushed down the insurance black hole for little if any benefit either to the public hospital system that it was supposed to be benefiting or, indeed, in particular, for the sickest in our community. Generally, it is helping the well-off bypass queues and obtain a high-class service with lots of frills. Now that is fine. Anyone who wants this sort of service is more than welcome to have it, to pay for it; the public should not be subsidising it. People are certainly not reluctant to continue to use our public hospitals. In Victoria, a survey in 2001 showed that more than half of those with private health insurance chose not to declare it, not to use it. In Western Australia, despite the rebate, the actual public hospital admissions, compared with private hospital admissions, have increased.

Let us quickly look at what we could do with $2.5 billion extra in our health system. We could increase our public hospital spending by 10 per cent, directing that into urgently needed infrastructure; that is around about $600 million to $650 million. We could put the Commonwealth dental program back; that is $100 million to $120 million. We could fund nurses working in aged care to the same level that nurses working in hospitals are funded, and helping therefore with some of the shortages in nursing homes; that is around $96 million. We could lift the Commonwealth spending on indigenous health to the same level that the rest of us enjoy; that is around $200 million. We could have a 10 per cent boost in the aged care budget for respite care, to ensure they have dental programs—and the lack of dental support in aged care is leading to things like malnutrition, bedsores and a whole lot of horrific problems—and also for additional aged care packages; that is around $300 million.

This still leaves us, after you have spent on all those things, around $1 billion to spend on other services for those Australians who are most in need and, in particular, on more appropriate services that will keep people out of hospital. These include additional support for quality GP services. In this area, I would digress quickly and say we need again to look at how many GPs, how many doctors, we have in this country. I do not believe that the official figures are anywhere near accurate. They are probably around 15 per cent too low. This, in itself, is putting more pressure on doctors working out there and on hospital waiting rooms. Indeed, I do not think that the recent claims of a 4.3 per cent increase in rural GP numbers can be substantiated; I think they are talking about output, not the number of people on the ground.

We must encourage collaborative group practice—and that includes nurse practitioners, allied health workers and, where ap-
propriate, dentists. The general shortage of nurses is causing some difficulty in this area, but I applaud the work of the Divisions of General Practice in coordinating appropriate health services.

I turn briefly to the world of cost shifting, buck passing and blame shifting. This involves the state, territory and Commonwealth governments and it goes on incessantly. Much of the inappropriate hospital admissions involve cost shifting. Let us look at aged care—probably the most well-known area. The Commonwealth is responsible for aged care. When it does not supply enough services, when there are not enough nursing home beds, people end up in hospitals, and that is funded by state or territory governments. A shortage of GPs—again, the Commonwealth puts the money in there—means further pressure on our hospitals which, again, are funded by state and territory governments. Patients are given only a day or two worth of medication when leaving hospital—which is from a state funded pharmacy—instead of the full course that was necessary. The patient is then required to go off to the doctor, for which there is a bill to the Commonwealth. If a script is required on the PBS, there is another bill to the Commonwealth. I could probably spend another 15 minutes here just talking about the cost shifting and buck passing that goes on. There is an enormous waste of money, time and effort and enormous pressure is put on patients, particularly those leaving hospital who are not well anyway and who are basically dismissed early. For them to then have to work their way through the Commonwealth system to get the support they need is absolutely ridiculous.

Given time constraints, I do not have a lot of time in which to speak on this occasion. I will take some more opportunities later on to go through my suggestions for the restructuring of our health system to ensure that people are actually able to access the appropriate services, not end up in a queue in our public hospitals. This largely involves a regional system of funding our health services, with a pooling of Commonwealth and state funds and the delivery of services at the local level, whereby I think there is a far better chance of getting appropriate services.

I will close by directly challenging the new health minister, Senator Patterson, to ensure that the coming budget tackles the waste in our health system and directs resources to appropriate services. This coming budget must be a budget for the long term. The minister will be judged, in particular, on how her budget impacts on those who are the sickest in our community.

Environment: Ranger and Jabiluka Uranium Mines

Senator CROSSIN (Northern Territory) (1.24 p.m.)—I rise this afternoon to discuss as a matter of public interest the recent news of four separate incidents involving the elevated levels of contaminants, most notably uranium, at the Ranger and Jabiluka uranium mines in the Northern Territory. More specifically, I want to address the delayed reporting of these incidents by both the operator of the mine, Energy Resources Australia, and the failure of the Howard government to ensure Kakadu’s protection.

The Ranger mine has had more than its fair share of environmental woe over its 23 years. According to the Australian Conservation Foundation there have been no fewer than 110 environmental incidents over this period, ranging from unexplained elevated levels of contaminants to spillages, leaks and breaches of reporting requirements. Ranger, as most Australians would know, is within the external boundaries of Kakadu National Park, which is Australia’s largest national park and one of only 10 Australian sites inscribed on the UNESCO World Heritage List. Kakadu is actually listed on that world heritage register for both its natural and cultural values.

It is therefore imperative that the operations of the Ranger mine are placed under the highest possible scrutiny to ensure that we both protect the natural and cultural values of Kakadu and thus meet our international obligations under the World Heritage convention. To this effect in 1978 the Commonwealth established the Office of the Supervising Scientist. It was tasked with the protection of Kakadu’s environment.
Twenty-four years on, it is now very clear that the procedures in place to ensure Kakadu’s protection are grossly inadequate. The regulatory regime, with the Office of the Supervising Scientist having an overall watching brief and with the mining company collecting its own samples and providing analysis, is plainly not working.

Unfortunately, Ranger also has a long history of delayed reporting of environmental mismanagement. On 5 November 1981 an island appeared in the tailings pond at the mine, radioactive wastes were exposed and the matter was not reported until 19 November. On 23 November that year, the then Northern Territory minister for mines and energy closed down Ranger pending further investigations. Four days later, that same minister waived the requirement of a two-metre coverage of water over tailings at all times and Ranger was under way again. But 20 years on the system is still grossly inefficient, as evidenced by this month’s reports of elevated levels of uranium and subsequent delays in reporting by the mining company.

But these events come less than two years after a comprehensive review of Ranger operations following a five-month leak of contaminants from the tailings dam. On the afternoon of 28 April 2000, ERA notified the Office of the Supervising Scientist and other so-called stakeholders although not including the Mirrar, who are the traditional owners. They were not informed until media reports of 3 May 2000 hit the headlines. ERA notified that approximately 2,000 cubic metres of tailings water had leaked from a pipe in the tailings dam corridor at the Ranger site between late December 1999 and 5 April 2000. Subsequently the company revealed that it had suppressed this information for over one month before releasing details to the Australian Stock Exchange.

Of course, it is now known that ERA knew exactly how high the levels of manganese were in the area around the mine site as early as December 1999. In failing to report this accident, ERA was in breach of environmental requirements and the working arrangements outlined in the memorandum of understanding between the Commonwealth government and the Northern Territory government. In his subsequent report, the Supervising Scientist concluded that ERA did not comply with its environmental requirements under the Atomic Energy Act section 41 authority. Specifically, the Supervising Scientist concluded that two environmental requirements were breached, namely, requirement 3.4, which states that processed water must be totally contained within a closed system; and, requirement 16.1, which states that the company must directly and immediately notify the supervising authority, the supervising scientist, the minister and the Northern Land Council of all breaches of any of these environmental regulations and any—not the ones they choose—mine-related event which is of concern to Aboriginals or the broader public.

When the news broke late in May 2000, this federal government promptly assured the public—somewhat prematurely, though—that Kakadu was safe; and they made a brief show of politely castigating ERA at the time. It was in this chamber—in fact, in the Senate on 27 June 2000—that the then Minister for Industry, Science and Resources, Senator Minchin, tabled the report of the Supervising Scientist into the tailings leak at Ranger, on behalf of the environment and heritage minister, Senator Hill. Senator Minchin detailed the recommendations of the Supervising Scientist, addressed each and reassured this parliament that they would be implemented. In fact a press release from Senator Hill at the time said this:

We will take the necessary action to extend the statutory environmental monitoring program to provide an additional early warning capability.

Senator Hill went on to say that Senator Minchin’s support of the recommendation was vital to ensure that the changes required were delivered. After that, though, the Howard government, including both the industry and the environment ministers, simply forgot all about it. As current events have shown, the federal government and its agencies have clearly failed in their duty to protect Kakadu from the threats posed by uranium mining—because it has happened again. The news of this year’s incidents and the subsequent reporting delay gives the lie to the government’s assurances. Once again the Australian
people have been let down. The environment of Kakadu National Park and the Mirrar traditional owners have been let down by this government. The World Heritage status of Kakadu has been tarnished once again by this government’s abrogation of its responsibility.

In his June 2000 report the Supervising Scientist made 17 recommendations, four of which, I believe, have clearly not been implemented. Recommendation 4 was that ERA provide for training to ensure its employees appreciated the need to inform supervisors of any events which could be of concern to local Aboriginal people or the broader community. Another recommendation was that ERA should ‘upgrade the environmental protection staff structure at Jabiru’ to ensure that the company has ‘the on site ability to effectively identify, interpret and rectify environmental incidents’. Recommendation 9 was that statutory monitoring be extended to ‘enhance its capacity to provide early warning of unplanned releases of contaminants’. If these recommendations had been implemented—and, clearly, one would assume that they have been; if they have not been, that is another serious matter for this parliament to consider—then the likelihood is that these recent events would not have taken place, and certainly not the delay in reporting. Ensuring ERA’s adherence to the recommendations was the sole responsibility of this federal government, and it has plainly failed to meet that responsibility.

Several weeks ago, on the afternoon of 27 February, the Gundjehi Aboriginal Corporation was informed that, a day earlier, ERA had notified individual members of the Alligator Rivers Region Technical Committee—not the whole committee as it sat in session, which is worthy of note, but individual members—that an incident had occurred at the Ranger mine, involving the incorrect stockpiling of uranium ore. While details remain sketchy at this point—which is, in itself, an indictment—it appears that ERA incorrectly dumped grade 2 ore into a rainwater sheeting area designed solely to run rainwater offsite and down the adjacent Corridor Creek, which feeds directly into the Magela wetlands. The date of this dumping has not yet been ascertained. The ore was watered by rain, and a turbid run-off commenced entering Corridor Creek to the south of the mine site. Of course, with continual rainfall, most of the contaminant run-off bypassed the wetland filters in the Corridor Creek catchment and ran straight down the creek. In addition, the problem was exacerbated by incorrectly flowing run-off from a drain of another stockpile. Under the mine management plan, this water should flow to retention pond 2 and, therefore, remain there prior to filtration. Instead, it added to the contamination from the incorrectly placed ore.

Extraordinarily high levels of uranium in the Corridor Creek catchment were also recorded in early January by ERA, but no action was triggered and no report made to the stakeholders. It was not until 20 February this year that ERA commenced an investigation into the source of the elevated levels. ERA’s investigation revealed, in fact, the incorrect placement of ore. They even said in their report:

... small laterite plumes from the toe of the stockpile, flowing west to the drain running to the Corridor system.

ERA have now capped the incorrectly placed stockpile, redirected the drains and introduced more frequent monitoring in the catchment. But how did it happen? How could such a serious blunder occur and go unnoticed and unreported? Has this company learnt nothing from its 1999-2000 experience? More importantly, why hasn’t the Commonwealth government introduced measures to ensure that this could not happen again? Just how effective is the monitoring and reporting system that has been put in place by this company and the Office of the Supervising Scientist?

There is actually a three-tiered water monitoring system that comprises ‘focus, action and limit’—too complicated to explain for the purposes of this parliament today. What should be known is that in the series of incidents that happened several weeks ago one of the levels actually reached the second stage, which is ‘action’, and that means that the company must immediately inform all stakeholders, including the Super-
vising Scientist, the NLC and the Northern Territory government. But by 7 January ERA knew that the sample collected on 2 January showed that the action level had been reached yet it failed to report the matter until some five weeks later. In not reporting having reached action level, the company has again breached its environmental requirements. But what has this government done? Has the minister even issued a formal statement? Has he said anything? No, he has not. Has the Supervising Scientist been directed to prepare a report or a review? We would not know. Sadly, typically, this government is quiet. The silence from the minister’s office is deafening.

Unlike the stunned minister, bunkered behind his minders, this party knows precisely what must be done. To ensure adequate scrutiny of what now appears to be a consistently failing system of monitoring and reporting in the Australian uranium mining industry, there needs to be a full and frank independent inquiry into exactly what is happening in these mines and what is happening with the monitoring and reporting requirements of this government to the Australian parliament and to the Australian people. The supervising scientist cited two reasons ERA had given by way of explaining the fact that they had breached two environmental requirements. Firstly, they said:

... recent changes in staffing at Ranger have resulted in the absence of a senior scientist with the ability to effectively identify, interpret and rectify environmental incidents.

Secondly, they said:

There is a lack of recognition by the Ranger Management Team of the needs and expectations of stakeholders that resulted in emphasis being placed on the absence of environmental impact rather than the issue of whether or not the incident would be of concern to Aboriginal people.

So ERA have blamed staffing and cultural ignorance within their organisation. This is an admission of an endemic problem, yet again this federal government has ignored it, washed its hands of its responsibility. ERA appear to have learnt nothing from June 2000 and because of Commonwealth negligence we are presented again with delayed reporting, breaches of environmental requirements and broken commitments. So how can the Australian people, and more particularly the traditional owners of Ranger, trust a government that so blatantly abrogates its domestic and international responsibilities to protect Kakadu?

The Mirrar people and the broader Australian public deserve that the truth be told about what happened at Ranger and Jabiluka to cause these environmental threats and subsequent secrecy. How did it happen and why? Why does it continue to happen? What measures will now be put in place to ensure that this is not a growing trend? In the Australian newspaper on 7 March last week, the Gundjehmi Aboriginal Corporation called for action to be taken. (Time expired)

Judiciary: Discretion

Senator COONEY (Victoria) (1.39 p.m.)—I want to talk in this MPI debate about a speech made here last night by Senator Heffernan because I think it is a speech that goes very much to the heart of the sort of system which we operate under; that is, a democratic system in which there are three branches of government. There is the parliament, which Senator Heffernan employed last night to put forward matters in which he believed and, I have no doubt, believed in sincerely; there is the executive, which administers the law; and there is the judiciary, which interprets the law. This is a concept that is traditional and which has been stated in this chamber on many occasions. Government is absolutely essential to this society, and it is proper that those three arms of government show the appropriate respect for each other. In other words, we are not going to get the sort of government we want in this country if there is not a respect between the three arms of government. That is particularly so in terms of the judiciary because it is a body that is dedicated to the doing of justice in this community.

If the beliefs that Senator Heffernan spoke to last night are true, there is a disastrous situation in the judicial arm of government in this country, and it is a matter of great and grievous concern. Because it is a matter of such importance, a matter that goes to the fundamental wellbeing of this society, then the belief that Senator Heffernan spoke to is
a belief that must be founded very solidly on
fact before it is published. Because you be-
lieve something, it does not make it true.
Given the importance of this issue—and it is
to be expected from anybody who uses the
facilities of this chamber as they can be
used—it is essential that that person is abso-
lutely sure of his facts, not only in his own
mind but also on the basis of the evidence
that should underpin such a belief before he
proceeds. Last night, Senator Heffernan
quoted Chief Justice Murray Gleeson, who
said:

Judicial power ... is held on trust. It is an ex-
press trust, the conditions of which are stated in
the commission of a judge or magistrate, and the
terms of the judicial oath.

That is true, and Senator Heffernan went on
to quote other parts of the speech. What the
Chief Justice said in that speech is absolutely
true, and the parts that Senator Heffernan
quoted are absolutely true. But just as judi-
cial power is held on trust, so is parliamen-
tary power held on trust. In here we have the
ability to speak with absolute privilege. That
is an ability that we should use but we should
use it only in the most responsible way be-
cause it is a power that is held on trust.

Senator Heffernan in his speech addressed
a series of matters. He says that he has evi-
dence of the matters which he speaks to. The
matters he speaks to are matters of the grav-
est kind. Those matters, if they are going to
be advanced here, must be advanced only on
the basis of the most convincing of evidence
because they are matters that go to the integ-
rity of government in this country and, after
that, to the integrity of a judge’s reputation.

So there are two matters. The first relates
to the system itself, which must be preserved
no matter what. The integrity of the sys-
tem—the parliament, the government and the
judiciary—must be preserved no matter
what. But beyond that, every person is enti-
tled to his reputation. We have here a judge
who has been identified as Justice Kirby. He
is a person who, until this time, has had the
highest reputation—the sort of reputation
that every judge of the High Court has and
the sort of reputation that every judge of the
High Court must have. If that reputation is to
be justifiably lost, then it is not right that that
justice should stay on in his or her office. It
is because of that that the reputation of a
judge, as with the reputation of everybody in
this chamber, should be preserved unless it
deserves to be lost. A person should not be
traduced unless that evidence is there.

Senator Heffernan, who made this speech,
has the conviction that what he said is cor-
rect. But that is not the test. A conviction
does not make for truth. Evidence makes for
truth. A speech like this, with great respect to
Senator Heffernan, should not be made un-
less there is evidence not only that the sena-
tor possesses but that the senator can show to
the community in a convincing fashion. It is
not appropriate in a matter like this to get up
and say, ‘I have the evidence’ or else ‘I’ve
been denied the evidence and I’m sure if I
got the evidence I’d be able to prove what I
have to say.’ That is not the approach that
should be taken. The approach that should be
taken is to say, ‘Here is the evidence; here is
the convincing evidence, which I now pro-
duce.’

The appropriate thing to do is to give this
evidence to the appropriate authorities so
that they may take the appropriate action. If
the judge is unworthy of his office, then he
or she must be removed, and that must be
done by the proper processes, which is
through the federal parliament of this nation.
Unless that can be done, an attack should not
be made on a justice of the High Court of
Australia, which has a reputation around the
world as one of the great common law
courts, filled by people with great ability and
integrity.

Where an attack is made on the system in
the way I have explained, somebody should
get up and state the sorts of things that I am
stating as soon as possible. We have heard
the speech by Senator Heffernan and the
statement by the judge that this is false, that
there is nothing to it, and those two issues
should be put forward in this chamber as
soon as possible, and that is why I am mak-
ing this speech now.

I was able to be included on the speakers
list today because Senator Mackay removed
her name from the list, and I thank her for
doing so. I rang Senator Heffernan’s office a
short time ago when it became apparent that
I would be able to speak during this debate to tell him that I would be making this speech. He was not in his office. I apologise for not contacting him earlier but I thought that my chances of speaking during this debate today were slim. In any event, I have taken the opportunity to make these remarks.

In this world we must always hope that the right thing will be done. We must hope that people have integrity. We must hope that people are as they appear. Justice Kirby does appear as a great judge, as a person who has contributed greatly to this nation—through the Law Reform Commission and his work on two courts, through the various papers that he has produced, the lectures he has given and the work he has done generally. He has built up that reputation, and it is comparable to the reputation of the other judges on the High Court. That reputation has been traduced by somebody who has a great belief in what he says, but I keep repeating this point: it is absolutely essential to the way this society works that that conclusion which has been reached should only be reached after the most anguished of consideration and only on the basis of the most convincing evidence; otherwise the whole system gets out of skew. It is too easy to make a statement, to let that fly into the public domain and to do all sorts of harm because of that.

As I said before, if all of this were true, that would be a dreadful thing and something ought to happen. But this sort of statement should not be made, because of the fearful consequences, unless there are grave grounds for that happening. Neither the system nor the community should be affected in the way that it is by this, nor should the reputation of a person who, until this time, has had the highest reputation. There seems to be no reason at this stage why he should not continue to hold that reputation.

Extradition Law

Senator LUDWIG (Queensland) (1.52 p.m.)—I rise to follow a theme touched on by Senator Cooney. It is a broader theme in the sense that it goes to the review of Australia’s law and policy on extradition. This is an important area, which has attracted the attention of the Joint Standing Committee on Treaties. It has produced a significant amount of interest in the law profession and elsewhere. The area of law that I refer to, extradition law, is a vexed area. If we go to the review by the treaties committee, which helps to explain the genesis of its report, we find that it began with Konrad Kalejs. Some people may recall that unfortunate incident and that unfortunate gentleman.

Mr Kalejs was being sought by the Latvians because they did not have an extradition treaty with Australia at the time. Although the Latvian authorities may have sought Mr Kalejs for a range of reasons that are not relevant today, the difficulty for Australia was that we could not extradite him because we did not have an extradition treaty. So the issue of an extradition treaty effectively came before the joint treaties committee. What was important, however, was not so much that, but what it highlighted. It highlighted a very interesting set of issues.

The extradition law was last significantly amended in 1988, giving us the present extradition law. The most significant change coming from that amendment was the default option for any new treaty. This has been labelled as the ‘no-evidence’ model. The committee had not found favour with this model. It was effectively as it was described—a no-evidence model; you did not require evidence. The report provides a glossary and the no-evidence model states: ‘in an extradition treaty the model whereby a country requesting extradition must provide a statement that sets out the alleged conduct constituted in the offence but need not provide any evidence in support of the offence, such as the statement of witnesses’ and so forth, which we find in our common law country. That is not to say that it is not a practical way of dealing with this area. However, from time to time the issue should be looked at, and should be looked at critically.

Australia at this time has no particular or pressing issues in respect of extradition and it is thus time that we should have another look at our extradition laws. The committee concluded the same. The committee did not recommend that the no-evidence rule not be used, as it has been used reasonably successfully since 1988. It decided not to say that it
should be withdrawn or put in jeopardy. It came to the practical point of view that now is the time to have another look at it. To that effect, the committee recommended that the Attorney-General refer the matter to the Australian Law Reform Commission to inquire into it further. It is a matter the Attorney-General needs to weigh up. A balance must be struck between the rights of the state, that is, the Commonwealth, and the rights of individuals within that state. That should be, in essence, the focus of the issue. There is no question that crimes should be punished and criminals should not be able to skip town to avoid justice—and this also applies in the international setting. However, that does not mean that individuals should not have the protection of the law when faced with allegations of criminal activity. Extradition law is the fulcrum that attempts to balance these competing issues.

Extradition is the formal surrender by one state at the request of another state of a person who has been accused or convicted of a crime committed within the requesting state’s jurisdiction. It is based primarily on treaties or arrangements between the states. It is helpful, perhaps, to outline the process. It goes something like this: a requesting country provides the request. There is a provisional arrest warrant. The person who is served with that is remanded in custody unless there are particularly special circumstances and a formal extradition request then follows. A hearing before a magistrate is then undertaken and, once found eligible, the surrender will proceed. There is no determination of guilt at that point. It is almost an administrative process that the magistrate is said to go through. The magistrate is not determining whether the person is guilty or innocent of the charge but whether the person is eligible for surrender. Of course, the Attorney-General can decide whether the person should be surrendered to a foreign country.

So the nub of the issue, in effect, is that in Australia we have a range of different processes that apply concurrently. We have arrangements with Commonwealth countries which provide common law rights which allow the standard of proof, which is based on prima facie evidence, to be used in determining whether a person should be extradited. We have the civil law no-evidence model. In the US they have a different model again. So right across the globe we have various levels of proof a requesting country needs to provide in order for extradition to take place. We think it is time this matter was looked at once again.

QUESTIONS WITHOUT NOTICE

Lucas Heights: Nuclear Reactor

Senator CARR (2.00 p.m.)—My question is to Senator Alston, representing the Minister for Education, Science and Training. On what basis did the CEO of the Australian Nuclear Science and Technology Organisation, Professor Helen Garnett, provide assurances to the Senate estimates committee on 21 February 2002 with regard to the Argentinean company INVAP that was contracted to construct the new nuclear reactor at Lucas Heights, namely, that INVAP is not underwritten by its government in any way? On what basis did the Minister for Education, Science and Training, Dr Brendan Nelson, make the following statement to the journal Australasian Science on March 2002:

INVAP’s activities under the contract are fully funded by the contract payments and are therefore not dependent on cash flow from the Argentinean government.

Senator ALSTON—I do not have precise details of the basis on which those statements were made, but I presume they were made on advice provided and made in good faith, as they should have been. I will therefore make further inquiries and see if we can provide Senator Carr with any further information.

Senator CARR—Madam Deputy President, I ask a supplementary question. I ask Senator Alston if he could also establish on what basis the government has sought to undertake due diligence over the financial exposure of INVAP to the Argentinean financial crisis. Has the government satisfied itself that reports that INVAP has sought $10 million from the Argentinean government to stay afloat are untrue? Is the government aware that on 1 March this year the Argentinean budget papers indicated that a loan of 12 million pesos has been extended to INVAP? What will be the impact on the fi-
financial obligations of the Australian government in relation to the $290 million contract for the new reactor if the Argentinean government cannot prop up INVAP with the $10 million that the company is now seeking?

Senator ALSTON—I am advised that the Argentinean government has put in place a $10.5 million facility, a repayable drawdown for INVAP, which is quite clearly a demonstration that the Argentinean government believes in the ANSTO project. It is a reflection of the fact that INVAP is in an environment in which there are very considerable financial difficulties being experienced by any company operating out of Argentina. The provision of that facility does not imply that INVAP is incapable of meeting its contractual obligations in relation to the replacement research reactor but simply that the Argentinean government is prepared to provide that degree of comfort. INVAP has met every milestone on schedule since the contract was awarded and it has already completed the bulk of the design work for the project.

Workplace Relations: Reform

Senator SCULLION (2.03 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Will the minister inform the Senate of new measures introduced by the government to further reform Australia’s workplace relations system, particularly to curtail unwarranted trade union influence and enshrine the fundamental principle of freedom of association? Is the minister aware of any alternative proposals in this area that are worthy of consideration?

Senator ALSTON—The government has introduced a package of five measures since the election which are designed to protect those very important principles that Senator Scullion referred to and which, one would have thought, were universally supported in the Australian community. The fact is that they build on a package of measures that we have introduced into this chamber and this parliament over recent years and, as a result of that, real wages of low-paid award workers are increasing by more than nine per cent. This is compared to the 13 years of Labor when real wages actually fell by 5.2 per cent.

Quite clearly, the latest announcement in relation to the annualised growth rate for GDP of 4.1 per cent is very much a function of the degree of productivity in the work force which again comes about through more flexible workplace arrangements. Once again, the Labor Party has learnt nothing from the last three elections. They know that Mr Blair did the hard yards: he was prepared to distance himself from the trade union movement, he was prepared to stand up for ordinary workers, he was interested in outcomes, he was interested in looking after real workers—not workers’ representatives. As a result, he has made considerable progress, not the least of all political progress.

Those on the other side of the chamber simply wallow in the mire. They are not prepared to make any changes because they know their jobs depend on it. That is the tragedy of all this. When Mr Crean goes out there and says he wants to make a few changes, Senator Hutchins pulls him into line. When the ACTU decides that it wants to orchestrate a media charade a couple of days before the election, because they have already tried to line up bidders for the failed Ansett business, they orchestrated everything: they sacked the administrator, they did everything possible to ensure that they controlled the outcome. What did we get? An absolute disaster. Now, rising from the ashes, we get a proposal that does offer very considerable promise. It offers at least a thousand jobs that were not there yesterday. What has been the response? We have the TWU saying, ‘This thug Corrigan, we’re going to be keeping an eye on him.’ Who represents their interests in this parliament? Senator Conroy and Senator Hutchins. Why are they not out there?

Senator Conroy—Sorry?

Senator ALSTON—I am sorry you are asleep at the wheel. I know you are not well enough paid. Senator Conroy ought to be acutely aware that this is all about trying to salvage something from the ACTU-inspired wreckage of Tesna. That is what it is about. It is trying to get a bit of competition into the airline industry.
Who is interested in competition in the airline industry? Not the Labor Party. Who is interested in rescuing the jobs of at least 1,000—and there were maybe 4,000 or 5,000 that you professed to be interested in when you were backing the Tesna consortium?

Senator Forshaw—You did nothing.

Senator ALSTON—But, no, all you can think of doing is trying to undermine Mr Corrigan because you do not like his politics. You do not like the fact that he increased crane rates from about 15 to 25.

Senator Conroy—He pocketed all of the money.

Senator ALSTON—There we go: the politics of envy.

The DEPUTY PRESIDENT—Order, Senator Conroy!

Senator ALSTON—It is a tragedy. You are not interested in outcomes, you are not interested in whether there is increased productivity for the workforce and you are not interested in whether Australia is prospering; you are simply interested in who made a quid on the side. That is what it is about, isn’t it?

The DEPUTY PRESIDENT—Senator Alston, address the chair please.

Senator ALSTON—You are not interested in the welfare of the workers; you are interested in being envious of people who make a commission. (Time expired)

Health: Program Funding

Senator SCHACHT (2.08 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. When will be departmental report into the diversion of health program funding into the construction of GP House be completed? Will the full contents of the report be made public, and will this occur before parliament rises at the end of next week? Will the report contain details of how the former minister could possibly have known three months into the financial year that the asthma and rural health programs would be underspent nine months down the track?

Senator PATTERSON—The Prime Minister has called for a report. He has indicated that he wants all of the facts before him. I do not know exactly when that report will be presented to the Prime Minister. He has asked for it; I do not think that he has given a date for it. The important thing is that the money that was committed in the agreement between the RACGP and the government has not gone to the RACGP. There were very stringent requirements placed on the RACGP. The message needs to go out very loudly, very clearly, and I have said it two or three times in this chamber, that the RACGP has not had the money—unlike the Labor Party with the money from the Australian National Audit Office.

The RACGP has not had the money. There are very strict conditions on the agreement: they must be co-located with the Australian Divisions of General Practice and one other peak body. They have not had the money. I will say it again just in case people on the other side of the chamber are listening to the other house and not listening to me: the RACGP has not had the money. That is clear. You have got the message. The Prime Minister has said, and he said again on radio today on Radio 5DN, that he holds open the possibility that we will not make the contribution to that organisation. That possibility has been held open and has been repeated by the Prime Minister; having said it in the chamber, he has repeated it again today. The money committed to the specialist outreach program and the money committed to the asthma program will be there in full, not a penny less will be spent on it. That is the message. I will get up here and repeat it over and over again, as I have done every time I am asked this question. I have said over and over again that the RACGP has not had the money and the $5 million will be directed to the program.

Senator SCHACHT—Madam Deputy President, I ask a supplementary question. Has the minister had any contact with former Minister Wooldridge since last Sunday in relation to the issue of Commonwealth funding of the Australian College of General Practitioners building? If so, when was that contact, what was the nature of the contact and who initiated the contact: Dr Wooldridge or you, Minister?
Senator PATTERSON—I have not spoken to Dr Wooldridge since last Sunday. I do not know when I last spoke to him; it could have been two or three weeks ago. I have not spoken to Dr Wooldridge in the last week to two weeks.

Drugs: Strategies

Senator TCHEN (2.11 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister inform the Senate on how the Howard government’s Tough on Drugs policy is assisting Australia’s law enforcement agencies in protecting Australian children from illicit drugs?

Senator ELLISON—Thank you, Senator Tchen, for what is a very important question. Yesterday, with Commissioner Mal Hyde of the South Australian Police, I launched the Australian Bureau of Criminal Intelligence annual illicit drug report for the year 2000-01. This report is a comprehensive one which is respected internationally and which is regarded as an effective tool in crime fighting in relation to illicit drugs. That report outlines the progress that is being made by law enforcement in Australia in the fight against drugs and, in particular, the successes which have been made in reducing the supply of heroin in this country. In fact, it pointed to a reduction in the supply of heroin during that period of time despite the fact of an increase of 17 per cent in the production of opium in Burma.

Of course, the government is not complacent. This report also outlines other threats which are emerging in Australia in relation to illicit drugs such as cocaine and amphetamines. The problem in relation to amphetamines is that they not only are imported but can be manufactured locally, and that poses an even greater challenge for law enforcement in Australia. It is only with the cooperative efforts of law enforcement at a Commonwealth, state and territory level that we can combat this new threat. I am pleased to say that Commissioner Hyde in his address yesterday outlined measures by Australian law enforcement which are aimed at dealing with this.

One important aspect of the report highlighted the success that Australia is having in dealing with drug interdiction overseas. The report says:

The effect of Commonwealth law enforcement operations offshore has been significant.

It is with this in mind that the Howard government pledged an extra $47 million over four years for the law enforcement cooperative program, which is the overseas program of the Australian Federal Police in its fight against transnational crime and, in particular, the fight against illicit drug trafficking. This is an essential part of law enforcement’s fight against drug trafficking internationally and, importantly, against importation into Australia. We also announced an extension of our Tough on Drugs policy. This is a policy which fights the war against drugs on three fronts: law enforcement, education and health.

It is only in an environment of reduced supply that we can treat addicts and that we can educate young Australians against the dangers of drugs. That is why it is important to have a strong law enforcement role. We are extending our $516 million commitment to Tough on Drugs with the election promise of $109 million devoted to partnerships with community programs dealing with drug rehabilitation and educational programs. Importantly, we will also extend the National Heroin Signature Program to deal with amphetamines and cocaine, which are the emerging threats that I mentioned.

It is of concern that there is an emerging threat of bikie gangs across Australia who are engaged in unlawful activity, dealing particularly with the supply of amphetamines. This is of concern and is being dealt with at state and Commonwealth levels. This government has a firm plan in relation to the fight against illicit drugs. The Tough on Drugs strategy is having success, but we are not complacent. There is still a long way to go. The aspect of Senator Tchen’s question which dealt with alternatives is a very important one, because the opposition need to look at the policy that they put forward—a policy which was thin on law enforcement, a policy which was thin on education, a policy which copied existing health programs, a
policy which offered no new direction in relation to the fight against drugs. This is an important issue and one that the Howard government remains totally committed to. This Tough on Drugs strategy will continue to fight the war against drugs on the fronts of health, education and law enforcement. I commend the ABCI report to the Senate, and I commend it to law enforcement agencies around Australia and internationally. (Time expired)

Aged Care: Policy

Senator CROSSIN (2.16 p.m.)—My question is to Senator Patterson, representing the Minister for Ageing. Senator, what action does the government propose to take to reduce the paperwork burden directly brought about by the Howard government’s introduction of the resident classification scale, which has created an additional four million hours of paperwork for aged care staff every year?

Senator PATTERSON—It is interesting to me that Labor seem to have taken an interest in aged care. When I was shadow minister, I went out to various aged care facilities and saw some of the disastrous situations and noted the fact that we required a large number of facilities. The Gregory report indicated that standards had not been reached in nursing homes, that there were insufficient nursing homes, that there was a lack of capital funding, and that there were not appropriate accreditation or certification standards. The coalition felt that work needed to be done to ensure that older people within our community were cared for in an appropriate manner. Some of the nursing homes that I visited when I was shadow minister were, I thought, totally unacceptable in Australia.

During the term of the Howard government, we have put in place accreditation processes which mean that we have raised the standards of nursing homes. I admit that there has been some concern, and it has been expressed to me by people working in nursing homes, that the paperwork load can detract from the work they are undertaking with their residents. But it is very difficult to get a balance. There was the same complaint, when I was shadow minister, that there was too much paperwork. It is hard to get a balance in a Commonwealth funded facility between ensuring that people achieve standards and ensuring that what we ask to be done is done and is recorded. When Labor were in government, there were people running nursing homes and there was a lack of information. I have always given credit where it is due: Labor did make some reforms, especially to hostels, but they failed to carry it through to nursing homes. There were changes to hostels which were improvements, but they were not able to carry it through to nursing homes.

We have seen incredible changes in the standards in nursing homes. Minister Andrews and I have discussed this issue, and I know that he is looking at it very carefully, but it is a very difficult balance to achieve to ensure that we have accountability for very large amounts of Commonwealth funding.

Senator CROSSIN—Madam President, I ask a supplementary question. Minister, my question went to excessive paperwork—in excess of four million hours per year. My supplementary question is: why has the government tied trained aged care staff to the desk instead of allowing them to provide high quality care to the vulnerable and the elderly? Isn’t it a fact that 63 per cent of nurses surveyed by the Australian Nursing Federation nominated excessive documentation as one of the primary reasons why they did not want to work in, or had ceased working in, aged care, with the result being an estimated shortage of 5,000 qualified nurses in the sector? Given that the Howard government belatedly acted to address small business anger towards the BAS, why hasn’t the government also acted to remove the paperwork burden on aged care staff and to free them up to do what they do best: provide quality care to residents?

Senator PATTERSON—As I have said before, each service has to have appropriate records of the care needs of each individual. We have to be assured that the services are delivered to them and that we have in place a system of documentation that will meet professional nursing requirements.

The resident classification scale industry liaison group has been exploring ways to
assist the industry to apply the RCS appropriately. Minister Andrews is currently considering the release of a video to assist industry to streamline documentation, and he is addressing it assiduously to ensure that it is not too onerous. But we always have to remember that we must have accountability in a system where we require standards to be met and that we are not funding facilities that are below standard.

Education: Protection of Children

Senator ALLISON (2.21 p.m.)—My question is to the minister representing the minister for schools. Can the minister explain why there is still no national approach to protecting children from physical and sexual abuse in schools?

The DEPUTY PRESIDENT—Is there a minister for schools? Senator Alston, are you going to take questions on education?

Senator ALSTON—In the absence of any other volunteers, I suppose I will, Madam Deputy President.

Senator Robert Ray interjecting—

Senator ALSTON—I remember the days in the East End of London, teaching on a supply basis, so my qualifications are impeccable. I know that you did a bit of teaching on the side, Senator Ray, in between taxi rides.

The DEPUTY PRESIDENT—Address the chair, please, Senator Alston, and we will have fewer interjections. Senator Ray, there is no need to reminisce with Senator Alston.

Senator ALSTON—I have to say, after that very big introduction, the answer is probably not of the same magnitude. I understand that the Democrats have foreshadowed an amendment to legislation that is coming up shortly to put in place arrangements for government and non-government schools to have certain mandatory arrangements in place. Certainly the government is strongly supportive of the principle of schools as safe learning environments—a principle which was set out in the National Goals for Schooling in the 21st Century and which all government and non-government authorities are committed to.

However, we are conscious of previous strong criticisms from state governments and the non-government sector, and amendments to Commonwealth legislation with far-ranging implications for those authorities which at least have constitutional responsibility for schools are matters that I think we would want to tread lightly on in the first instance. It is the intention of the Minister for Education, Science and Training, Dr Nelson, to write to state ministers and representatives of the National Catholic Education Commission and the National Council of Independent Schools to further explore the matter. I think at this stage we are more interested in whether the states themselves can come up with a solution rather than rushing in to impose a nationally mandated approach.

Senator ALLISON—Madam President, I ask a supplementary question. I thank the minister for his answer. Is the minister aware that each state has different laws with regard to mandatory reporting of abuse by teachers and principals? In fact, Western Australia has no such requirement and Queensland is not much better. Is he aware that many schools in the private sector have no established protocols or processes in place for dealing with child abuse? Is it not the case that MCEETYA’s process to expose paedophiles in schools has achieved nothing since it was raised over five years ago? Is it not time, Minister, that the federal government had a proactive strategy on this issue?

Senator ALSTON—we do have a strategy on the issue, and that is to try to ensure that the states do harmonise to the greatest extent possible to explore areas where there might be particular shortcomings. If Western Australia does not have any approach at all, clearly that is a glaring deficiency which pressure from the federal minister might assist in resolving. But, at this stage, I think it is premature to argue that the states are not interested in the subject, that somehow they are—

Senator Stott Despoja—The federal government is not interested.

Senator ALSTON—The mere fact that you have differences between approaches does not tell me that there is, ipso facto, a need for Commonwealth intervention. There
may well be local factors that justify that. There may be different institutional structures that allow for that. By writing to those state authorities, I think Dr Nelson will be in a much better position to judge whether there is a need for further Commonwealth action.

Superannuation Complaints Tribunal: Appointments

Senator GEORGE CAMPBELL—My question is to Senator Coonan, the Assistant Treasurer. Is the Assistant Treasurer aware that, on 3 October last year, her old friend Mr Joe Hockey appointed the former Liberal senator and big spending diplomat Michael Baume to the Superannuation Complaints Tribunal?

The DEPUTY PRESIDENT—Please refer correctly.

Senator GEORGE CAMPBELL—Is the minister aware that Mr Baume’s appointment was not one of the appointments requested by the tribunal to get through its backlog, that Mr Baume did not apply through the formal channels and that—as revealed in Senate estimates last month—his name was never on the Treasury shortlist of possible appointments? Were the tribunal or consumer groups consulted on Mr Baume’s appointment? Why was Mr Hockey so keen to rush the appointment through, outside the proper procedures?

Senator Abetz—Madam Deputy President, I rise on a point of order—

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! Senator Patterson and Senator Faulkner, would you please have a conversation somewhere else.

Senator Patterson—He wasn’t talking.

The DEPUTY PRESIDENT—He was about to, because you were about to talk to him. I am trying to listen to Senator Abetz and I am not doing very well.

Senator Abetz—Thank you, Madam Deputy President. During Senator Campbell’s question, you quite properly interrupted him.

Senator Ian Campbell—It was Senator George Campbell, thank you.

Senator Abetz—During Senator George Campbell’s question you quite properly interrupted him about not referring to a minister in the other place by the appropriate title. I would invite you, Madam Deputy President, to require Senator George Campbell to do so.

The DEPUTY PRESIDENT—There is no point of order.

Senator Abetz—Well, why did you interrupt?

The DEPUTY PRESIDENT—I was reminding senators of what is correct. I call Senator Coonan.

Senator COONAN—I am astounded at the inference made by Senator Campbell as to the propriety of former Senator Baume being appointed to the Superannuation Complaints Tribunal. I think there are something like 20 people appointed to the complaints tribunal.

Senator Sherry—There are 17.

Senator COONAN—Well, 17. These are part-time appointments—

Senator Robert Ray interjecting—

Senator COONAN—Senator Ray, I can appreciate how you resent the fact that Senator Baume has this appointment.

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order! Senator Schacht, Senator Cook, Senator Ray—

Senator Schacht interjecting—

The DEPUTY PRESIDENT—Senator Schacht, I can still hear you from up here.

Senator Schacht—I thought you would give me a miss for a while.

The DEPUTY PRESIDENT—No, I am not. Your behaviour is disorderly.

Senator Kemp—Throw him out!

The DEPUTY PRESIDENT—Senator Coonan has the call. Senator Kemp, you are not helping, either.

Senator COONAN—It is entirely within the minister’s power to have appointed former Senator Baume. There is nothing inappropriate in former Senator Baume’s appointment. It reflects very poorly on Senator
Campbell’s judgment to impugn an appropriate appointment to the tribunal.

Senator GEORGE CAMPBELL—Madam Deputy President, I ask a supplementary question. Is the Assistant Treasurer aware of an article in the Financial Review of 4 March by Mr Baume in which he defends the government over its lies and deception in the ‘children overboard’ affair? Was Mr Baume writing in his capacity as a member of the Superannuation Complaints Tribunal or was he simply returning the government’s favour for his appointment?

Senator COONAN—The initial question asked by Senator George Campbell appeared to relate to the basis upon which former Senator Baume was appointed to the Superannuation Complaints Tribunal. The supplementary does not appear to relate at all to the original question. Insofar as the supplementary could be said to have related to the original question, Mr Baume is quite entitled to write whatever articles he chooses in his personal capacity.

Taxation: Families

Senator HARRADINE (2.30 p.m.)—My question is to Senator Vanstone, the Minister for Family and Community Services. What does the government think about the Centre for Independent Studies identification that families with dependent children generally need to make about twice the average weekly earnings before they start to rise significantly above welfare levels? What is the government’s position on recommendations from some economic modellers that one way to overcome major anomalies in the taxation system which work against families is to establish tax thresholds based on the number of people who are dependent on that income? Given Australia’s declining fertility rate and the situation of that unfair tax treatment of families, what action is the government considering for the May budget, or even before the May budget, which will provide a more family friendly taxation policy?

Senator VANSTONE—I thank Senator Harradine for the question. We all know his longstanding interest in issues relating to families and the income available to them. Can I say that I have not looked at the study myself, but the advice I am given is that the study makes a mistake in making that assertion. But I will come back to you, if I may, on that when I have had a look at the basis on which it makes it. I think the advice I have is itself based on the statement that family tax benefit is not a welfare payment. I would probably say in response to that, ‘Look, that is a moot point whether you call it a welfare payment or not,’ but it might be quite relevant to whatever formulas the centre has used to come to that assessment. So in a sense I am saying to you: let me have a further look at that report before I give you a final answer on it.

It is important to recognise that family tax benefit is available to people who are on what everyone would agree are strictly welfare payments and to other families. So in that sense it is not restricted as a welfare payment in the same way as others are. People on Newstart or the parenting payment can get it, as Australians in the broader community can. It is a recognition of the costs of bringing up children.

Senator Harradine, you ask about proposals to acknowledge in the tax thresholds the number of people who are dependent on that particular income. I think there is a problem with that proposal, and the problem is that it, generally speaking, benefits the rich more than people on lower income levels. It certainly offers no benefit whatsoever to people who are not in a position to be paying tax, and I think in that sense it could be said to be regressive. I believe the family tax benefit is a much more direct and much fairer and easier way of doing what some propose to do through tax thresholds. In my early days in parliament and even before I got in, I was involved, as many women were, in discussions about income splitting. I think that the family tax benefit we have provided is a much fairer way of helping families. As you would know, it focuses on the income of the family, so it is a variable payment depending on the income the family has got. I support that element of the policy because I think people on lower incomes should get more help than people on higher incomes. The other aspect is that it varies according to the number of children in the family, and I sup-
port that because I think people should get assistance based on the number of children that are dependent on them.

We have got a very friendly family tax system. Since the introduction of family tax benefit, which, as we know, maximises choices for families, if averages mean anything I think we can say on average families are $40 better off. I am reluctant to use that, though, because it does not highlight how significantly better off lower income families are in a relative sense. In short, I think this system we have introduced is the best system. It is a better one than some people recommend by fiddling with tax thresholds because we are able to help all families on a range of incomes with a range of number of children.

**Defence Signals Directorate**

**Senator CHRIS EVANS** (2.35 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Can the minister confirm the simple fact that under the current arrangements governing the DSD there are no safeguards on the interception of phone calls between a non-national overseas and an Australian in Australia? Isn’t it a fact that, while the Intelligence Services Act does provide protections for the collection of information on Australians overseas, it is silent on Australians in Australia who communicate with non-nationals overseas? Doesn’t this represent a significant change from the previous arrangements, where the privacy of Australians was protected irrespective of whether they were overseas or in Australia?

**Senator HILL**—I am surprised by the question, because the difference between now under this government and the past is that the rules are now totally transparent whereas in the past they were not made public. So we now have a piece of legislation and the piece of legislation sets out restraints and it requires rules to be made for the administration of those restraints. Those rules have been made and are public documents, and the DSD has to operate within those rules. Furthermore, the application of the rules is supervised by the independent Inspector-General of Intelligence and Security. A reading of the act, a reading of the rules, will tell anyone in the public what are the parameters under which intelligence can be collected. DSD is structured to target foreign intelligence—that is what it is all about—and it has to do so pursuant to the published rules.

There is an ongoing discussion as to whether the previous unpublished set of rules can be made public. At the moment it is still classified, but I am asking whether that classification can be removed. It seems to me that it is now only of historical interest. The additional point that would become apparent is that there are now additional safeguards in place in that there are instances where ministerial approval is now needed whereas previously, in the same instances, it could simply be decided by the officials administering the act. The whole trend in recent years has been to provide for a safer, more transparent process to ensure that the privacy of Australians is not interrupted inadvertently by somebody acting under the provisions of this regime.

**Senator CHRIS EVANS**—Madam Deputy President, I ask a supplementary question. The minister has failed to answer the particular question I asked him. The information he provided, while being helpful, is already on the public record. I am after an answer to the question: is it not a fact that the act does provide protections for the collection of information on Australians overseas but is silent on Australians who communicate with non-nationals overseas? I would appreciate it if the minister would take that question on notice and provide an answer, if he is unable to today. He did not address it in his response. I would also appreciate it if the minister could provide any indication of when the old rules might be released. That was the answer he gave me in estimates—that he was predisposed to provide those old rules—but it is three weeks on and they have not been provided. When will you make those old rules available?

**Senator HILL**—I will get a considered response, but I am having difficulty understanding the question because it is simply a question of interpretation of the law, and the law as I read it is that there are very limited circumstances in which an Australian national can be targeted—circumstances such
as where that person is acting as an agent of a foreign power. So it is akin to, in effect, being a foreign party. The safeguards are there, as I said, to protect the interests of Australian citizens. I will seek a considered response and see if that helps Senator Evans further. In relation to the issue of declassification, that is still ongoing and I am awaiting further advice.

**Pensions and Benefits: Social Security**

Senator MASON (2.40 p.m.)—My question is to the Minister for Family and Community Services, Senator Vanstone. Will the minister inform the Senate of the reasons for the recent indexation increases to social security payments? Will the minister explain who will benefit most from these increases and from the government’s ongoing commitment to a fairer welfare system?

Senator VANSTONE—I thank Senator Mason for such a prescient question. The Howard government has consistently helped those people who are more vulnerable. We have a much better social security system than we had when we came to government. We are working actively to encourage people to take up work and to ensure that there are financial advantages in remaining in employment so that people do not call on community resources—that is, give up themselves—until they really cannot support themselves. We are putting more discretionary money in the pockets of households by good economic management.

Economic management is not important for its own sake; it is important for what it does for families and especially for low income families. Every day, pretty well, under the previous government prices increased. Under Labor they increased an average of 5.2 per cent each year. Under this government that average is just 2.3 per cent. The CPI to December 2000 rose by 1.2 per cent. So delivering a strong economy is very important, and we are doing it. We have strong rises in productivity. That enables us to have higher real earnings for workers. In 2001 real earnings rose by 2.6 per cent.

The important thing for Senator Mason’s question is that people relying on social security benefits are not left behind, unlike they were under Labor. From 20 March, adult pensions will be further increased to adjust payments to the CPI and male total average weekly earnings. The male total average weekly earnings commitment means that, where wages increase, older Australians share in those improvements in community living standards that higher wages deliver by pension increases. We have legislated to do that. Labor promised to legislate but never did. The fact is that the maximum single rate of pension will rise later this month by $11.30 a fortnight, or $421.80, for a full-rate single pensioner, and for the maximum partnered pension by $9.50 per fortnight per person. These increases clearly demonstrate that the Howard government is continuing to meet its election commitment to increase pensions for price and wage increases. When the economy is managed well and everyone else is benefiting, pensioners can benefit as well.

Of course, it was not so important under the previous government. The reason for that is that real wages fell under the previous government—a strange thing that workers would be grateful to a union movement that did a deal with the government that put the real wages of low income workers down. Every one of you over there should hang your head in shame that you did that stinking deal and put the wages of low income workers down. You do not acknowledge the contribution this government has made by putting the real wages of low income workers up.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! I would like fewer interjections on my left, and less general conversation on my right.

Senator VANSTONE—Those opposite may wish it to be different, but the plain facts are that under their stewardship the wages of low income workers went down and under this government’s stewardship they have gone up. The unemployment rate in January 2002 was 7.7 per cent down from 10.9 per cent under Labor. Business investment is growing, machinery and equipment investment is growing—

Senator George Campbell interjecting—
Senator Kemp interjecting—
Senator Abetz interjecting—

The DEPUTY PRESIDENT—Order! Senators George Campbell, Kemp and Abetz, if you wish to have that conversation, please go outside and have it—desist in the chamber. Senator Vanstone is the only senator with the call at present.

Senator VANSTONE—In answer to Senator Mason, put simply the answer is this: under this government the economy is doing well. People with jobs are benefiting from that. Real wages are increasing. Things are going well, and we want to make sure that pensions are not left behind. That is why we have not only indexed them to the CPI but also attached them to MTAWE, and that is why it is so important that that indexation happens twice a year. (Time expired)

Inspector-General of Taxation

Senator HUTCHINS (2.45 p.m.)—My question is to Senator Coonan, the Assistant Treasurer and Minister for Revenue. Can the minister clarify whether the Inspector-General of Taxation will have an advocacy role on behalf of the business community, as indicated publicly by the Prime Minister on 19 October last year, or whether, as the minister stated at estimates on 20 February this year, the role is still unclear?

Senator COONAN—I thank Senator Hutchins for the question. It is certainly the case that the whole of the terms, circumstances, structure, powers and role of the inspector-general are presently under consideration. I expect very shortly to have a proposal to go to the Board of Taxation for public consultation. As to the actual role of the inspector-general, I do not see anything inconsistent with what the Prime Minister has said about the role of the inspector-general and what I have so far publicly said about the role of the inspector-general. What I have said is that there is a role for an agency, an inspector-general, to look at the systemic difficulties within the tax system; to look at where, between the points of review between the Ombudsman and the Board of Taxation, there is a role for the inspector-general to look at these problems. I see nothing inconsistent with that also being an advocacy role for business and, indeed, for individuals if it relates to a systemic problem. I am not quite sure, Senator Hutchins, what comfort you try to draw from something the Prime Minister has said and something I have said, because I would say that it is entirely consistent.

Senator HUTCHINS—Madam President, I ask a supplementary question. I do not agree with the minister. Given that the minister told the estimates committee that she is still to work out what the inspector-general will be doing, what then is the status of the pre-election promise about the role and function of the Inspector-General of Taxation made by the Prime Minister?

Senator COONAN—I can understand how Senator Hutchins’s imagination does not extend as far as understanding how an inspector-general can actually have a role as an advocate for individuals and for business and also have a role in looking at systemic difficulties within the tax system—difficulties, I might add, that you never seemed to address.

The DEPUTY PRESIDENT—Address the chair, please.

Senator COONAN—Through you, Madam Deputy President, when you had the opportunity to look at the function of the Taxation Office, nothing of this kind was advocated. I repeat that there is nothing inconsistent between what the Prime Minister has said and what I have said. I would recommend to the Senate and to Senator Hutchins that you wait with baited breath, because you will know very soon when the paper and the proposal is publicly released.

Employment: Job Network

Senator CHERRY (2.49 p.m.)—My question is to the Minister for Family and Community Services. The minister would be aware that last week’s Productivity Commission report on the Job Network identified that many job seekers referred by Centrelink to intensive assistance providers end up being ‘parked’ with little or no assistance. Those likely to be parked are those who ‘have low likelihood of achieving payable outcomes’. Does the minister agree with the commission’s conclusion that better targeting and re-referral of job seekers is needed to eliminate parking? If so, how does the min-
ister justify imposing case loads as high as 700 disadvantaged job seekers on the new band of Centrelink personal advisers who are supposed to assess and help disadvantaged job seekers. How can personal advisers provide any sort of personalised service to job seekers with an average time allocation of just three minutes a week?

Senator VANSTONE—I thank Senator Cherry for the question. Yes, Senator, I have seen highlights of the draft report. I have not read the whole report at this point. I think there have often been allegations of ‘parking’—that people who are the most difficult to find a job for are accepted and then perhaps not enough is done for them but the firm gets the minimum payment anyway. That has been a constant query raised by some groups.

Of course that shows up in the end in the effectiveness of people who have the contracts, and it has a very bit impact on whether they subsequently get another contract. So there is that very strong disincentive, in there for people to do what you rightly identify and what we understood from the very beginning was something that people could do. But we also recognised that, if they did it and constantly had failed outcomes for that group, they would be very unsuccessful in the next round of tenders—or should be. I would not have any embarrassment in arguing a case that a firm should not get another contract if they had not done well in looking after the most vulnerable when having been paid to do so.

You mention the personal advisers. I think that is a welcome change and a reflection that the government has been listening and wanting to make a greater investment in individuals. The personal advisers will be there, through Centrelink, to assist the individuals and to make sure that what is often seen by some who are not in as an advantageous position as you and me to be a difficult process to work their way through. Senator Cherry, you have worked out some allocation of three minutes a week. I will have a look at that, but I hope you agree in principle with the Australians Working Together package, a $1.7 billion commitment by this government—which is an investment in people, not simply giving them more money. We are hoping that it works. The net spend, which is just under $1 billion, only happens if it does work and we get people into jobs. If it does not work, we are still committed to the $1.7 billion. We will be watching that very closely.

I hope and trust that you agree that a greater focus on the individual is very important in the welfare sector—focusing on what their needs are so that we can help them get their problems fixed and give them a better chance of getting a job. I hope you agree that having personal advisers in Centrelink is a positive move forward, even though you may not agree about the number of them—and I gather you do not, by the calculation you have made—and that you agree with the Personal Support Program, which is an advance on the Community Support Program. There is now not only a larger amount of money to help people in that program but a larger number of places as well. I will have a thorough look at the recommendations made by the Productivity Commission when they make their final report, which I understand is in June some time, and if I have anything further to add as a consequence of that I will come back to you.

Senator CHERRY—I thank the minister for her answer, and I ask a supplementary question. Would it not make more sense to pull funding back from the intensive assistance providers who are parking clients—and there are ways the Productivity Commission has identified where they can get their contracts renewed—and put that money into increasing the number of personal advisers and increasing the Personal Support Program? You have actually increased the funding for that program by, I think, 60 per cent and increased the number of clients by 200 per cent, which to me, again in my economist’s mind, does not quite add up to providing that extra, personalised service that would be needed to ensure that job seekers get back into the marketplace. I ask the minister: will the government ensure that, in its response to the Productivity Commission report, the personalised service the Productivity Commission says is needed and has not
been delivered enough to date is in fact delivered?

Senator VANSTONE—We are very strongly committed to a greater investment in individuals on welfare and a better personalised service than we have at the moment—and I think what we have at the moment is very good. Everything can be improved. What we have now we believe can be improved, and that is why we have introduced Australians Working Together. I am confident that, once we have introduced that, this government will not give up looking for better ways again. Just as Centrelink has a principle of continuous improvement and continually trying to do better, so we have in the welfare area. I can give you my assurance that the government is absolutely committed to the better delivery of assistance to people in need of help to find jobs.

Economy: Current Account Deficit

Senator CONROY (2.55 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. How does the Assistant Treasurer explain the fact that Australia’s current account deficit has more than doubled in the last quarter, to $6.6 billion, which is the largest percentage increase in the deficit since 1980, when Mr Howard was Treasurer? What are the revenue implications to the Commonwealth of this spectacular decline in the current account?

Senator COONAN—I do not know where Senator Conroy has been living.

Senator George Campbell—Take a point of order, help her.

Senator COONAN—Senator Campbell, I do not know where you are living either. Senator Conroy, are you not aware that the growth rate is 4.1 per cent now? Haven’t you heard what has happened?

Senator Sherry—Do you understand what the current account deficit is?

The DEPUTY PRESIDENT—Senator Sherry, address the chair.

Senator COONAN—I understand the current account deficit.

Senator Chris Evans—Why don’t you open your file up? It’s under C in your brief.

Senator COONAN—I understand where it is in my brief.

Senator Chris Evans—Has Ian Campbell given you the brief?

Senator COONAN—No, he hasn’t; I have got the brief myself. If you stop shouting, maybe I can give you the answer.

The DEPUTY PRESIDENT—Address the chair, please, Senator Coonan, and ignore the interjections. That will cause fewer interjections.

Senator COONAN—There are some key points from the December quarter current account, and it is true that the deficit did widen sharply, rising by $3.5 billion to $6.6 billion, but that pales into insignificance when you think about a debt of $96 billion and a government that has so far had to repay $56 billion worth of Labor’s debt. It is an extraordinary thing that those on the other side would even think to raise the current account deficit, with the kind of wreckage of the economy that Labor wreaked on this country. The increase in the current account deficit reflects the return to a trading deficit following three consecutive quarters of trade surpluses. The $1.3 billion trade deficit in the December quarter follows a record trade surplus of $1.9 billion in the September quarter. In volume terms, net exports subtracted 1.5 percentage points from GDP growth in the December quarter, and the result reflects the effects of weak global demand—obviously those on the other side think that Australia is totally immune from any global effects—and a sharp fall in tourism on export volumes growth and strong domestic conditions on import volumes growth. Export volumes fell by 3.2 per cent in the December quarter 2001 reflecting a fall in service exports, down by 7.1 per cent, and rural exports down by seven per cent. Import volumes grew strongly following weak growth in recent quarters—

Opposition senators interjecting—

Senator COONAN—This is what you have asked for; you are getting it all. Import volumes rose by 4.4 per cent in the December quarter 2001. The increase was broadly based with increases in capital goods imports up 8.5 per cent, consumption goods imports
up 4.3 per cent and intermediate goods imports up 3.5 per cent. The terms of trade declined by 0.9 per cent in the December quarter 2001, reflecting a larger fall in export prices, which were down 2.1 per cent, than in import prices, which were down 1.2 per cent. Over the year the terms of trade continued to rise increasing by 1.6 per cent. Have you had enough yet?

Opposition senators interjecting—

The DEPUTY PRESIDENT—Address the chair please, Senator Coonan.

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order! Will those on my left come to order.

Senator COONAN—The net income deficit widened very modestly in the December quarter 2001, up by $0.2 billion. The result was underpinned by an increase in income debits, servicing of investment in Australia—(Time expired)

Senator CONROY—Madam Deputy President, I ask a supplementary question. Thank you to Senator Coonan for the tour de force of her brief, but I also asked her about the revenue implications. Why can’t the minister tell us the revenue implications when she is the responsible minister? How is it that Australia’s foreign debt is at a record level of $326.1 billion and is 69 per cent higher than when the coalition came to power? What does this say about the government’s record on national savings? What are the implications of this record foreign debt for Commonwealth revenue?

Senator COONAN—I thought Senator Conroy would be the last person to talk about savings. Before the election, Senator Conroy talked about putting up taxes. Imagine what that would have done to savings. Senator Conroy said, ‘We’ve got hard decisions to make over the next couple of months: are we going to cut programs or are we going to increase some taxes.’ You were a high taxing government and you drove down savings. Senator Conroy said that you would be making announcements as you go. We have not heard very much from the opposition about any kind of tax reform or any kind of policy since the election. You are an absolute disgrace.

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Economy: Debt Management

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.03 p.m.)—Yesterday, Senator Conroy asked me a question about forward foreign exchange contracts and I said I would get some further information from the Treasurer. I seek leave to incorporate a response in Hansard.

Leave granted.

The answer read as follows—

• The Commonwealth is not gambling in foreign currencies through forward foreign exchange contracts. Forward foreign exchange contracts between the Australian Office of Financial Management (AOFM) and the Reserve Bank of Australia (RBA) are being used to assist in the move to zero foreign currency exposure agreed by the Treasurer in September 2001.

• Over the period from October 2000 to September 2001, the AOFM transacted forward foreign exchange contracts with the RBA in order to comply with the direction that the existing level of foreign currency exposure be maintained.

• Since the decision to move towards zero foreign currency exposure was agreed by the Treasurer in September 2001, forward foreign exchange contracts have been entered into with the RBA to manage the rundown of the foreign currency exposure in accordance with a schedule agreed with the RBA.

• The maturity profile of foreign currency exposures is uneven. The forward foreign exchange contracts enable the foreign currency exposure to be eliminated in a smooth orderly fashion.

• Under the agreed rundown schedule the foreign currency exposure will be eliminated over a period not exceeding seven years.

PRIVILEGE

The DEPUTY PRESIDENT (3.04 p.m.)—I make a statement concerning the remarks of Senator Heffernan during the ad-
dress-in-reply debate yesterday. Senator Stott Despoja has asked whether Senator Heffernan’s remarks contravene standing order 193(3) in that they constitute offensive words, imputations and personal reflections against a judicial officer. She has also asked why, if the remarks are contrary to the standing order, the chair did not intervene during the speech. She has requested advice on whether publication of a speech before its delivery in the Senate is protected by parliamentary privilege. She has asked that my advice be presented to the Senate at the earliest opportunity.

As requested, I now table Senator Stott Despoja’s letter and my statement in response. I consider that the remarks by Senator Heffernan did constitute references to a judicial officer, contrary to standing order 193. In relation to speeches in the Senate, petitions, notices of motion, questions and documents presented to the Senate, advice to senators in the past has followed the principle that it is not open to a senator to make allegations of illegality or misconduct against a judicial officer unless the senator is initiating action by the Senate leading to an investigation by the Senate of whether a federal judicial officer should be removed under section 72(ii) of the Constitution.

I was not in the chair when the remarks were made, but I am advised that the chair did not intervene in the course of the speech because it was not clear until the end of the speech that Senator Heffernan was making serious allegations against an identifiable, serving judicial officer. At the conclusion of the speech, it was necessary to compare parts of the speech to be clear about what he was doing. The publication of a senator’s speech before its presentation in the Senate is not protected by parliamentary privilege.

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (3.06 p.m.)—by leave—I move:

That the Senate take note of the statement.

Madam Deputy President, I thank you for responding so quickly to the request of the Australian Democrats today in relation to whether or not the events in the chamber last night contravened section 193(3) of the standing orders. I place on record that I have been informed that there was no prior circulation of that speech. I was curious to find out, for the benefit of my party and others, what the consequences would have been if that had been made available earlier.

The Democrats believe that the Senate rules of debate are very strong in relation to protection. They attempt to provide for a number of groups, but in particular for judicial officers. They relevantly provide that a senator will not use offensive words against a judicial officer and all imputations of improper motives and all personal reflections on judicial officers shall be considered highly disorderly. On this basis, the Democrats express our concern that the remarks by Senator Heffernan last night were actually well and truly outside the standing orders. I do note the statement that has been provided by Justice Kirby. I think most people are aware of his response to the remarks made last night.

It is entirely legitimate for members of parliament to raise matters of public importance or public interest under parliamentary privilege; we accept that. However, we do not believe it is proper for members of parliament to use parliamentary privilege as an opportunity to make unsubstantiated or slanderous allegations against individuals, regardless of who those individuals may be. Senator Heffernan claims to have evidence of misconduct by Justice Kirby. If he has that evidence—and I believe this has been said by a number of people today—and it is evidence of a criminal offence, as he has suggested, he must present that to the police. I note the comments of the New South Wales police minister today that allegations against Justice Kirby have been investigated and did not warrant the laying of charges. If Senator Heffernan feels that he has exhausted all options to have the matter considered outside the parliament he has the privilege of being able to present his evidence to the parliament.

However, the senator has not presented his evidence. As he said last night, and I quote from the Hansard:

I have personally interviewed at great length, and obtained statutory declarations from, former rent boys from Sydney and Wollongong who worked
the Wall at Darlinghurst as young male prostitutes, some of whom were taken to an address in Darley Street—an address known to the police, adjacent to the Wall—by this judge on various occasions in a fee-for-service arrangement.

These statutory declarations have not been made available to senators. The senator also alludes to Comcar documents that, similarly, remain undisclosed. If Senator Heffernan has evidence of misconduct, he must make it available to the proper authorities to allow a proper investigation to take place. The Democrats are very concerned about Senator Heffernan’s comments last night, particularly given the very high standing of the judicial officer he impugned. The Prime Minister has indicated that this matter will be investigated. It is now up to Senator Heffernan to provide the basis for his claims rather than merely refer to evidence that is not presented.

Senator HILL (South Australia—Leader of the Government in the Senate) (3.09 p.m.)—I do not want to quarrel on the issue of whether there was a technical breach of the standing orders. There were literally thousands of technical breaches of the standing orders during question time today, but nobody even bothered to raise a point of order. That, of course, is simply a cover to enable the leader of the Australian Democrats to put on the public record her views on the substantial issue in the hope of getting a run in the press.

Senator Stott Despoja—My views are already on the record, Senator Hill. I do not need to say it again.

Senator HILL—If the Democrats are becoming so passionate about the standing orders then I am pleased to hear that. That is a revelation to me and I suspect to those on my side.

Madam Deputy President, the last point that you made, in which you asserted a point of law, I would respectfully suggest is better for the courts to determine, if a relevant application is taken. With respect, Madam Deputy President, the pre-publishing of information is a controversial and complex area of law. I note your views, but of course your views now go down into the historical record of the Senate and acquire a certain status—

Opposition senator—A precedent.

Senator HILL—A precedent, as my learned friend on the other side suggests. Perhaps, Madam Deputy President, if you decide to move into the area of legal interpretation at least you could provide the legal basis for the conclusion that you have reached.

I turn to the more substantial issue—which is the one that Senator Stott Despoja was really getting to—of whether it is appropriate for a parliamentarian to raise matters that impugn the character of an individual, whether they be a judge or not. It is true that privilege is a powerful tool and it is our obligation to use it responsibly. In other words, we must take into account the harm that it might do to an individual and weigh it against what we see as the common good, the broader benefit that would flow from such a decision. I have no reason to believe that Senator Heffernan would do other than take that obligation seriously. As most honourable senators would acknowledge, Senator Heffernan is deeply distressed by matters relating to child abuse.

Senator Bolkus—He puts himself above the law, does he?

Senator HILL—Senator, you participate in this debate. He is particularly concerned by a belief that the institutions of this nation that are primarily responsible for protecting children have been compromised, in this instance, and are not proving effective. In his letter to the Prime Minister today, Senator Heffernan says:

Prime Minister, as you know, I have for many years had serious concerns about the potential of serious compromises of our political, judicial, legal and religious institutions.

Again, I would have thought that most honourable senators would acknowledge that there has clearly been serious compromise of these institutions that have that broader social responsibility. I hesitate to choose the church from that listing, but we all know of instances in which the church has been significantly compromised, and we would have thought the church, above all of these insti-
tutions, would put the protection of children as the highest priority. This concern about the compromise of these critically important institutions has been a deep and long held concern of Senator Heffernan and it has been one that he has been pursuing.

Opposition senators interjecting—

Senator HILL—No, I am trying to explain to the Senate why an honourable senator, in utilising the power of privilege, could believe that his concern about a failure of the institutions and the responsibility of those institutions for the broader good might outweigh the damage he may do to an individual.

As I said, this does not mean the senator should use this power wantonly. The senator should be satisfied it is factually correct, for example. In my view, if it is an allegation of a criminal offence in the way I have read Senator Heffernan’s speech, which I read today, where there are allegations of crime, then I believe they should be referred to the police first. Only if he has a genuine belief there is a total failure of that process would he be warranted to come here. I gather there has been a communication with the police on this issue in the past. I am not sure of the full details of that. I know that Senator Heffernan has now referred these allegations to the police again.

I accept it is important to protect the reputation of individuals. But I have been on the public record in the past in commending Justice Kirby. I commended him for his law reform activity and I have commended him for actions he has taken in preservation of human rights so I am not standing here as somebody who has a record of Kirby bashing. I am seeking to evaluate a senator in the exercise of an important responsibility he has not only to an individual but also to the broader public good. Senator Heffernan has weighed both sides of that issue and he has clearly come to a conclusion it is in the public good that he puts these matters on the table in an effort to lead to institutional reform that will better safeguard the children of Australia. Senator Heffernan has been prepared to pay an additional price for this, which is illustrated through standing aside.

Senator Bolkus—He should be sacked. Why don’t you sack him?

Senator HILL—He has already stood aside as a parliamentary secretary, Senator Bolkus—you are not aware of it. He has stood aside and has been prepared to accept an extra penalty which I think illustrates his very deep and genuine feeling on the issue of child abuse and our failure as a society to properly address it and rid our community of what is, clearly, to every reasonable person a totally unacceptable practice. Senator Heffernan is deeply committed to that. He would probably say he is obsessionable about fighting child abuse. It is hard to knock him for that. You can be obsessionable but not irrational. You can be very rational in a determination to fight child abuse in every possible way. Clearly Senator Heffernan has committed himself to that task.

In summary, it is a responsibility that has to be taken carefully by senators. The consequences to all parties weigh heavily. I have no reason to think Senator Heffernan is not genuine in this particular issue. I trust Justice Kirby has not been unfairly maligned. The matters have been referred to the police. They will be reported back and the whole world, in effect, will know the analysis of that particular matter. I wanted to put on the record those few words in an effort to address this particular difficult and onerous responsibility of senators and I think that, in the instance of the record of Senator Heffernan, objective observers will recognise this is not a wanton attack. This is not an attack without a genuinely based belief that it is true. This is not an attack without a genuine belief it will actually lead to better safeguarding the children of Australia.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.19 p.m.)—I rise on the same matter. Your statement, Madam Deputy President, has confirmed what has been blindingly obvious to everyone who has become aware of Senator Heffernan’s outrageous abuse of parliamentary privilege last night—that, at the very least, there has been an infringement of Senate standing order No. 193 (3) by imputing improper motives and making personal reflections against a judicial officer. In
other words, Senator Heffernan, as you have reported to the Senate, is guilty of highly disorderly conduct. Of course, it is much more than that.

Senator Heffernan used the Senate last night to launch a cowardly attack against a respected member of the High Court of Australia, Mr Justice Michael Kirby. This attack was based on nothing more than allegations contained in correspondence which Senator Heffernan claims to have received from an unnamed source, and statutory declarations which have been purportedly obtained from other unnamed persons. I say the word 'cowardly', deliberately and deservedly. It will not have escaped senators' notice that, in order to avoid being ruled out of order, Senator Heffernan did not expose the target of his attack until the end of his speech. I refer senators to yesterday's Hansard. In the last few sentences of Senator Heffernan's speech he said:

… this judge fails the test of public trust and judicial legitimacy ... and clearly is not fit and proper to sit in judgment of people charged with sex offences against children.

He says:

This ... judge shares three things in common with the judge who made the speech to the King's College School of Law and the judge who made the speech to St Ignatius College and the judge who made the observations about Father Vincent Gerard Ryan ...

He then says in the second last sentence of his speech:

… because they are all one and the same person.

The conclusion, the last sentence, of Senator Heffernan's speech is:

I seek leave to table two speeches: one to the Australian Bar Association conference in New York by Justice Murray Gleeson and one to the King's College School of Law in London by the Hon. Justice Michael Kirby.

The last four words of Senator Heffernan's speech name the judge: the Hon. Justice Michael Kirby. The subject of the attack was not exposed till the end of Senator Heffernan's speech. Though the opposition, and I am sure other senators, take seriously their responsibility in trying to ensure that standing orders are upheld, this is not a matter of interjections across the chamber at question time, and I hope Senator Hill would accept that. Yes, of course there is disorderly conduct in question time and at other times. But this is a very serious breach of the standing orders of the Senate and deliberately the judge's name is mentioned in the last gasp, the last breath of the speech, so the chair's attention cannot be drawn to the breach. Comparing this with disorderly conduct—the interplay across the chamber in question time and the like—is an absurd comparison and everyone knows it. Everyone knows it.

The truth is this is the sort of behaviour that we have come to expect from Senator Heffernan. Senator Heffernan does not have a strong record of making speeches in this chamber. He has made very few contributions—if you care to check the parliamentary record—and, I think, no contribution to constructive debate in the chamber. Instead he uses the chamber, on the rare occasions he speaks, to pursue what does appear to be a personal vendetta against homosexuals, and I do not say that before the Senate lightly. I have come to the conclusion that Senator Heffernan is a person who parades his obsessive homophobia as a badge of honour, and he does it as if it is some kind of public service.

Senator Hill—His attacks in relation to child abuse apply just as much as homosexuality.

Senator Faulkner—But you know I have said to you privately, Senator Hill—I don't say what you have said to me—that I don't think that Senator Heffernan understands the difference between homosexuality and paedophilia. I genuinely do not think he understands the difference. You are dead right about one thing, Senator Hill: that all senators are vigorously opposed to paedophilia, and I have got no doubt whatsoever about that. But Senator Heffernan's vigilante behaviour in pursuit of this cause actually runs the risk of debasing the cause.

It is well known here that Senator Heffernan has been trying to retail this story for months around the gallery, around the parliament, and, unable to get it up in the media, has resorted to the desperate tactic of using parliamentary privilege in the way I have outlined. I want to be clear about this: Sena-
tor Heffernan has used the protection of the chamber to traduce the reputation of an eminent High Court judge. He has done so without producing a single shred of evidence. He has done so, so we were informed by the Prime Minister in House of Representatives question time earlier this afternoon, having taken his complaint to the New South Wales Police and having had that complaint dismissed. We now know as a result of letters that have been tabled in the House that Senator Heffernan, after his speech last night—today, in other words—has written to the Police Commissioner of New South Wales, Commissioner Ryan, and put certain matters by way of a letter before the Police Commissioner. After the speech—not before the speech—was made in the Senate last night.

I checked what the situation was in relation to these matters, because they have been raised in the New South Wales parliament. I have now the statement by the New South Wales police minister, Mr Costa, that was made to the New South Wales parliament this afternoon, and I will read it into the Hansard. The police minister in New South Wales, Mr Costa, said this:

I’m advised that police have previously investigated information provided to them by Senator Heffernan.

I’m advised those investigations did not warrant the laying of any charges in connection with the matters recently raised by the Senator. If Senator Heffernan or any other person has allegations concerning serious criminal offences they should provide them to NSW Police.

If any person has concerns about improper police handling of an investigation they should refer the matter to the Police Integrity Commission. Those concerns will be investigated.

That is the parliamentary statement by the Minister for Police in New South Wales, the Hon. Michael Costa.

I do believe that this is a serious matter. Its seriousness is underlined by the fact that the Prime Minister has stood Senator Heffernan aside from his position as Parliamentary Secretary to Cabinet pending the outcome of any further police inquiries.

Senator Bolkus—He stood himself down.

Senator FAULKNER—Senator Bolkus tells me that Senator Heffernan has taken that—

Senator Robert Ray—Is he still being paid?

Senator FAULKNER—That I do not know, Senator Ray, but if you stand aside you do not get paid. I think we are all aware of that.

Senator Robert Ray—I will check, don’t worry!

Senator FAULKNER—The fact of the matter here is that Senator Heffernan has breached a standing order and is obviously consequently guilty of highly disorderly conduct. There is an issue in the manner in which the standing order has been breached, but I will say no more about that. He has been cut loose, to some extent, by the Prime Minister and the government. We do know that the Prime Minister has advised Senator Heffernan not to abuse parliamentary privilege. I imagine that the speech was made by Senator Heffernan as some form of political diversion because of other events that are being debated in the public arena in this country at this time. If so, it is a bit like that torpedo that we have heard so much about in another matter, the ‘children overboard’ saga: the admiral’s torpedo. Again, this one has homed in on the launcher rather than the target. And that is as it should be.

In conclusion—and I have deliberately contained the remarks I have made on this—I just want to say this to the Senate. On the letterhead of the High Court of Australia, in the name of Christopher Doogan, the Chief Executive and Principal Registrar of the High Court, Justice Kirby has issued this statement. It is a brief statement of three sentences only, and I want to quote the last two of them. Justice Kirby says:

If he—

and ‘he’ refers to Senator Heffernan—has such accusations, he should approach the proper authorities, not slander a fellow citizen in Parliament. In so far as he attempts to interfere in the performance of my duties as a judge I reject the attempt utterly.

Justice Kirby’s statement stands for itself.
Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (3.32 p.m.)—Clearly there are some very serious issues involved in this matter. I note your statement, and I think it would probably be helpful, given the seriousness of the issues, that you should provide the legal and other authority that underpins your ruling so that we can better appreciate what it is that leads to the conclusions that you have drawn.

I will just deal in passing with the rules of debate, because there seems to have been a bit of emphasis placed on the fact that all imputations by a senator or member of improper motives against any member of either house of parliament or against a judicial officer shall be considered highly disorderly. Senator Faulkner has just given us a classic example of how that is breached on a regular basis, because what he did was to not just say, ’Senator Heffernan makes serious allegations, they are hotly contested, the evidence does not support them and therefore they should be rejected,’ but he goes further and says that not only is this a personal vendetta, but that Senator Heffernan is parading his obsessions as a badge of honour as if it is some kind of public service, and then he accuses him of a political diversion. Now both of those are classic examples of imputations of improper motives. In other words, he is saying that Senator Heffernan is not raising these matters out of a genuine concern to hopefully eliminate but at best reduce—

Senator Faulkner—My words actually stand for themselves.

Senator ALSTON—I have quoted you because I wrote them down. You said, ’This is a personal vendetta against homosexuals and he parades his obsessions as a badge of honour as if it is some kind of public service.’ And then you went on a little later to say that this was a political diversion. In other words, what you were doing on both of those occasions was to say that he is not motivated by genuine concern for child abuse and its eradication but that on the one hand he is doing it because he sees it as a badge of honour—in other words he is doing it for self-important reasons—and on the other hand it is just a straight, classic political line that he is doing this to distract attention from some other problems that the government have. But in both instances, you are impugning his motives.

It is yet another example of how we should not be so concerned with the rules of debate that we do not look at the wider issues involved. Quite clearly, it would be utterly unacceptable for any member of this parliament to come in here and make sweeping allegations without having carefully thought about the consequences and without having done a great deal of homework to try and establish, to the best of their ability, whether they appear to be accurate. To the extent that all you do is pick up what a lot of people have said to you and say that it sounds plausible, I do not think that is good enough. But to say, as Senator Faulkner did, ’without producing a shred of evidence’—I think that was his expression—that is not quite an accurate description of what occurred on this occasion.

Senator Heffernan does seem to have obtained documents or had access to documents because he says ’according to correspondence I have received’ and he goes on to talk in considerable detail about Comcar records. Those records can be tested in due course. I am simply saying that it is not fair to describe that as ’without producing a shred of evidence’. If you are concerned about due process, perhaps one should also be concerned at the suggestion that these Comcar records, which were officially alleged to have been destroyed in the 1990s under the Archives Act, were still in existence in the year 2000 and were refused to Senator Heffernan under FOI. Those in themselves are very serious process issues.

What I am saying is that one should only ever exercise the enormous privilege and, therefore, power that attaches to our positions as a last resort. If I thought for a moment that Senator Heffernan was taking the easy way out and saying, ’You know, I could refer these matters to the police or I could make some further investigation but, basically, I’ll retail some stories I’ve heard’, I would regard that as totally unacceptable. I do not see evidence that he has done that. It is quite to the contrary: he has been nulling
over these issues, their implications and, as Senator Hill said, the wider effect on a number of institutions which people had previously revered and which, if not condemned, now stand seriously challenged for the way in which they have approached these very difficult issues. In circumstances like that, for example, with Justice Yeldham, one is entitled to say that, if one had some substantiating evidence—not merely a rumour—which for one reason or another had not persuaded legal authorities in New South Wales to take action, and one was firmly convinced—in other words, one was genuine in one’s concern for the issue—that there was evidence that justified action and it was not being taken, then it may well have averted the ultimate tragedy of Justice Yeldham’s actions and their consequences for him and others.

So whilst one has to exercise that responsibility very carefully, we should not simply say whenever anyone stands up under the cover of privilege and makes serious allegations about someone else that they are, by definition, slanderous or unsubstantiated remarks, which is the expression that Senator Stott Despoja used, or a cowardly attack on a respected judge, as Senator Faulkner said. They are clearly matters of the gravest importance. They clearly involve very serious allegations. It does not follow that a serious allegation by itself is slanderous, because it has to be shown to be untrue.

What is occurring is a fundamental debate about freedom of speech and the great care with which it should be exercised. But we should not fall into the trap of saying that, if the consequences are very serious or if they relate to a person at a high level of authority, we should not even mention them. If you take that approach, in many ways, you are doing the very sort of thing that has caused Senator Heffernan to become very frustrated with the existing processes. He quotes from the Wood royal commission, where matters were raised and a reference was made to judges. When he asked whether judges would be named—and I presume that could have been done in camera—the answer was to the effect that it could undermine the reputation of the judiciary. The precise words were:

The issue of who the judges were was never answered. My inquiries as to when these serious allegations would be dealt with were replied to in the following terms:

We have decided not to revisit any of that because the public would lose confidence in the judiciary.

That is a matter of concern because, if the effect of that is to cover people in high places because of fear of undermining confidence in the institution, then no-one would ever say anything bad about anyone in high office, let alone in the parliament. Yet the media and everyone else has a field day on a regular basis trying to expose the real and perceived shortcomings and improper behaviour of a whole manner of people in positions of authority. One has to be conscious of the concern that, in many respects, there may well have been a well-intentioned cover-up at various levels of authority over the years.

I am one of the first to acknowledge that circumstances and community attitudes change, and it is very dangerous, in my view, to judge people by the standards that prevail now and apply those standards to conduct that occurred many years earlier. In many respects, as I think we all know, there is much heightened community concern about these issues that people might have talked about at an informal level many years ago but never thought of in a criminal context. They were at best social issues; they were normally laughed about rather than thought of as issues to be concerned about. It is against that background that one has to be careful to ensure that the presumption of innocence prevails and careful that someone against whom serious allegations are made is given an opportunity to respond to the detail of those matters. But we should not go so far as to say that, by definition, if serious allegations are made against people in high office it is slanderous or unsubstantiated. There has to be evidence to make us feel comfortable that the person making the allegations has done his or her homework and that there is some supporting material. As long as the material is acted on in good faith, I think it is legitimate to proceed down that path but,
again, these matters have to be very carefully considered. If Senator Heffernan is exercising that right of last resort when he has exhausted other avenues, it is very important that we address the professional conflicts that might arise in certain circumstances and certainly any criminality that might emerge from a proper and considered assessment of material.

Senator ROBERT RAY (Victoria) (3.43 p.m.)—I found that last comment by Senator Alston very interesting—that it was legitimate to go down that path as a last resort. Let us have a look at what the Liberal Party has done in the other chamber in relation to a judge. Let us go to 3 March 1998, when the then member for Holt, Gareth Evans, asked a question that included the phrase ‘a shocking error of judgment’, referring to Justice Callinan of the High Court. That phrase, in fact, was Justice Goldberg’s criticism of Barrister Callinan before he became a High Court judge. What happened was that the then Deputy Prime Minister objected. He said: I submit that under standing orders—and they are the same as the Senate’s, by the way—only a motion can be moved and no other criticism made in respect directly of a judge of the High Court of this land. He goes on to say that he accepts that is not the entirety of the question. What happens? Gareth Evans is made to withdraw by the Speaker, quite appropriately, even though it is only a very inferential criticism of a judge.

Three or four months later, on 15 July 1998, Mr Hardgrave asks the Attorney-General, Mr Williams, a question, and Mr Martin Ferguson, the member for Batman, says, ‘What have you got to say about Callinan?’ That is all he says. Then there is a whole series of objections—from the Prime Minister, the Treasurer and others—and Mr Martin Ferguson is forced to withdraw, when his only remark was ‘What about Callinan?’ So we have a Liberal Party that would—at least in the House of Representatives, and, I would assume, here too, more often than not—take the right path and protect standing orders and would not allow a judicial officer to be indirectly criticised, let alone directly criticised. Yet, from the defence from Senator Hill and Senator Alston today, it seems that no longer applies. I have to say that I am not a fan of standing order 193. I have never understood why judicial officers should be protected from criticism. But as long as standing order 193 stands, we should obey it. Not much to my credit, I have never tried to change it. I have always thought you would not have any chance anyway, but maybe I should have. Putting that aside, as long as that standing order is there, it should apply.

Where does the criticism lie in this? Senator Calvert was in the chair. I watched the speech last night and I read it again today. There can be no criticism at all of Senator Calvert’s chairing—and there was none in your statement—because it was done in such a way that the name was revealed only in the last four words. Even then, Senator Calvert would have had to go back and analyse the whole speech to absolutely conclude that that particular person was mentioned.

The second person responsible, who is sitting in front of me, is Senator George Campbell. He does have a responsibility, as opposition frontbencher on chamber duty, to make sure the standing orders are not breached. Again, I think Senator Campbell behaved quite appropriately. There was no point last night, in this cleverly constructed speech, when he could have intervened. Indeed, you can see that he refused to allow these things to be tabled, trying to get a bit of leverage in there. So I congratulate both Senator Calvert and Senator George Campbell for behaving appropriately.

I should say this up front: I have never met Justice Kirby; so I am not carrying any support for him. When I have read his legal rulings, more often than not I have not agreed with them. So there is no simpatico here at all in terms of his career as a judge. But there is absolutely no doubt that Senator Heffernan not only breached standing orders last night but massively breached them. The whole speech was deliberately written in such a malicious way as to have Justice Kirby named only right at the end, in the foreknowledge that he would have been ruled out of order under standing order 193 at any point during the speech.
This means that it is not just a question of what Senator Heffernan said last night but also a question for all of us as to how this chamber behaves in future. Am I allowed to stand up and give a 10-minute speech criticising one of my opposition colleagues, calling them for everything but not naming them, and then, at the last minute, name them and just sit down? That would, I think, lower the tone in this place to a point where none of us would like to see it lowered. So we should bear that in mind. It is not just a question of attacking a judicial officer but also a question of the order in which things are done.

When you look at Senator Heffernan’s speech, you see that it is pretty low-grade stuff. He is only into paragraph three when he is trying to drag the Governor-General into his speech, saying that he is sure the Governor-General would agree with him. I do not know why he has gratuitously brought His Excellency the Governor-General into it. Senator Heffernan has been very active around the corridors in making his views on the Governor-General known, but of course he would never have the ticker to come in here and say it.

I will move on. Senator Heffernan goes on to quote a senior judicial officer without naming the person, so I do not know what credence we can give to that part of his speech when this person is not named. He goes on and talks about the unauthorised use of Comcars. That is pretty good, coming from Senator Heffernan and the problems he had a few years ago. He then goes on to say that most of the evidence comes from his interviews with rentboys—not always the most reliable witnesses in history, probably. You just have to go back and have a look at the tape of the story that *Four Corners* ran about the conspiracy theories that John Seyffer was trying to sell him to know what sort of modus operandi would have operated here.

Quite clearly, Justice Kirby could use section 5 of the Parliamentary Privileges Act and have his response put down here in the chamber, but I would suggest that is a waste of time; he is a person of such prominence. Basically, following that speech last night, I would have to say that his career is over. He has been so besmirched and so attacked that he will have very little credibility no matter where the truth in the matter lies, and I think that is fairly sad.

The question that you did not answer, Madam Deputy President, is what we can do about this. I am sure that one strain of thought would say: if someone behaved in a totally disorderly fashion like this, you could strike it from the *Hansard* record. I have never supported striking things from the *Hansard* record. What is said is said. I just do not know what sort of penalty can apply to a senator who has behaved in a disorderly way but the disorder has become apparent only at the very last second. I do not know what the solution to that is, but I do say this: the Senate should at least take a strong moral stance against this, otherwise we will be into a sort of speech payback against each other that would be totally disorderly but probably very effective. I would rather not see that develop.

As I said earlier, any time a judicial officer has been attacked in either chamber—but especially in the House of Representatives—the Liberal Party have been very quick to object, even if it has been the most indirect and most insignificant attack. I think that the sorts of speeches we have heard today—the weasel words we heard from Senator Hill, and I did not think Senator Alston even had his heart in it, to be honest—trying to justify Senator Heffernan’s attitude really are saddening.

People say, ‘Where is Senator Heffernan?’ I do not necessarily expect him to be here for this debate today. Maybe he is cleaning out his office; I do not know what he is doing. I hope at some stage he comes down and tries to justify his disorderly conduct—not just by repeating the allegations, not just by smearing a High Court judge—and explains why he used that modus operandi. I would still be critical of him if he had walked into this chamber and said, ‘Tonight I am going to attack Justice Michael Kirby.’ I would be critical of him, but I would at least acknowledge that he had some ticker. But the way it was done was to attack. He must have thought he was so clever—the same judge,
the way the speeches were laid out and the
interconnecting web. What a clever little boy
he was, coming in here and laying it out that
way.

But I tell you that I would have a little
more admiration for him and would say that
he had a little more ticker if he had come in
here, put up with the interjections from
Senator Calvert and Senator Campbell, and
toughed it out. But, of course, he did not. He
did it in such as way as to get every smear on
the public record to stand without retraction,
and I think that is a pretty sad reflection. I
suppose the only thing I will say in his fa-
vour is that, for the very first time, Senator
Heffernan has come into this chamber and
repeated what he has told us all around the
corridors for the last five or six years.

Senator BROWN (Tasmania) (3.53
p.m.)—I too wish to speak to the motion
moved by Senator Stott Despoja. I thank
Senator Stott Despoja and you, Madam Dep-
uty President, for the question and the re-
sponse which have led to this debate. The
action which took place in the Senate last
night by Senator Heffernan was appalling. It
cannot be allowed to go unremarked and not
responded to by any house of parliament that
is going to maintain its own integrity. There
is no doubt that Senator Heffernan has a deep
and abiding abhorrence of child abuse. So
does every other member I know of in this
chamber—and no less than him—but the
approach is quite different. As Senator
Faulkner said, there appears to be an obses-
sion or a vendetta involved here, which in
itself is a matter for great worry.

When you look at the accusations that
Senator Heffernan made, you see that the
real problem he has is not with this parlia-
ment and not with a judicial officer but with
the police and their failure to take action if
he has real evidence. It has been noted in the
chamber that His Honour Justice Michael
Kirby has said that the accusations are false.
That is where we are at this moment. We are
with a senator who has made false accusa-
tions which nevertheless led to headlines
today which are extraordinarily damaging. Is
the Senate going to allow behaviour whereby
a member of this chamber can make accusa-
tions in a manner which leads to such dam-
age when the accusations themselves are
false?

If Senator Heffernan had a problem with
the police, if he felt that the police were not
taking the right course of action, he should
have pursued that through civil action. But
the fact that he did not underscores the pau-
city of evidence he had—it simply was not
there to make a prosecution. Nevertheless,
we now have this extraordinary outcome
where enormous damage has been done to a
person who is not only the longest serving
and one of the most senior judges in this
country but also one of the most honoured
judges in world judicial circles.

It has been a sneak attack. It is a gutter-
crawling attack when somebody comes into
this place and lays out a series of charges and
not just in the last sentence but in the last
word names the person who is the target of
that attack. I agree with previous speakers: it
was a premeditated effort to get around the
rules of this chamber to create enormous and
irrevocable damage to an honourable mem-
ber of the court on the basis of false charges.
I believe Justice Michael Kirby, and I do not
believe the honourable senator had the right
to make that attack. It is difficult for the Sen-
ate, but I think the Senate and the Privileges
Committee are going to have to find redress
in this matter as best they can.

I also note the comments made in the
chamber about the diversionary nature of
Senator Heffernan’s remarks late last night.
Notwithstanding his removal today, tempo-
rarily or otherwise, from his position by the
Prime Minister, and in view of the very close
relationship—which is on the public rec-
ord—that this senator has with the Prime
Minister, the question arises as to what
knowledge the Prime Minister had that this
evidence would surface in this fashion and
what forewarning the Prime Minister gave to
this close confidante of his in the Senate that
this should not take place. I note that the
Prime Minister has now taken action, but I
have seen the Prime Minister take action
against ministers before when it was too late.
One cannot get away from the prima facie
case through this run of events that this is a
diversionary effort to take attention away
from the government’s own problems. It is a
dastardly thing. I—along, I am sure, with other senators—will now be looking for redress.

Madam Deputy President, I do not think it is good enough that Senator Heffernan is not here for this debate. He prosecuted the case. He should now be here to respond to those who do not believe he did the right thing. It is not only him but also this Senate chamber that is on trial as far as propriety is concerned. It is up to Senator Heffernan to be here to defend the course of action that he took. He is not, and that of itself speaks volumes. As a senator—and I have great confidence in being able to say this on behalf of the Australian Greens—I express our abhorrence at what has happened, our deep concern for the judiciary, our condolences and our wish that Mr Justice Kirby is able to withstand the totally improper attack that has been made upon him using these false charges. I hope that he finds the strength to be able to do that. I am sure he will have the best wishes of millions of Australians with him today.

Question agreed to.

PARLIAMENTARY LANGUAGE

The DEPUTY PRESIDENT (4.00 p.m.)—Yesterday Senator Lightfoot, when in the chair in committee of the whole on the Regional Forest Agreements Bill, undertook to refer to me a point of order raised by Senator Brown in relation to remarks made by Senator Ian Macdonald. Senator Lightfoot indicated that he did not hear the comments made by Senator Macdonald as being made about any particular senator.

On reading the Hansard transcript, it is fairly clear that Senator Macdonald was referring to Senator Brown when he referred to ‘some senators—I should say only one—deliberately putting up false information’ and to the tactics of ‘fascists, anarchists and Marxists’ seeking to prevent other views being heard. Such imputations against a senator are contrary to standing order 193. I ask senators to refrain from making such imputations, with or without subtlety which might make them difficult to follow at the time when they are uttered.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Lucas Heights: Nuclear Reactor

Senator CARR (Victoria) (4.01 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston) to a question without notice asked by Senator Carr today relating to a contract with the Argentinian company INVAP to build a new nuclear reactor at Lucas Heights.

Despite constant reassurances by the government on the financial stability of INVAP, we have received confirmation today that there has been a loan extended by the Argentinian government to INVAP, the main contractor building the new reactor at Lucas Heights. We have the ridiculous situation whereby the bankrupt government of Argentina is expected to assist a financially stricken company, INVAP, which has been contracted to build the $300 million reactor at Lucas Heights. We are expected to believe the government on this, and I quote, for instance, the Minister for Science, Mr Peter McGauran, who said recently on the ABC Earthbeat program:

We are constantly monitoring the situation through our ambassador. Specifically, ANSTO officers are based at INVAP full time and senior members of the ANSTO organisation, including the executive director, travel to Argentina on a regular basis. We are alert to any flow-on effects from the difficulties of the Argentinian economy, but INVAP is insulated to all intents and purposes from those problems.

We are told that this is a situation where the government is constantly monitoring the circumstances surrounding its main contractor at Lucas Heights, but at the same time the project manager, Mr Gary Seaborne, is quoted on the ABC last week as saying that he was not aware of the arrangements entered into to provide the $10.5 billion loan by the bankrupt Argentinian government to the main contractor at Lucas Heights. Frankly, I find it almost impossible to believe that the project management, despite these claims of constant monitoring, was not made aware of these arrangements. We have, of course, the statement presented by the Argentinian government to their parliament on 1 March last
year where they indicated that they were extending a loan of 12 billion pesos for what they described as pre-financing of exports referred to in the contract with the Australian Nuclear Science and Technology Organisation, ANSTO. There is no doubt in my mind that these circumstances have in fact occurred. What troubles me is the fact that the Australian government has been so inept at discovering these matters until today when we have the situation revealed in this parliament.

As far as I am concerned, this follows a pattern of evasion. We have seen a Senate inquiry which launched into an examination of the circumstances surrounding the letting of this contract, about the selection of the site and about the priorities set—

Senator George Campbell—A select committee.

Senator CARR—A select committee to which ANSTO and the Australian government chose not to give basic documents about the contract and the circumstances surrounding the arrangements for the building of the new reactor at Lucas Heights. It strikes me that ANSTO has become so desperate about this contract, so desperate to have this new facility built, that it is quite prepared to do just about anything.

I understand there are a lot of people in this country who see the need for a research reactor. I am also aware of the overriding concerns of the local community and the very great concerns being expressed by other research scientists that suggest that this is not an appropriate use of $300 million of public moneys—the single largest capital project in science in this country. Yet we have circumstances where clearly the contract arrangements are in question. We have serious circumstances in relation to the disposal of nuclear waste. Serious circumstances have been raised about the security of the site. What we have now is a situation where the international community is also concerned about the financial stability of the Argentinian government and where the World Bank is currently in discussions with the Argentinian government about significant reductions in expenditure across a whole range of social programs, which will, in my view, inevitably include this reactor. (Time expired)

Senator TIERNEY (New South Wales) (4.07 p.m.)—I rise today to respond to some of the scurrilous accusations by association that Senator Carr is raising about the INVAP contract in Argentina.

Senator George Campbell—Scurrilous?

Senator TIERNEY—They are scurrilous because he is trying to build some sort of link between what is happening in the Argentinian economy with this particular company, but at no point has he produced any evidence—not one shred of evidence—to show that this company is in any difficulty at all or is not a bona fide company producing world-class products. I listened very carefully to what Senator Carr said in the estimates hearings two weeks ago when he raised this matter. He went through some points similar to those he has raised today. But, again there, he did not create one shred of evidence linking the two things. I wondered why Senator Carr was doing this. Of course, he has this new grand title in this place: he is now the shadow minister for science and research. I can only assume that he is doing the kick-off in his research role by making a major attack on a company in a foreign country. This is something similar to what we saw Senator Carr do with Greenwich University. Over a number of years he made this his cause celebre and this was going to be his big thing that would get public attention. Unfortunately, in this case he is picking on an operation that is a bona fide operation that is producing world-class products.

How do I know that? I have actually visited the INVAP site. I have been to San Carlos de Bariloche with a parliamentary delegation. We went through the site. We have discussed with the officers what they do, and we saw their products. For the information of Senator Carr, because he obviously knows nothing about this company, this company has a longstanding record of producing research medical nuclear reactors and satellites in a number of countries around the world.

Senator Carr—Where?
Senator TIERNEY—I will give you one off the top of my head: in Egypt they have one of these facilities. There are a number of others around the world. They also produce world-class satellites, and these satellites are launched into space. What amazed the delegation was the professionalism and the capability of this company. It was a cross-party delegation; I suggest, Senator, that you talk to Mr O’Keefe, who was in the lower house and was on that delegation and who was also very impressed with what we saw. I suggest you talk to Mr Hatton, your parliamentary colleague in the lower house, who was there and saw the same facility.

Let us get back to what Senator Carr’s real motivation is. The real motivation relates to the new facility at Lucas Heights. This one has gone through substantial parliamentary inquiries over a number of years. We are in a situation where we have a reactor at Lucas Heights that was built in 1955 and is obviously slated for replacement. We have now a world-class design, one that will keep Australia at the forefront of nuclear medicine and the production of nuclear isotopes. We put our country, in this market, in great danger if this is delayed. The fact that Senator Carr is casting aspersions on this company, very unfairly, and on Argentina is not helpful in terms of international relations and international trade and it is certainly not helpful in the development of science and technology in this country.

I listened carefully to Senator Carr in estimates and carefully here today. He has not produced one shred of evidence that indicates that there is any problem with this company at all. Before you damage international relations any further, if you have any such evidence you should really produce it. Knowing the company, I have great doubts whether you can produce such evidence.

Senator FORSHAW (New South Wales) (4.11 p.m.)—I will pick up on the last point just made by Senator Tierney. He makes the allegation that no evidence has been produced. In a moment I will come to the evidence that has been produced, particularly before the Senate select committee inquiry, on the serious question surrounding the capacity of INVAP to complete this project. I find it the ultimate irony for Senator Tierney to be standing up here on behalf of the government and saying, ‘Where is your evidence?’ After all, Senator Tierney represents a government whose Prime Minister, ministers and Secretary to the Department of the Prime Minister and Cabinet actually made conclusions in respect of another issue, the ‘children overboard’ issue, on the basis that there was no evidence. We had the head of the Defence Force and the Secretary to the Department of the Prime Minister and Cabinet saying, ‘Nobody has shown me evidence that it did not happen; therefore, I am entitled to assume that it does.’ That is the sort of logic that you get from this government.

But let us get back to the evidence that was produced to the Senate select committee. Firstly, we have the serious concerns raised by members of the scientific community about the capacity of INVAP to deliver. I am not addressing my remarks to the issue of whether we should have a nuclear reactor. Today I want to focus on whether, if we are going to have that reactor as this government seems intent on, we are going to get the best value for the $300 million that is going to be spent initially constructing this reactor and then the further millions of dollars to be spent in the next 40 years maintaining and operating it. I invite senators to go to the full report, but Professor John White, representing the Academy of Science and supporting the reactor, expressed his surprise at the fact that INVAP had won the contract against established companies from Germany, such as Siemens, and from France, such as Technicatome, because of the scientific community’s ‘unfamiliarity with the ability of INVAP to perform’.

In more specific detail, Mr Tony Wood, a retired nuclear engineer who worked at ANSTO and who supported the building of a new reactor, gave evidence to the committee and he said:

... the literature does not support the minister’s claim that INVAP has a ‘solid track record’. It is not that it has a poor track record. It has no track record on the reactor of significance—that is, a 20-megawatt reactor.

Senator Tierney has referred to the fact that he visited their headquarters in Argentina.
Senator Tierney—I saw the reactor that they had built.

Senator FORSHAW—You did not see the sort of reactor that INVAP has undertaken to build at Lucas Heights. The only location outside Argentina where this company has built a reactor is in Egypt, and there is clear evidence on the record that it has had serious problems in getting that reactor up to full power—it has never been able to operate at full power. Since those allegations were made and since evidence was presented to the committee, we have sought time and time again from ANSTO and from Minister Minchin—who happens to be in the chamber at the moment—detailed documentation such as the contract and a whole range of other material. We were denied access to that material on the grounds of commercial-in-confidence.

We now know, for instance, that, as Senator Carr has pointed out, there has had to be a $10 million allocation from the Argentine government because of the problems that INVAP were in before they won this contract and since they have won this contract. We also know that the intention was to have a new reactor which had a cold source, a hot source and a thermal neutron source. Since that contract was entered into, we have been informed that there will not be a hot source constructed in this new research reactor. So we are not going to get world’s best practice as we were promised—far from it. And we have not been told what implications that has for the design—(Time expired)

Senator MINCHIN (South Australia—Minister for Finance and Administration) (4.16 p.m.)—It would appear that the Labor Party, by virtue of the question that Senator Carr asked today, are intent on refighting the last election campaign, to which they took a policy of abandoning our replacement research reactor, thus rendering 800 people out of a job. They seem to want to destroy the whole institution in this country of a research facility and all the 800 jobs that go with that and the scientific capacity that that outstanding facility could give us. That is what this is about. It is not correct for Senator Forshaw to say that this is not about whether or not we have a reactor. That is exactly what it is about. It remains Labor policy to throw 800 Australian scientists out of work by abandoning this research facility.

In the case of INVAP itself and the $10 million, I am advised that this is a draw-down facility to be drawn upon if necessary. The activities under the contract for the building of this reactor are fully funded by the contract payments. I remind the opposition that INVAP is in a consortium with two great Australian companies—John Holland Constructions and Evans Deakin—in the construction of this reactor. The selection process for the contract was probably the most rigorous ever undertaken in the world for a reactor of this kind, and the competition was intense.

It did fall to me, as the then minister, to decide whether or not to approve ANSTO’s entering into a contract with INVAP to build this new reactor. I had to satisfy myself that the process was indeed rigorous. I had every confidence because it was certainly true, as Senator Forshaw said, that many in the scientific world were surprised that INVAP was able to beat competition from Germany, France and Canada to win this contract. But I had no doubt and nor did ANSTO. ANSTO has a lot riding on this, so it would have gone beyond the norms to ensure that this was a rigorous process and that INVAP was capable of completing. It was, and I had no doubts that ANSTO should enter into this contract with INVAP as a result of that incredibly rigorous process.

Like Senator Tierney, I am disappointed that, by this line of questioning, by hanging off what is a pathetic line of argument that a $10 million drawn-down facility supplied by the Argentine government to a company that is in fact a state owned company—INVAP is owned by a state government of Argentina—it should draw this sort of attack. I think it is a sad reflection by the Labor Party on the high-quality people we have at ANSTO who are working with INVAP to give this country one of the world’s best research reactors and to ensure that Australia remains at the forefront of nuclear science and nuclear research and the production of medical radioisotopes which are so critical to this country. It is sad that the Labor Party’s cheap attack today
reflects upon all the work that we have been doing to develop our relationship with South America in general and with Argentina in particular, a relationship that I think promises over the course of this century to produce enormous benefits to both our nations and regions. This must be causing enormous distress not only to the Argentine ambassador and his people but to the nation of Argentina, which is going through great difficulty. If anything, we should be seeking to do all we can to support Argentina as it goes through this difficulty.

I have also visited INVAP. It is an outstanding facility. It does do work with institutions like NASA, which has great confidence in its capacity to produce. I have every confidence in the capacity of INVAP to produce what will be the world’s best research reactor. It has met every milestone that has been set for it in relation to this contract and will continue to do so. The contracts are in Australian and US dollars; they are not affected by the circumstances that Argentina finds itself in. This is an international company, as I said, backed by a state government of Argentina. I am pleased that the Argentine government, despite the difficulties it is having, is showing its strong support for this contract by this draw-down facility which may well not be used at all.

I would ask the opposition, in its review of its policies, to seriously look at the position it has adopted in relation to this research reactor. The Labor Party got thumped again in the electorate of Hughes. Danna Vale wiped Labor off the face of the earth again. The people of Hughes have, I think for a third time, shown their strong support for this reactor contract. It is about time the Labor Party accepted the reality, accepted the need for this reactor and started to support it.

Senator GEORGE CAMPBELL (New South Wales) (4.21 p.m.)—There are a number of points that need to be made or reinforced in this debate. The first is that, as Senator Carr said, this is a very significant investment by the Australian government and a new resource for our scientific community—that is, a $300 million reactor to replace the old reactor at Lucas Heights. I sat on the Senate select committee that inquired into the arrangements for the letting of the contract for this reactor and I sat in on a previous inquiry by the Senate Economics References Committee into Lucas Heights in respect of the operation of the old reactor, so I have heard these arguments put ad nauseam by representatives of the government in respect of the reactor at Lucas Heights.

But the important point made by the minister in his contribution—the point which I think ought to raise real concern amongst the Australian scientific community and the Australian community generally—is that this company is wholly backed by a state government in Argentina. We all know the state of the Argentine economy at the moment. It is an economy in absolute crisis. The currency has gone through the floor. There is absolute and complete instability in the Argentine government—they have had five presidents, I think, in a period of about two weeks—and it is a country in absolute chaos; yet we have let a contract to a company based in a country that is backed by a government that is bankrupt. We are questioning the capacity of that company to deliver on its contract.

When we sat through the Senate select committee, we tried to get information about the operations of this company and the relationships it had with the state government in Argentina. We tried to get information about what recovery clauses there were in the contract to secure any moneys that might be spent by the Australian government if this company were not able to complete the contract. On every occasion, we were denied access to any information in relation to these contracts on the basis that they were commercial-in-confidence. We still do not know if what the minister has just said is right—whether this company is separated enough from the government and is capable of completing this contract. We still do not know if the crisis in the Argentinian economy will impact upon the capacity of this company to deliver on the contract, because we do not know what provisions are in the contract to safeguard our investment.

The minister says we should not worry too much, because this company is doing the work in conjunction with two well-known
and reputable Australian companies. That is true, but those two Australian companies are on the construction side of the contract and not the design side of it. If the company that has done the design, that is responsible for the functioning of the reactor and that is responsible for the ultimate outcome falls over, I would suggest there is little hope of the two reputable Australian companies being able to complete the contract, because they will not know what they are building. There will be no-one there to guide them about where to put the pipes and the reactor coil and whatever else goes into these facilities. It is just a nonsense to suggest that we should take some comfort from the fact that there are two reputable Australian companies linked up within that contract.

The reality is we have let a contract to a company about whose capacity to deliver there is grave doubt in the scientific community. The reactor this company has built in Egypt has never operated, as Senator Forshaw says, at full operating level. This company has never proved itself in the international marketplace in its capacity and its designs. I would suggest to you, Minister, that there is a big question mark over this company’s capacity to actually deliver the outcome in the contract that has been let. The onus ought to be on the government to come clean about what security there is for the Australian community and the Australian public in those contracts in respect of a guarantee to deliver on the contract. (Time expired)

Question agreed to.

Employment: Job Network

Senator CHERRY (Queensland) (4.27 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Vanstone) to a question without notice asked by Senator Cherry today relating to Job Network and support for disadvantaged job seekers.

In her response to my question, The Minister for Family and Community Services, Senator Vanstone, made it clear that the government was committed to ensuring that disadvantaged job seekers received personalised assistance commensurate with their needs. This is a very welcome commitment from Senator Vanstone, but it highlights to me how far the government needs to come in bringing the Job Network up to a level where it will in fact be delivering on the sorts of aspirations that the minister was speaking about.

The Job Network has already saved the Howard government around $1 billion a year in funding for services it provides to some of the most disadvantaged people in our society, but as last week’s draft report from the Productivity Commission highlighted the Job Network has failed in many respects, particularly in assisting people who need the assistance the most: that is, people who are long-term unemployed and other job seekers who have substantial barriers to employment.

Centrelink refers these people to a Job Network agency for help with getting work, but what happens when they join that provider? What we are hearing from the people who have been inundating our office with telephone calls about Job Network is that they get put into a too-hard basket. There are real financial incentives for these providers to focus only on people who are the most job ready and then to claim payments when those people get jobs. Agencies are claiming thousands of dollars in payments, frequently for employment that people secure by themselves without any assistance from their intensive assistance provider. There is even a name for this in the industry: they call it ‘creaming’.

There is also a name for an even more unsavoury practice, which is called ‘parking’. Parking, which I referred to in my question, is a practice where a Job Network provider decides that someone is too much trouble to assist. Maybe the person needs help with the cost of a training course; maybe they need a set of interview clothes or fares to get to interviews to canvass employers; or maybe they have social or cultural barriers and are just too hard. Under the present system, there is no incentive for an intensive assistance provider to do anything more than have a perfunctory interview with a job seeker every couple of months. For parking the job seeker that way, they still secure several thousands of dollars in funding for each per-
son and, as long as their creaming ratios are up in terms of getting job ready people into jobs, they will still get their contracts renewed. The draft report of the Productivity Commission actually states:

Parking may mean that the net effect of participating in intensive assistance is negative for some job seekers.

The Productivity Commission is saying that some of the most vulnerable people in our society, the people who need the assistance most from the Job Network system, are actually worse off after participating in intensive assistance. If intensive assistance is not benefiting these job seekers, who is it benefiting? The answer is quite simple—the agencies who claim the money for jam for signing those people up, and who then leave them in limbo. The commission’s draft report goes on to say:

Job seekers may not know why or even that they are being parked, leading to frustration and demotivation. That means that people whose hopes have been raised, people who have been told that intensive assistance is going to help them to get the work they desperately want, are then left on the shelf.

This is the brave new world of market driven employment services. There is no financial incentive for agencies to assist people who need it most. On the contrary, there are strong cash incentives for them to focus their time on the people who would probably get work anyway. Some agencies provide excellent, flexible, innovative services to their intensive assistance clients but they do that because it is the most ethical response. What we have long suspected, and what the draft report from the Productivity Commission has sadly confirmed, is that some organisations are less interested in ethical obligations than they are in money in the bank. I would certainly urge the government and Senator Vanstone, and also Mr Abbott, to ensure that, in the current review of Job Network contracts, those agencies which are not delivering for their job seekers are denied contracts in the next term of Job Network contracts.

Question agreed to.

NOTICES
Presentation

Senator Ridgeway to move on the next day of sitting:

That the Senate—

(a) recognises the Community Development Employment Projects (CDEP) Achievement Awards as highlighting individual and organisational achievement in a scheme which now covers more than 36 000 Indigenous people working in urban, rural and remote locations on a diverse range of projects and enterprises right across Australia;

(b) congratulates the following recipients of National CDEP Achievement Awards for the outstanding contributions they have made to their communities and to the nation:

Workforce Aboriginal Corporation, Launceston, Tasmania—Training Award
Elimatta Housing Aboriginal Corporation, Coonamble, New South Wales—Community Development Award
Ngunawal Aboriginal Corporation, Canberra—Employment Award
East Gippsland ACDEP Co-op Ltd, Bairnsdale, Victoria—Business Development Award
Barriekneal Housing and Community Ltd, Lightning Ridge, New South Wales—Business Development Award
Yarnteen Aboriginal and Torres Strait Islanders Corporation, Newcastle, New South Wales—Innovation Award
Kurrachee Co-operative Society Ltd, Coraki, New South Wales—Cultural Maintenance Award
Lombadina Aboriginal Corporation, Lombadina, Western Australia—Capacity Building Award
Glen Oliver, Tangentyere CDEP, Alice Springs—Individual Participant Award, Male
Rosemary Lennon, Bungala CDEP, Port Augusta—Individual Participant Award, Female
Wunan Regional Council, Kununurra, Western Australia—Regional Council Award for increased training opportunities; and
(c) recognises that unemployment is an inter-generational problem in most Indigenous communities and that CDEP projects play a key role in restoring pride in Indigenous communities and individuals as they see the tangible results and benefits of their work.

Senator Payne to move on the next day of sitting:

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the provisions of the Proceeds of Crime Bill 2002 and a related bill be extended to 10 April 2002.

Senator Greig to move on the next day of sitting:

That the Senate—

(a) notes the recent meeting of state attorneys-general and, in particular, notes the willingness by the state attorneys-general to transfer their powers to have property issues for de facto couples settled under federal jurisdiction in the Family Court; and

(b) calls on the Government in bringing forward legislation on this matter to ensure that:

(i) such federal legislation will in no way limit existing rights under state legislation,

(ii) any federal legislation recognises the disadvantages endured by de facto couples, and

(iii) an equitable legislative regime is proposed which eliminates any disadvantage or discrimination against all de facto couples whether they are of the same or opposite sex.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (4.30 p.m.)—I give notice that, on the next day of sitting, I shall move:

That any bill considered from 12.45 pm till not later than 2 pm on Thursday, 14 March 2002 and Thursday, 21 March 2002 shall not be considered in committee of the whole, unless, prior to the resolution of the question for the second reading, any senator has:

(a) circulated in the Senate a proposed amendment or request for amendment of the bill; or

(b) required in debate or by notification to the chair that the bill be considered in committee of the whole.

I seek leave to make a very short statement about the notice of motion I have just given.

Leave granted.

Senator IAN MACDONALD—This proposal, if carried, would allow the Senate to dispense with the Committee of the Whole stage on Thursday lunchtime bills except where any senator has circulated amendments or requests to a bill or where any senator declares that he or she wants a committee stage. We already dispense with the committee stage on the appropriation bills except where amendments or requests are circulated. This proposal has the additional safeguard of restoring the committee stage at the request of any senator, but overall it should lead to the smoother handling of non-controversial bills. It is a trial for this period of sittings only but, if senators are happy with its operation, it could become a regular feature of Thursday lunchtime debates.

COMMITTEES

Selection of Bills Committee

Report

Senator McGauran (Victoria) (4.33 p.m.)—At the request of Senator Calvert, I present the first report for 2002 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator McGauran—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 1 OF 2002

1. The committee met on Tuesday, 12 March 2002.

2. The committee resolved to recommend—

(a) That the provisions of the following bills be referred to a committee as follows:
(b) That the following bills not be referred to committees:

Australian Citizenship Legislation Amendment Bill 2002
Coal Industry Repeal (Validation of Proclamation) Bill 2002
Commonwealth Inscribed Stock Amendment Bill 2002
Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002
Disability Discrimination Amendment Bill 2002
Disability Services Amendment (Improved Quality Assurance) Bill 2002
Family and Community Services Legislation Amendment (Further Simplification of International Payments) Bill 2002
Financial Services Reform (Consequential Provisions) Bill 2002
Higher Education Legislation Amendment Bill (No. 1) 2002
Higher Education Legislation Amendment Bill (No. 2) 2002
Human Rights and Equal Opportunity Commission Amendment Bill 2002
Marriage Amendment Bill 2002
Migration Agents Registration Application Charge Amendment Bill 2002

The committee recommends accordingly.

3. The committee deferred consideration of the following bills:

**Bills deferred from meeting of 12 March 2002**

Space Activities Amendment Bill 2002
Trade Practices Amendment (Small Business Protection) Bill 2002
Workplace Relations Amendment (Fair Dismissal) Bill 2002
Workplace Relations Amendment (Fair Termination) Bill 2002
Workplace Relations Amendment (Genuine Bargaining) Bill 2002
Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002
Appendix 1
Proposal to refer a bill to a committee
Name of Bill: Airports Amendment Bill 2002
Reasons for referral/principal issues for consideration:
This Bill excludes airports other than core regulated airports and airports specified in the Regulations from ownership restrictions which currently apply under the Airports Act 1996 ("the Act"). These ownership restrictions play an Important role in preventing anti-competitive practices by airline operators and clear justification must be demonstrated for any relaxation of these restrictions. The Government cites its commitment to facilitate the Tesna consortium’s bid for Ansett as one of the two primary justifications for this legislative change and for the lack of consultation in relation thereto. Not only were the proposed amendments to the Act strictly unnecessary for the Tesna bid to proceed, that bid has now been abandoned. In these circumstances, justification for the proposed amendments must be reconsidered following an extensive consultation process.
Possible submission or evidence from:
Airport Lessee Companies
Aircraft Owners and Pilots Association of Australia
Airservices Australia
Civil Aviation Safety Authority
Air Safety Australia
Board of Airline Representatives of Australia Inc
General Aviation Professional Association Inc
Australian Ultralight Federation
Bankstown Airport Community and Environment Forum
Western Sydney Alliance
Australian Competition and Consumer Commission
National Competition Council
Productivity Commission
Committee to which bill is to be referred: Rural and Regional Affairs and Transport Legislation Committee
Possible hearing date(s):
Possible reporting date: As soon as practicable.
(signed) Vicki Bourne
Whip/Selection of Bills Committee member

Appendix 2
Proposal to refer a bill to a committee
Name of Bill:
Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002
Income Tax (Superannuation Payments Withholding Tax) Bill 2002
Reasons for referral/principal issues for consideration:
1. This bill imposes a new tax and therefore need to gain a better understanding of the purposes of the legislation.
2. To allow affected parties an opportunity to put their views to the committee.
Possible submission or evidence from:
Australian Taxation Office
Treasury
Department of Immigration and Multicultural and Indigenous Affairs
Australia/United States Chamber of Commerce
Committee to which bill is to be referred: Select Committee on Superannuation (if re-established)
Possible hearing date(s): Tuesday, 19 March 2002
Possible reporting date: Wednesday, 20 March 2002
(signed)
Whip/Selection of Bills Committee member
That the Senate—

(a) expresses its concern about reports that two Australians, amongst a party of ten members of Falun Gong arrested by police in Beijing on 8 March 2002, were beaten by the police; and

(b) calls on the Australian Government to obtain an explanation from China and to respond appropriately, to ensure Australians are not abused in similar circumstances in the future.

BUSINESS

Rearrangement

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (4.36 p.m.)—by leave—In relation to a government document tabled earlier today, I move:

That consideration of government documents not be proceeded with today, and that business continue till 7.20 p.m.

Question agreed to.

COMMITTEES

A Certain Maritime Incident Committee

Variation of Reference

Senator McGAURAN (Victoria) (4.37 p.m.)—by leave—I move:

That the resolution of the Senate of 13 February 2002 appointing the Select Committee on a Certain Maritime Incident be amended as follows:

After paragraph (1)(b), insert:

(c) operational procedures observed by the Royal Australian Navy and by relevant Commonwealth agencies to ensure the safety of asylum seekers on vessels entering or attempting to enter Australian waters.

Senator COOK (Western Australia) (4.38 p.m.)—by leave—I draw the attention of the chamber to the fact that I am the chairman of the Select Committee on a Certain Maritime Incident. The committee was advised, and extended all due courtesy, by Senator Mason at its private meeting yesterday that this change to the terms of reference was thought to be desirable. I indicate that, after consideration of the additional terms that have been outlined in this motion, the committee was unanimous in its view that it would support the changes in those terms.

It is worth mentioning that argument in support of changing the terms as proposed was made and, in the course of making that argument, a document, which was a letter from the Leader of the Opposition in the other place, Mr Simon Crean, to the Minister for Defence, Senator Hill, was tabled by government senators. This was a letter—and it is not appropriate for me to go into the details of it—in which the Leader of the Opposition forwarded to the defence minister a substantial body of documents from a former Foreign Affairs officer and now research officer at the Australian National University about allegations concerning the conduct of the Australian Navy with respect to refugees.

I do imagine that Senator Hill will respond in the appropriate manner to Mr Crean. I do not imagine that this matter, coming informally as it has to the committee, is in any way an answer to Mr Crean regarding the letter he has sent. However, the committee was of the view that the terms of reference probably embraced the scope that is now being sought but on balance thought that there was no reason why it should not be made explicit and, as a consequence, we were unanimous in supporting the motion.

It is, however, appropriate for me to mention at this point that the reporting date of the committee is, from my recollection, 16 May, and this extension to the terms of reference does impose more pressure on the committee. I mention it not because we are seeking, or have even considered seeking, an extension of time for the reporting date—we will certainly try to meet that date—but just to draw the chamber’s attention to the fact that it does place more pressure on the committee to complete its work timetable expeditiously. I also note that, in answer to a question from Senator Stott Despoja yesterday, the Minister for Defence, Senator Hill, said, in relation to the committee—and I quote:

... the government believes it is simply a political hatchet job connived between the Australian Democrats and the ALP to achieve a political outcome that they might as well state before the outset.

That seems to suggest that the government’s view of this committee is less than flattering. I now note that a government senator has
moved to change the committee’s terms of reference. The committee has accepted that proposal, and one hopes that the chamber follows suit by voting for it. If the chamber does, all senators who are members of the government will have the opportunity to vote for these terms of reference. I think it is fair to say that that is at odds with the sentiment expressed by the Minister for Defence about the committee. I make that observation because I think it is a pertinent one in terms of how the committee should be seen. The government certainly does recognise the committee and has worked seriously and—I put it in these terms—constructively in order to set up the inquiry. The attack made by Senator Hill yesterday should be seen perhaps as an aberration of that.

However, I do hope that this newfound constructive approach by those on the government side extends to the cabinet, who have apparently put a ban on some witnesses attending this inquiry, should they be invited. At this stage I have no official information before me as to the exact nature of the cabinet decision. There is apparently no cabinet press release setting out the details. We do have some press reports which claim to be authoritative and which do quote spokesmen for the government, but there is nothing official on the record. One hopes that this newfound approach by the government in constructively seeking to amend this committee’s terms of reference does extend as well to Monday evening’s apparent announcement about witnesses being able to attend any hearings of this committee.

Having made those remarks, I have no difficulty at all in supporting Senator Brett Mason’s motion which has been moved by Senator McGauran, and I commend it to the Senate.

Question agreed to.

NOTICES
Postponement

Items of business were postponed as follows:

General business notice of motion no. 14 standing in the name of Senator Harris for today, relating to the establishment of a select committee on the Lindeberg grievance, postponed till 19 March 2002.

General business notice of motion no. 1 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to a request to the Inspector-General of Intelligence and Security to investigate certain actions in relation to the MV Tampa, postponed till 19 March 2002.

General business notice of motion no. 24 standing in the name of Senator Bourne for today, relating to measures to resolve tensions between India and Pakistan, postponed till 19 March 2002.

General business notice of motion no. 31 standing in the name of Senator Allison for today, proposing an order for the production of documents by the Minister for Defence (Senator Hill), postponed till 14 March 2002.

General business notice of motion no. 2 standing in the name of Senator Allison for today, relating to the establishment of a select committee on superannuation, postponed till 14 March 2002.

General business notice of motion no. 32 standing in the name of Senator Carr for today, proposing an order for the production of documents by the Minister for Health and Ageing (Senator Patterson), postponed till 14 March 2002.

LEAVE OF ABSENCE

Senator MACKAY (Tasmania) (4.44 p.m.)—by leave—I move:

That leave of absence be granted to Senator Gibbs for the period 14 March 2002 to 21 March 2002, on account of parliamentary business overseas.

Question agreed to.

MINISTERS OF STATE (POST-RETIREMENT EMPLOYMENT RESTRICTIONS) BILL 2002

First Reading

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (4.45 p.m.)—I move:

That the following bill be introduced: A Bill for an Act to regulate certain post-retirement employment of Ministers of State, and for related purposes.

Question agreed to.
Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (4.45 p.m.)—I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (4.46 p.m.)—I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—

This Bill deals with the ongoing furore surrounding post-ministerial employment. Revelations that senior Government ministers who retired at the last election took up lucrative consultancies in areas related to their ministerial responsibilities have prompted a public outcry. The Government stands by its policy of failing to restore public confidence in the integrity of ministerial office holders.

It is the Government’s failure to act on this issue that has motivated this Private Senator’s Bill. The Government should introduce its own legislation to address matters relating to the conduct of its own ministers. That has not occurred. This Bill sets out standards that the Government should have implemented some time ago to bring Australia into line with the standards that apply in democracies throughout the world.

Former Minister for Defence, Peter Reith, walked straight into a consultancy for Tenix Defence Systems after leaving Parliament. The Minister was privy to top secret information about the needs, capabilities and weaknesses of the Commonwealth. Australia’s national security is at risk when a recently retired Minister for Defence sells his services to a private firm in the defence industry.

Resolving conflicts of interest is an ongoing requirement. It is not an issue that only applies when the office is held. Ministers are given privileged information to allow them to discharge their duties as servants of the people, not to enable them to pursue private contracts for personal financial gain.

In a similar vein, former Minister for Finance, John Fahey, has taken a position with investment bank JP Morgan. Former Minister Wooldridge has taken a position as a part-time consultant to the Royal Australian College of General Practitioners.

The community is rightly concerned about the role these former ministers will play in these organisations. Will they be used to facilitate preferential treatment or privileged access to Government? Their use as advisers or lobbyists can only reduce public confidence in the independence and impartiality of the decision-making processes of government.

This behaviour is not tolerated in other democracies and should not be tolerated here. In the United States of America, former officers and employees of the executive branch are subject to a range of restrictions.

They face a 2 year restriction on lobbying in their former area of responsibility. Failure to comply with this restriction carries a maximum five-year jail term.

The Canadian Conflict of Interest and Post-Employment Code for Public Office Holders (1994) sets out detailed restrictions on ministers and other public office holders both before and after leaving office.

The UK Ministerial Code requires Ministers to seek advice from the independent Advisory Committee on Business Appointment about any appointments they may wish to accept within two years of ceasing to be a Minister.

The Democrats’ Bill draws on these international precedents, but also takes into account the expectations of the Australian community and the past conduct of Australian ministers.

The Bill applies to ministers and senior ministerial advisers. It has three objectives:

Firstly, to ensure that Ministers and ministerial advisers shall not act after they leave office in such a manner as to take improper advantage of their previous office.

Secondly, to enhance public confidence in the integrity of ministerial office holders and the independence of the decision-making processes of government by establishing clear rules of conduct regarding the post-employment practices of Ministers and ministerial advisers.

Thirdly, to eliminate the possibility of preferential treatment or privileged access to government being obtained from or through Ministers and ministerial advisers after they have left office.

In pursuit of these objectives, the Bill places restrictions on Ministers and ministerial advisers both before and after leaving office.

Prior to retirement, section 5 of the Bill prevents Ministers and ministerial advisers from allowing
themselves to be influenced in the conduct of their official duties and responsibilities by plans for or offers of employment or other remuneration for when they leave office.

This would prevent a Minister from allocating funds to, or making decisions in favour of, a particular organisation prior to leaving office with a view to securing employment with that organisation. We have seen recently that the mere suspicion of such activity is damaging to public confidence in the integrity of ministerial office holders. There has been intense scrutiny of the decision by Dr Wooldridge to grant $5 million of public funds to the Royal Australian College of General Practitioners prior to stepping down as Minister.

If this Bill were enacted, Ministers and their advisers would know that they would face the full sanctions of the criminal law if they allowed themselves to be influenced in their duties by the prospect of future employment. Favouritism from a Minister in return for post-ministerial employment is nothing short of corruption. This Bill would substantially lessen the potential for such largesse by impressing upon Ministers and their advisers how seriously such conduct is taken by the community.

In addition to these pre-retirement restrictions, there is a range of post-retirement restrictions. The Bill provides for a two-year cooling-off period after ministers and their advisers cease to hold office. During this time, they are prohibited from engaging in three broad classes of activity.

Firstly, they must not provide advice for profit or commercial advantage on the work of their former department and its agencies.

Secondly, they must not accept employment or enter in consultancy agreements with any entity with which the department had significant dealings in the previous two years.

Thirdly, they must not make representations for profit to the relevant department and its agencies on behalf of any person.

There are a number of important exceptions which allow former ministers and their advisers to work for a range of organisations. They can work for charitable organisations, the Commonwealth, political parties and, with the approval of the Minister for Foreign Affairs, international organisations and foreign governments.

The restrictions in this Bill are carefully measured to strike the right balance between allowing former ministers and their advisers to make an ongoing contribution to public life while not acting improperly in terms of their position of privilege.

Failure to comply with these restrictions will constitute an offence punishable by two years imprisonment or a fine not exceeding $250 000. These penalties are a reflection of the very serious nature of this issue and are within the scope of international precedent. It is perfectly appropriate that the integrity of our political system be defended by the full force of the law.

This Bill is a necessary response to a matter of great community concern. It draws on credible international precedents. Over time, the recent scandals may fade from public view but if the underlying structural problems remain unaddressed, the same problems will arise again and again. On behalf of the Australian Democrats, we commend this Bill to the Senate and urge the Government to support it to finally force its Ministers to observe proper standards in relation to post-ministerial employment.

Senator STOTT DESPOJA—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

HUMAN RIGHTS: TIBET

Senator BOURNE (New South Wales)

(4.46 p.m.)—I move:

That the Senate—

(a) recalls its resolutions on Tibet passed on 6 December 1990 and 18 September 1996;

(b) notes:

(i) continued repression of religious freedom in Tibet and persecution of Tibetan nuns and monks,

(ii) ongoing reports of human rights abuses against the Tibetan people by the People’s Republic of China, and

(iii) the impact of education, economic and migration policies in the Tibetan Autonomous Region on Tibetan language and culture;

(c) further notes:

(i) the Dalai Lama’s important role as one of the world’s most eminent and respected spiritual leaders,

(ii) the Dalai Lama’s affirmation of a commitment to non-violence and negotiation to solve conflict, as exemplified in His Holiness’ receipt of the Nobel Peace Prize in 1989, and

(iii) the Dalai Lama’s successful visit to Australia in 1996 and the ongoing interest of many Australians in his teachings; and
(d) requests the President of the Senate, in her capacity as a Presiding Officer of the Joint House Department, to take the necessary action to allow the Dalai Lama to give a televised address in the Great Hall.

Question agreed to.

FORMER PARLIAMENTARIANS: BUSINESS APPOINTMENTS

Senator BROWN (Tasmania) (4.47 p.m.)—I ask that general business notice of motion No. 30 standing in my name for today that relates to business appointments of ministers after leaving office be taken as a formal motion.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Is there any objection to this motion being taken as formal?

Senator Mackay—Yes. I need to indicate that the leader of the opposition, Senator Faulkner, wishes to be in the chamber for this debate. I draw your attention to the state of the chamber.

The ACTING DEPUTY PRESIDENT—There is no debate. If you have objected to it being formal, I declare that it is not formal. Leave has not been granted, unfortunately, Senator Brown, to declare your motion formal.

Suspension of Standing Orders

Senator BROWN (Tasmania) (4.48 p.m.)—Pursuant to contingent notice, I move:

That so much of the standing orders be suspended as would prevent Senator Brown moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion No. 30.

The motion I have put before the Senate is that the Senate notes the ministerial code in the United Kingdom. This includes a system that deals with the acceptance of appointments by a minister after leaving office. It calls on the government, firstly, to implement an advisory committee on business appointments, like that in the United Kingdom, from which a minister would be required to seek advice before accepting business appointments within five years from the date after which he or she ceased to be a minister. Secondly, it would ban any minister from taking an appointment that is directly related to his or her portfolio for five years from the date of resignation.

Senator Boswell—What about if it is a doctor? Would a doctor be able to go back into practice?

Senator BROWN—Yes, the doctor would be able to practice in his or her own right. This is a business appointment. It would not allow a doctor, who had been a minister, to work as a consultant with a drug company or a medical lobbying organisation. This debate brings us to the recent taking up of business opportunities by the former Minister for Health, Dr Wooldridge, and also the former Minister for Defence, Mr Reith.

This is a problem because the reach of the corporate sector and the ability of the corporate sector to lobby in parliament is way out of kilter with the ability of the rest of the populace in being able to have their cases heard. This is compounded when ministers, who have been subject to a lobby during their period of office, subsequently are tempted to take up a monetary return for a business arrangement with the very lobbyists who have been in their office. It leads, frankly, to the ability for corruption because a minister can say, ‘Wink, wink, if I get a job with you after I leave office, I will do this for you now.’

Secondly, it leads to the position where a minister can resign and become a lobbyist for a group and lobby his or her colleagues who remain in office. That undoubtedly gives them an entrée and an influence, which is quite untoward, as a lobbyist. Effectively, in both these cases, the person who has been the minister is using the office of minister to get monetary reward. We need to prevent that from occurring and we certainly need to prevent it from being extended. In the United Kingdom, amongst other things in the ministerial code, the system has established an advisory committee on business appointments. Ex-ministers are expected to go to that advisory committee when they take up postministerial business appointments to see if it is consistent with the ministerial code, which is meant to prevent ministers being in the compromising position of using their
contacts to the advantage of a sectional interest in the community.

On the information I have, on at least 34 occasions in recent years the advisory board in the United Kingdom has either told an ex-minister not to take an appointment or has advised them to change the terms of that appointment. In both the US and the United Kingdom, ministers are expected not to take such appointments at all within one or two years of their resignation. The Greens do not believe that that is long enough. That is why there is a five-year stricture involved in this motion. It is an extremely well thought out motion. It is based on overseas practice, but extends it and makes it better. I commend it to the Senate.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (4.53 p.m.)—Senator Brown tries to make a case for urgency in relation to the issue of postministerial career appointments and I think he does make a case. This is an urgent matter. The issue for the Senate this afternoon is to determine whether it is more urgent than the pressing legislation program that we have before us, particularly when, as Senator Brown would be the first to acknowledge, this can be done at the drop of a hat by the Prime Minister. This is within the gift of the Prime Minister.

Senator Brown—I would advise you not to hold your breath, Senator Faulkner.

Senator Faulkner—Thank you, Senator Brown. You are always good for medical advice. The truth is Australia has fallen behind the rest of the world when it comes to regulating the behaviour of former ministers. There is no doubt about that and the situation has become worse recently. We have had the very prominent cases of former Minister Reith’s post-ministerial career and the former health minister, Dr Wooldridge’s post-ministerial career. The less said about those careers in terms of appropriate behaviour the better because, frankly, any reasonable person would have to be absolutely dissatisfied with what we have seen—Minister Reith taking employment as a consultant to a very prominent company in the defence area and, of course, the disgraceful ministerial behaviour of Dr Wooldridge in the $5 million grant to the Royal Australian College of General Practitioners, which has been the subject of controversy and scandal in recent days.

If you look at international experience, you can see under chapter 11 of the US Criminal Code that employees of the executive branch are banned from any attempt to lobby government for two years after they leave their job, with a penalty of up to two years in jail. In Britain, former ministers face a two-year ban on taking up employment related to their past roles. They have an independent body, the Advisory Committee on Business Appointments, examining appointments. It sounds like a tough regime in those countries; it is not a particularly tough regime. What Simon Crean has proposed on behalf of the Labor Party—a 12-month period after ceasing to be a minister where a minister cannot take employment with or act as an adviser to or be a consultant to any company or business interest with which they have had official dealings as minister in their past 12 months in office—is, we believe, the way to go. We, of course, announced this before Dr Wooldridge’s latest shenanigans were exposed to the public. We think that ministers should be required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a minister where that information is not generally available to the public. That is a very important principle.

Senator Brown is right to say that this is a matter of urgency. I think he is wrong to say that this matter should take priority over these other pressing issues before the chamber, but it needs to be dealt with. All I say is that it should not be dealt with now by the Senate because at the end of the day the responsibility falls on the Prime Minister and on the executive government to do something about this, particularly in the light of the behaviour of former ministers Reith and Wooldridge. Former Minister Fahey is probably in a different category, but Reith and Wooldridge have behaved disgracefully.

Senator Robert Ray—They have behaved disgracefully.
Senator FAULKNER—that is true, Senator Ray. (Time expired)

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (4.58 p.m.)—The Australian Democrats would have been quite happy for this vote to proceed today. We acknowledge what Senator Brown is hoping to achieve through his motion. However, we do not agree with the notion of a five-year cooling-off period. On behalf of the Australian Democrats, I have just introduced a private senators bill, the Ministers of State (Post-Retirement Employment Restrictions) Bill 2002, in the name of Senator Murray and in my name, which seeks to legislate for an enforceable, two-year cooling-off period. We have heard in the recent remarks of Senator Faulkner the policy position of the Labor Party and I acknowledge it is a 12-month cooling-off period. I seek clarification as to whether or not that is a legislative requirement; that is, is it enforceable? Is it not simply a code of conduct that has been proposed by the opposition? Senator Brown talks about five years. We do not believe that is a particularly reasonable scenario. We say that because you have heard of international precedents that have been referred to in the Senate this afternoon.

Senator Faulkner interjecting—

Senator STOTT DESPOJA—Thank you, Senator Faulkner. The Democrats have put forward a private senator’s bill that is based on international precedents, including the UK, Canada and the United States. We have heard very little if nothing at all from the government. I am still waiting to hear strong, rational reasons from the Prime Minister and the coalition as to why there should not be an enforceable cooling-off period for former ministers and also former senior ministerial advisers before they can take up work—that is, a consulting or lobbying position—in an area for which they were directly and previously responsible.

There are a couple of issues at stake here, some of which have been recognised already, related to accountability. The recent examples, to which people have referred, have raised serious ethical questions not just among members of parliament but particularly among the public. As legislators, I think we have to work particularly hard to reinstall the faith of the public and the community in politicians and in our political institutions. Recent examples do very little to ensure that. There is an issue in relation to accountability, ethics and public confidence.

Senator Murray—And urgency.

Senator STOTT DESPOJA—And urgency. I guess that goes to the heart of the debate, Senator Murray, you are right. We have heard very little from this government as to why we should not meet the standards set in other industrialised countries. There has been no rational argument come forth from the Prime Minister except that he believes that people should have the right to go out and pursue a career in the private sector, make money and utilise the skills that we apparently acquire through public office and in our service as politicians.

No-one is saying that former ministers cannot go out and be involved in lobbying or consultancy and utilise those very general, maybe even specific, skills that they pick up as a consequence of being a minister or member of parliament, but they cannot exercise those skills in that particular area for which they were previously responsible. We know all too well in this place that ministers and, indeed, increasingly, senior ministerial advisers do have access to secretive and sensitive information. They do have information that the rest of us, and certainly the public, are not privy to. I think we have to recognise that they are charged with a particular responsibility and we should expect nothing less than the highest standards of accountability from these men and women.

I think the time has come for the cooling-off period and the accountability provisions—certainly the ones that the Democrats have suggested. The community recognises that fact. Increasingly, politicians in the parliament recognise that fact. Once again, the Democrats, with a keen interest in accountability, have decided to act on this issue and put forward what we believe is a moderate proposal which relates to the postretirement employment opportunities of ministers and senior ministerial advisers. There are some notable exemptions. I commend this bill to
members of the Senate for reading. If people have better ideas on this—and certainly Senator Brown has put forward his idea; the Democrats disagree that the opposition’s proposal is the way to go—they can raise them. At least we are starting this debate. It is now time for some action from the government. We are quite happy to proceed with the motion before us, but even better we have a private senator’s bill on the Notice Paper with which we could proceed now.

(Time expired)

Senator ROBERT RAY (Victoria) (5.03 p.m.)—I was pleased to hear the Democrats view because it was only a few years ago that I had to deal with a problem of a Democrat senator knocking a hole through their electorate office wall into their business so that the person would not have to go around the corner to go from one to other. That was really enterprising, as I recall.

Senator Murray—That puts the lie to the idea that Democrats are not in business.

Senator ROBERT RAY—That is right; exactly. I did say the other day in the context of this sort of debate that no-one wants to discourage former parliamentarians going out into a new career. Often I have described this place as the most expensive tertiary institution in the country—it basically is. People learn and pick up a whole range of skills here that make them in some way marketable out there in the work force. The obverse side of that is, of course, that many of our ex-parliamentarians make shortlists and because they were once politicians they get scrubbed so no-one will get offended. It should be understood that it does work both ways.

This is not an argument about whether people should be able to go into another career. It is not even an argument about whether they can go into a career that is aligned with their expertise. It is simply the waiting period before going into a speciality. It is very tough to be a minister for defence and then within two months represent the largest defence contractor in this country. We say that that is just a little too tightly aligned. Even if you tried to put up Chinese walls in your own mind, it is very hard to forget the knowledge you have picked up in the previous few months in the portfolio. Whether the period should be when you start to forget—12 months or two years et cetera—depends on the individual. In most cases, if people behave ethically, one to two years is usually a good clearing time.

We have also had serious doubts about how ethical it is to take a job with an organisation having promised them $5 million a week before the election was called. People say that that decision was made for a range of reasons. We are not alleging it was made to get the person a job. But having made that decision to help that organisation you should not, as ex-minister for health, go along and become a lobbyist or adviser to that particular body. It is a matter of how tightly constrained it is.

Senator Brown wants to move a motion today to make it a five-year period. I think that is a little too long. I would prefer the Prime Minister to set standards on this matter and have them enforced. There are ways of enforcing them. If a defence minister immediately went and worked for a contractor, the government could say that it will not do business with that contractor until the 12 months is up. If you legislate for this, then you put the matter in the hands of courts and we will get all sorts of interpretations that probably none of us would want and that probably would be a great waste of taxpayers’ money. I think in the end that this is a standard much better set by the Prime Minister. There are oodles of examples in every political party, including the Democrats, where people have left this place and gone into another career. We have to precisely define what we mean. We have to define it in advance. You cannot have this suddenly now apply to two or three colleagues who have left this place and got jobs. What they have done is obey the rules as they currently exist. I think that once a bit of the aggro goes out of this, once a bit of the politicisation goes out of this issue, the Prime Minister should have a rethink and start to develop principles that he can announce at a later time when it is not a matter of political controversy—mid-term or somewhere like that. Let us face it—we do not want the only alternative for ex-politicians to be that you have to take a diplomatic post. I always be-
lieve it is good to have two or three politicians in diplomatic posts. They often do the job very well. There have been very few failures over the years. It also keeps the Department of Foreign Affairs and Trade on its toes. But I think we are at the absolute maximum at the moment—we would need a politician to retire before we could appoint another one.

Senator Faulkner—That is very unfair to Senator Herron.

Senator ROBERT RAY—No. Obviously, if the Ambassador to Ireland and the Holy Sea retires we would have an appropriate gap for Senator Herron. Again, that would be a waste of his ability if he took up that post. Nevertheless, he may well do so—good luck. I do not criticise that but I do not want that as the only alternative: to leave this place and vegetate, to leave this place with a government patronage job—that should not be the only alternative. This can be very simply dealt with by defining how closely aligned a postparliamentary career is with your previous job.

Senator IAN MACDONALD (Queensland)—Minister for Forestry and Conservation) (5.08 p.m.)—The motion before us is to suspend standing orders to determine the urgency of this particular motion. As all other speakers have said, I think, the urgency has not been demonstrated and the government has many other pressing bills that need to be dealt with today, not the least of which is the RFA Bill—which we are desperately trying to get to a vote. Neither the parliament nor successive governments have imposed constraints on former ministers as to what their employment should be after taking up office. It has been left to the judgement of individuals.

There is no reason to think that former ministers from either side of politics have abused the public trust by taking unfair advantage of their past positions. There is no evidence of an individual taking advantage of their past positions. There is also no reason to doubt that former ministers would act with the utmost propriety. The government does not consider that it is reasonable for former ministers to be subject to a five-year prohibition on employment opportunities; although, there seems to be a split in the Labor camp between Senator Ray and Senator Faulkner on Labor’s position. Senator Faulkner indicated that Mr Crean had a view. I suspect that, without legislating or moving motions here, the Labor Party will have very good opportunities to put this principle into effect. Senator Faulkner, regrettably you hold government in every state in Australia—all Labor governments—so you and Mr Crean will be able to ensure that retiring Labor ministers do as he suggests we should do federally. That will be a good test of the Labor Party’s position on this matter. The government opposes the motion to suspend standing orders.

Senator LUDWIG (Queensland) (5.10 p.m.)—Let me bring us up to date with where we are in the debate. Senator Brown is seeking the suspension of standing orders and to do so he has to justify the urgency of the motion before us. We should not travel too far into the merits of the case other than using collateral matters to explain why the motion requires urgency. However, as Senator Faulkner and Senator Ray outlined—and even Senator Macdonald towards the middle part, but he got a little clouded—there are a number of other important matters that exceed this matter.

As Manager of Opposition Business, I remind the Senate that the RFA bill is the first bill before us and that we are still dealing with it. We must allow sufficient time for it to proceed. It is an important bill and it does need to be dealt with. Minister Macdonald, having carriage of that bill, can certainly attest to that. In fact, the minister can also assist in that process by ensuring that during the committee stage his comments are kept to a minimum—that is, to only respond to questions from Senator Brown and the like. I implore all of those involved in the committee stage of the RFA bill to acknowledge that there is a time and a place to put the issues, and to deal with them expeditiously rather than with longwinded explanations that may be a political solution, but we
are talking about the committee stage in relation to more technical aspects of the bill. If all parties confine themselves to that we may be able to get through the RFA bill and onto the other parts of the legislative program so we can go home in the autumn sitting at some point.

Senator Brown, I note that your motion is urgent, but it is not as urgent as my interest in ensuring that the RFA bill is dealt with and that we also get on to the remainder of the legislative program. I also say with some degree of confidence that we can rise to Senator Macdonald’s challenge. It is what we would expect. Senator Macdonald has gone to that in saying that he will implore the Prime Minister to be the first to look at the utilisation of a code. From the suggestions he has put out about Labor ministers, I take it the Prime Minister would be the first. You would expect the Commonwealth to be the first to deal with a ministerial code. You would expect that the code would be championed by the Prime Minister. It is a little disappointing that he has not come out in answer to the criticisms that have been levelled at Dr Wooldridge and Mr Reith and said, ‘This is the new ministerial code of conduct that I would have as Prime Minister of this country.’ Instead, we have the defence given by Senator Macdonald that the states should be the first to do it. I know the Attorney-General sometimes uses that argument but I would have thought the Prime Minister should be the first to put it forward.

In addition, we have a difference between Senator Brown and the Democrats in terms of how they would progress the matter. The Democrats appear to seek a legislative solution and Senator Brown seeks a ministerial code by the size of it similar to the UK model. The Labor Party, as Senator Faulkner has set out, has a better solution than has been put forward and it should be adopted. From here we should be able, rather than debate these collateral matters—there is no urgency sufficient to justify this matter being dealt with now—to get on with the business of the Senate.

Question negatived.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee
Reference

Senator HOGG (Queensland) (5.16 p.m.)—I move:

(1) That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 2 December 2002:

Whether the current materiel acquisition and management framework of the Department of Defence is effective in meeting the organisation’s equipment requirements.

(2) In considering this matter, the committee is to examine and report on the following issues:

(a) whether the current materiel acquisition and through-life support system is meeting, and will continue to meet, the needs of Defence and Defence industries in a timely, cost-effective and qualitative manner;

(b) the impact of the Defence Materiel Organisation acquisition reform program on materiel acquisition and management;

(c) the current status of major equipment projects in meeting the organisation’s requirements;

(d) the impact of the creation of decentralised System Program Offices on materiel acquisition and management; and

(f) any other issues relevant to the effectiveness of the current acquisitions framework which arise in the course of the inquiry.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee
Reference

Senator HOGG (Queensland) (5.16 p.m.)—I move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 2 December 2002:
Australia’s relationship with Papua New Guinea and the island states of the south-west Pacific (known as Oceania or the South Pacific), with particular reference to:

(a) the current state of political relations between regional states and Australia and New Zealand;

(b) economic relations, including trade, tourism and investment;

(c) development cooperation relationships with the various states of the region, including the future direction of the overall development cooperation program; and

(d) the implications for Australia of political, economic and security developments in the region.

Question agreed to.

PARLIAMENTARIANS’ ENTITLEMENTS

Senator MURRAY (Western Australia) (5.17 p.m.)—I ask that general business notice of motion No. 7 standing in my name for today relating to the restriction of certain parliamentary entitlements for retiring members of parliament be taken as a formal motion.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Is there any objection to this motion being taken as formal?

Senator Ian Macdonald—Yes.

The ACTING DEPUTY PRESIDENT—There is an objection.

Suspension of Standing Orders

Senator MURRAY (Western Australia) (5.17 p.m.)—Pursuant to contingent notice, and at the request of Senator Stott Despoja, I move:

That so much of the standing orders be suspended as would prevent Senator Stott Despoja moving a motion relating to the conduct of the business of this Senate, namely a motion to give precedence to general business notice of motion no. 7.

In support of my motion I would indicate two factors to begin with. Firstly, notice of this motion was given practically four weeks ago. Secondly, I followed the courtesy of writing to the Leader of Government Business, the Leader of the Opposition in the Senate and every party or independent member in the place. I was seeking to get a view as to whether they supported or opposed my motion. In the normal course of events I would have also been willing to consider any reasonable amendments that might have been put to me.

I have had no response from anyone. I appreciate everyone is very busy and I do not necessarily take offence when there is no response. But I would at least expect in these circumstances, if there were opposition to it, I would have been advised and advised why, and a vote against would simply have been recorded. Just to remind senators who might not have it before them, the motion concerned reads as follows:

That the Senate calls on the Government:

(a) to cancel the present retirement travel entitlements, including Life Gold Pass and severance travel entitlements, for all senators and members of the House of Representatives retiring after the commencement of the 40th Parliament, and their spouses;

(b) to give consideration to restricting, rationalising and eventually phasing-out these entitlements presently applying to senators and members of the House of Representatives who retired prior to the 40th Parliament, and their spouses; and

(c) to note that this motion does not apply to the office of Prime Minister.

It is a view of the Democrats and it is a view of very many in the community that the kinds of travel entitlements to which previous senators and members are entitled are an an excessive perk. Recognising that, the Prime Minister did indeed, following the publication of Audit report No 5, 2001-02: Performance audit:Parliamentarians’ entitlements 1999-2000, move to restrict somewhat the entitlements that existed at that time recognising there was public dismay and anger about these matters. It is anachronism and it is inappropriate.

For those senators who have not read the relevant report, you will find some good sections outlining them—sections 167 onwards, for instance. But the fact is they cost nearly $2 million a year and are regarded as an excessive gift to people, given what is a satisfactory salary and an extremely gener-
ous superannuation condition. My party and I can see no justification for them whatsoever, unless of course you enjoy the reputation of having your snouts in the trough, which I do not.

Senator Boswell—Don’t take it.

Senator MURRAY—I take the interjection from Senator Boswell and I presume he approves of the spouse of a former member of parliament who travelled over 70 times in one year on the back of the Commonwealth purse. I presume he approves of that person, that spouse.

Senator Abetz—For many charitable purposes, Andrew. Be fair.

Senator MURRAY—It was not a charitable instance in this case, Senator Abetz. It was in the pre-1977 era. Now, really, when I get that sort of interjection from you, Senator Boswell, I am extremely disappointed because if you like that sort of attitude then go out and justify it to the voters of Queensland, who have assumed that you have the reputation and quality to actually advocate the proper use of entitlements by former members and senators. (Time expired)

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (5.23 p.m.)—This is another motion to suspend the standing orders so that this matter can be dealt with now. We have just had a debate on a motion about similar issues when Senator Murray’s leader agreed that that was not a matter of urgency. We have had speeches from a number of senators also saying that that previous matter was not a matter of urgency. We have had speeches from a number of senators also saying that that previous matter was not a matter of urgency and I suggest, with respect to Senator Murray, that this matter is not a matter of urgency either. We have a senator about to make his maiden speech. There is a matter of public importance that is listed for debate this afternoon which we have not yet started on. We have the Regional Forest Agreements Bill 2002 that we are desperately trying to bring to a vote and a conclusion. Further debate on these issues, important though they may be in the mind of Senator Murray, really should not proceed at this time. Those of us who have wanted to have had a little discussion on the matter put up by Senator Brown on entitlements of parliamentarians. I think we have all been able to make our points known on that and I would urge the Senate to reject this motion forthwith so that we can move on to the business of the Senate that has been scheduled.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.24 p.m.)—I thank Senator Murray for his courtesy in providing the opposition with a copy of the motion he has put before the chamber, which of course he has done. It is true to say—and I thank him for it—that he has given adequate time for parties in the chamber to give consideration to a response, whether they will vote for this motion or against it.

The truth of the matter is—and I do not think Senator Murray is going to be surprised to hear this—I do not want to vote for it and I do not want to vote against it. It is not that simple. And this is one of the problems with the procedure that we have in the Senate. If you have very substantial changes to a question then the blunt instrument of a notice of motion where the Senate either agrees with it in its entirety or is forced to vote against it often does not suit political parties, often does not suit senators in the chamber. And if you have got very substantial amendments to make which change in many ways the thrust of what a senator like Senator Murray is trying to achieve—in other words, your amendments are not minor amendments, they are major amendments—then that becomes an unacceptable way of dealing with issues. I have got to say and be frank about this, Senator Murray, it was the opposition who called this motion, your motion, not formal. We did so because we have a long-standing view that the fundamentals of what you are proposing, namely your calling on the government to take certain action in this area, is contrary to what we believe is the best way of proceeding with these sorts of issues.

We have argued long and hard, and it has generally been accepted both inside the parliament and outside the parliament that it is better having governments or the parliament not dealing with these sorts of issues. It is actually better getting these to an independ-
ent body like the Remuneration Tribunal, whether it be about increasing or improving the entitlements of politicians or whether it be about reducing them, as is the case in relation to this which goes to reducing the entitlements of former parliamentarians. That is what it is about. But it is still best dealt with not by the government or, frankly, by the Senate or the parliament. In our view it is best dealt with by the Remuneration tribunal.

I do want to say this, and I know that Senator Murray supports this principle. One good thing that has occurred now is that we do have transparency in relation to the way these entitlements are being used or abused. These matters are now tabled so we know. My view—I think Senator Murray at times has agreed with this but I do not want to put words in his mouth—is that that level of transparency leads to far greater accountability. That sort of scrutiny that is able to be applied both within this building and outside really does constrain the use of these sorts of entitlements, and it ought to be encouraged.

Senator Murray—Transparency came as a result of this side of the house.

Senator FAULKNER—Including the opposition; I accept that. I hope you accept the principle I am putting in relation to transparency leading to accountability in this regard. I have got to say this. I am not suggesting this is the case in relation to this motion. Sometimes senators—and the Australian Democrats have even been guilty of this—put up motions knowing full well they cannot get up in this floor. That is why an alternative government—you would hope a government but certainly an alternative government—has to be able to live with a proposal, not be hypocritical about it, be consistent about it and adopt a position that you are willing to accept in government. We say: don’t shoot this off to the government. They couldn’t manage it anyway. They have been shown to be utterly incompetent in these sorts of issues. Get it off to an independent tribunal to make these decisions. That is not even going to the substance of the motion but to the principle behind it, which we have major concerns with. For that reason we will not grant urgency, but are always happy to debate the issues out.

Senator ROBERT RAY (Victoria) (5.30 p.m.)—I am getting a bit nostalgic about the Democrats today. I can remember, back in 1987, during the federal election, all the MPs were assembled at Customs House when the window cleaners’ equipment broke and there were three of them dangling there for their lives, hanging on the side of the building. The TV cameras from all four channels all rushed in. What did the Democrats do? They got a sign that said ‘Vote Democrat’ and every time there was a camera they ran around and put that sign in front of it. I thought that was the greatest act of political opportunism I had ever seen. Congratulations, Senator Murray, you have topped it today with this resolution.

The whole point about this sort of travel is that, if it is being abused, we crack down on the abuse. The first change brought in was that there were only 25 trips a year as opposed to unlimited trips. Prior to that, we changed the definition. Why did we change the definition? Because one of your former leaders was using this particular emolument to go on a speaker’s tour and the cost of his airfares was going in his pocket. I would get very nasty about that, except one person from the Labor Party and one person from the Liberal Party were doing it at the same time, so it is mutually assured destruction to go down that path.

This was an entitlement granted by the Remuneration Tribunal. It is regarded as an overall part of the package. You want to get some brownie points by removing part of it. It will not be replaced by anything—at least not in a historical sense—and you will get praise in the press for a day until they turn on you on some other issue. Enjoy the brownie points, but I do not see why MPs, under public pressure, should have to give up all their entitlements piece by piece. Frankly, my constituents would like me to walk to Canberra. They would like me to pay for my own meal on the way—fair enough. They do not like me very much, or you; they don’t. It is not because of this particular entitlement; it is because it has been institutionalised in this country to dislike MPs. It makes them feel better—good!—but we have a duty not to give in to that sort of mob approach. This
is just one aspect of it; it is not a very im-
portant one. I would not mind having to ac-
count for how often I have used entitlements
for my spouse. It would be lucky if it was
one Canberra trip a year in 21 years, whereas
some people have used 200 in that time.

Senator Murray—You are a current
member; that is fair enough.

Senator ROBERT RAY—I am a current
member. I am also a gold pass holder. I admit
that right now; it is unlimited. I have been a
gold pass holder for five, six, seven or eight
years.

Senator Murray—You are current.

Senator ROBERT RAY—I am saying I
have not used entitlements I could have used.
I have never tried to maximise them at any
level. I have not used my charter allow-
ance—not one cent of it—in the last 15
years.

Senator Allison—You should get out in
the bush more.

Senator ROBERT RAY—Senator Alli-
son, if you want to get to abuse of entitle-
ments, everyone knows where the Democrats
in Victoria are run from. They are run from
your office, and you know it.

Honourable senators interjecting—

Senator ROBERT RAY—Oh, really? No
paper from your office has ever been used
for the Democrat party? No photocopying
cartridges, identically? Rubbish. You have
some good liars on board. You may be right,
but then there are few people who have been
telling fibs to me about the operation of the
Democrats in Victoria.

In the end, if this resolution is carried it
will go to the government and the govern-
ment will say, ‘This is a matter for the Re-
muneration Tribunal.’ Nothing will happen
with it; absolutely nothing. Senator Faulkner
is right: we should not set our own entitle-
ments. That is absolutely right. The Remu-
neration Tribunal should set them.

Senator Faulkner—Increase or reduce.

Senator ROBERT RAY—We should not
increase or reduce them, as Senator Faulkner
says. Leave it to an independent body to de-
terminate them, and then at least we would be
isolated from some criticism in relation to
this. Today it will be the gold pass, tomorrow
it will be some other issue, and then, Senator
Murray, you will find yourself under a whole
heap of pressure to give up something you
may not want to give up. I do not think that
is a very rational way of approaching things.

Senator BROWN (Tasmania) (5.34
p.m.)—What an example of the pressure that
comes on in this place to have everybody fall
into line and go quiet on politicians’ entitle-
ments. Senator Allison, I know you will not
be coerced in that fashion, and I want to
compliment Senator Murray from Western
Australia because he is the foremost advoca-
cate of making sure that parliamentarians’
entitlements are met and not excessive. I
have just heard that we do not change our
entitlements here. I have been in here when
we have put through entitlements for fridge
magnets on literature, for increased amounts
of publishable materials and all manner of
things. Of course we do; we set it all the
time. It is in our domain to respond to public
concern and occasionally to—

Senator Ian Macdonald—Mr Acting
Deputy President, I raise a point of order.
Could I ask you to draw Senator Brown’s
attention to the fact that this is a motion on
the suspension of standing orders, not on the
substantive matter of the debate.

Senator Faulkner—This is a point of or-
der that is taken regularly on all sides of the
chamber, so I do not direct these comments
specifically to that point of order from
Senator Macdonald, but there is now a long-
standing convention, acknowledged by
Madam President and those presiding, that in
order to try and achieve quick passage of
business in this place the substance of
broadly substantive issues beyond urgency
are canvassed in a suspension of standing
orders debate. As people know, one of the
ideas here, when we changed the standing
orders and limitations were applied, is to
allow some breadth in this debate so that we
could get over it quickly. If, of course,
Senator Macdonald had taken a point of or-
der saying it was incredibly boring and we
ought to get on with the other business, I
would probably have agreed with him, but I
cannot let that point of order go because it is
nonsense. It is nonsense, and many senators
on both sides of the chamber know it is non-sense.

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—Senator Brown, as you are no doubt aware, your remarks are required to be related to the substance of the matter.

Senator BROWN—I think it is an urgent matter simply because it has been in the public domain; it is a matter that Senator Murray brought up a month ago and it is time that it was dealt with. I support the motion from Senator Murray because it is an excellent one.

Senator ALLISON (Victoria) (5.37 p.m.)—Allegations have been made this afternoon about me by Senator Ray and I seek leave to make some statements with respect to those allegations.

Senator Faulkner—Mr Acting Deputy President, I raise a point of order. Leave will be granted to Senator Allison, of course, but not before this suspension of standing orders motion is dealt with. That is the proper course of action. Of course you will get leave, you know that, but if we can deal with the matter before the chair we can then move to that. If you seek leave, you will receive leave from the opposition, but we have to get the procedures right in this place and be consistent.

Senator ALLISON—Mr Acting Deputy President, on the point of order: it was apparently okay for Senator Ray to make these allegations during the debate and I cannot see why I should not respond.

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—You can speak on the motion, if you like, and respond as part of the motion.

Senator ALLISON—Okay then, I will speak on the motion, even though it has nothing to do with it. Senator Ray has made a serious allegation that I must respond to as quickly as possible. He says that my office is supporting the party. He has absolutely no evidence to support that claim and I deny absolutely and emphatically that there is any substance behind his allegation. It is the case that the Victorian division of the Australian Democrats has its office in the same building as I do. Senator Ray is wrong again when he says that the division is upstairs; it is not. My office is on the first floor and the divisional office is on the ground floor.

Senator Ray should be acquainted with the fact that the state office has its own photocopier, it has its own rizograph machine and it has its own telephones. It has its own materials, which it uses for party political purposes. I make it absolutely clear to my staff—and I am confident in the extreme that my instructions to my staff are carried out—that there is absolutely no question that any of my equipment, any of my materials or any of my entitlements are to be used for party purposes. So I challenge Senator Ray to put on the table the evidence for making such allegations—because I know there is no such evidence.

Quite frankly, I am getting rather fed up with this sort of innuendo that I have heard from Senator Ray from time to time on this subject. There is no law against my electoral office being in the same building, in the same street and in the same suburb as the divisional office. I am sure that there are plenty of instances where Labor Party members are similarly co-located or even just in close proximity. I reject absolutely the connection, the allegation and the inference—it is more than an inference—that has been made by Senator Ray. Again I ask him to not make such allegations unless he has evidence. I know that he cannot have that evidence, but if he thinks that he has it then he ought to put it on the table.

Question negatived.

AUSTRALIAN GRAND PRIX: TOBACCO ADVERTISING

Senator ALLISON (Victoria) (5.41 p.m.)—Before I move the motion standing in my name, I seek leave to table some press clippings which show the incidental advertising of tobacco products during the period of the race in Melbourne.

Leave granted.

Senator ALLISON—I move:

That the Senate—
(a) notes that:
   (i) the press coverage for the Australian Grand Prix in Melbourne on 28 February to 3 March 2002 again provided tobacco companies with unparalleled advertising opportunities, and
   (ii) this will be the seventh year that the race has made an operating loss, and again Victoria taxpayers will underwrite the event;
(b) urges the Federal Government to ban incidental advertising of tobacco products outside the confines of the Grand Prix; and
(c) urges the Victorian Government to:
   (i) investigate alternative venues for the Grand Prix,
   (ii) make public the contract signed with the Grand Prix Corporation, and
   (iii) reveal the extent to which it subsidised the race.

Question negatived.

COMMITTEES
Employment, Workplace Relations and Education References Committee
Reference
Senator GEORGE CAMPBELL (New South Wales) (5.42 p.m.)—I move:
(1) That the Employment, Workplace Relations and Education References Committee inquire into the education of students with disabilities, including learning disabilities, throughout all levels and sectors of education, with particular reference to:
   (a) whether current policies and programs for students with disabilities are adequate to meet their education needs, including, but not limited to:
      (i) the criteria used to define disability and to differentiate between levels of handicap,
      (ii) the accuracy with which students’ disability-related needs are being assessed,
      (iii) the particular needs of students with disabilities from low socio-economic, non-English speaking and Indigenous backgrounds, and from rural and remote areas,
   (iv) the effectiveness and availability of early intervention programs,
   (v) access to and adequacy of funding and support in both the public and private sectors,
   (vi) the nature, extent and funding of programs that provide for full or partial learning opportunities with mainstream students,
   (vii) teacher training and professional development, and
   (viii) the legal implications and resource demands of current Commonwealth and state and territory legislation; and
(b) what the proper role of the Commonwealth and states and territories should be in supporting the education of students with disabilities.

(2) That the committee report to the Senate by the last sitting day in October 2002.

Question agreed to.

BUSINESS
Rearrangement
Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (5.43 p.m.)—by leave—I move:
That Senator Colbeck may now make his first speech without any question before the chair.

Question agreed to.

FIRST SPEECH
The DEPUTY PRESIDENT—Before I call Senator Colbeck, I remind honourable senators that this is his first speech. Therefore, I ask that the usual courtesies be extended to him.

Senator COLBECK (Tasmania) (5.43 p.m.)—Thank you, Madam Deputy President. There would be few before me, and I suppose there will be few to follow, who would not feel an enormous sense of pride to be a representative of the Australian people in the federal parliament. I am no different. It is indeed a most rare honour and privilege to take my place here as a representative of my party, my state and my country, and I do so with great humility.

I would like to thank the membership of my party, who saw fit to include me as a member of the Tasmanian Liberal Senate
team. I am a proud member of this great party and I look forward to representing its principles in this chamber over the years to come. I also thank the Tasmanian electorate for seeing fit to return three Liberal senators at the November election. The nature of the electorate in Tasmania and the electoral processes that electors are exposed to at a state level make them very discerning. It was an outcome that went against all the expectations of the pundits, and it was a very good one for the Liberal Party. It is my intention that it be demonstrated to be a very good one for Tasmania.

I must also pay tribute to my predecessor in this chamber, the former Senator Jocelyn Newman. It is an honour to be selected by my party to follow someone of the stature of Jocelyn Newman. In Tasmanian terms, she is one of the most significant identities in the history of our parliament and more so in the context of the Liberal Party in Tasmania. She ranks alongside Dame Enid Lyons in terms of her achievements, and I pay tribute to the contribution that she made to both her state and her country. I again thank her for the opportunity and the privilege to be a part of the opening of this 40th parliament. It was a most generous gesture and I am extremely grateful for it.

Most importantly, I express my thanks to my wife, Gaylene, and to my children Carmen, Rhys and Dane. We all know that the pressures of political life have an impact that extends beyond the member, and I could not have asked for a family which is more understanding and supportive of my involvement in politics.

I am a proud fourth generation Tasmanian, with my family settling at Bothwell in the 1830s—and, in case you were wondering, there was no prison at Bothwell. It does say something about our country that someone from a dairy farm at Wilmot in the foothills of Cradle Mountain, who started their working career as an apprentice carpenter, can become a representative in the Senate of the federal parliament. As a representative of Tasmania, I can but delight in naming and boasting of some of these:

- disease-free Atlantic salmon that we now export back to source as fry to replenish stocks
- premium product from our wild fisheries
- the only beef in Australia guaranteed by legislation to be free of hormone growth promotants and therefore sought after in premium markets such as Japan
- dairy products from the north and north-west and King Island
- premium vegetable crops
- unique tourism industry with experiences that surprise those who visit mining, forestry and fine timber products
- innovative technology developments including, of course, world leading shipbuilding technology.

There is a host more that I could name; yet this wonderful island continues to struggle to keep pace with growth levels across a range of indicators of the rest of the country and battles to keep pace with the rate of change that is these days a fact of life. This brings me to several issues that are of significant interest to me in advancing the cause of my state. While some may think, ‘Here we have another Tasmanian with the upturned hand approach,’ I assure you that is by no means the case. In most instances it would be quite appropriate to substitute regional Australia for Tasmania—in other words, what is good for Tasmania is generally good for regional Australia. I realise that Tasmanians need to play a large role in developing their future and, in some respects, they need to change their perspectives to achieve that development.

The real issue for Tasmania is that key issues need to be addressed by governments at both state and federal levels to allow for the natural advantages that we enjoy to be fully exploited. The first of these has to be access and the cost of access. This would have to be the most significant influence on the potential growth of the state. It does not matter which industry you come into contact with; sooner or later the conversation comes
around to this topic. The issue is more than just access and cost; it extends to guaranteed reliable transport.

In an attempt to remove some of the pre-conceived thoughts on the relationship between the two main land masses that make up our country, I will change what is generally accepted as normal terminology, as I am one who refuses to accept any concept of superiority that it might convey one way or the other. In a tourism sense, there are many north islanders who would like to visit the south island. In fact, research shows that about 18 per cent of north islanders express this sentiment. The reality is that only about three per cent actually do visit. But why? Is it fair that, for example, a north islander has to pay approximately 60 per cent of the total cost of their holiday to get to their destination on the south island or that, when they get there, they might not be able to get back home again? Unfortunately, no matter how small the risk, it is one that many north islanders are not prepared to take. At this point in time, that is the situation, particularly in the current climate of uncertainty surrounding air travel. While there is no question that there has been significant ground made towards solving this situation through freight equalisation and passenger equalisation, and even more recent developments through the state government, in my view there is more required to achieve the ideal situation, and I look forward to working to achieve that.

There are other issues that derive from access, all of which, to some extent, are felt by regional Australia. Education—particularly retention rates to tertiary education—is a matter that is felt by all regional communities in Australia, none more so than the region of Tasmania where I live, where retention rates—14 per cent versus the national average of 24 per cent—are lower than in any other part of the country, with the exception of the Northern Territory. There is a widely held view, and I am certainly one who holds that view, that the level of prosperity of a community is directly related to its level of education. That is surely borne out in the level of reliance on government assistance in the region. I do not pretend to have all the answers to this issue. To be frank, I do not believe that anyone does, but there must be a way to address some of the cultural, financial and locational impediments to reaching a better outcome.

Another element that Tasmania has struggled with, over the last decade in particular, is that of attracting investment capital, particularly at a reasonable premium. This has been particularly noticeable since the scuttling of a certain project in 1989 for political purposes, raising the element of sovereign risk for investors in Tasmania. A sour taste still lingers in the mouths of investment houses around the country and overseas. Business will not invest because there is not a high enough return, and there are not high enough returns because there is not enough investment. It may sound simplistic, but it appears to be the case. The question is: how do we break the nexus? I do not claim that this is a purely Tasmanian issue, because I know that other regional centres suffer similarly, but in a Tasmanian context it is perhaps indicative that we are still debating a bill that relates to securing against sovereign risk some five years after the original agreements were signed. Most of these elements have an impact on population, an issue that has been touched on in the state over the last few years but has not been driven to any extent—although it does appear that it may become a topic of national discussion, which might serve to keep it to the fore in Tasmania and to ensure that it is addressed in a positive manner.

It might appear that all is bleak on the south island and that there is no hope for the future. I for one certainly do not believe that that is the case. I have previously mentioned our wonderful agricultural industries that, according to the industries themselves, have the potential to double in output; a tourism industry that has potential beyond the concept of most; and other sectors that I have spoken of here tonight also have positive growth potential. In all, Tasmania is an island of enormous potential. That potential is demonstrated by the fact that Tasmanians are per capita the second highest exporters in the country behind Western Australians. And if you consider, as I was reminded recently, that nearly 50 per cent of the population rely
on some sort of government support, you get an indication of just how industrious and productive we south islanders are. All we seek are the settings to allow us to reach our full potential, whether that be quarantine—as we have seen with salmon or apples—ensuring reliable and affordable access, greater retention rates in education or improved investment levels. There are plenty of issues to pursue.

As members of parliament we are often and quite unfairly regarded as being unaccountable and without benchmarks. Bearing in mind that in this profession we are often measured or judged by the things that we say and that this presentation is the one that those who search out information about us often first access, the issues that I have spoken of here today are those that I see as my own initial benchmarks. My objective here is to get the job done. By whatever it takes? No. But I was recently reminded at a Rotary weekly meeting of the Rotary Four Way Test: is it the truth, is it fair to all concerned, will it build goodwill and better relationships, and will it be beneficial to all concerned. It seems to be a pretty good place to start.

I am fortunate to have lived and worked in many areas of the state—north, south, northwest and west coasts and the two magnificent Bass Strait islands—and look forward with great anticipation and pride to working with and serving the people as my time here continues. As you might imagine, I have received advice from many quarters since the declaration of the poll to confirm my election to this chamber, but none better than that from my parents, as is usually the case with mums and dads. On the night before I was sworn in, they presented me with a memento to remind me of life on our dairy farm at Wilmot: ‘Never forget where you came from and never forget who put you here.’ I look forward to living up to that advice during my time here and, with great anticipation, to serving the people who put me here. I thank the honourable senators for their courtesy.

MATTERS OF PUBLIC IMPORTANCE

National Action Plan on Salinity and Water Quality

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

The failure of the bilateral agreement between Queensland and the Commonwealth in relation to the National Action Plan for Salinity to address the matter of landclearing in Queensland.

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

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

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

Senator CHERRY (Queensland) (5.58 p.m.)—This is a very important matter because it concerns what is, in our view, the most important and pressing environmental issue in Australia—that is, land clearing. Queensland and New South Wales account for more than 80 per cent of the native bush cleared in Australia. Recent research indicates that Australia is clearing 687,800 hectares of native vegetation every year. Approximately two-thirds of this is virgin bushland. This is higher by 22 per cent than the earlier estimates of what was being cleared annually. This means that over 50 football fields of Australian native trees, wildflowers and wildlife habitat are destroyed every hour. On these figures, Australia now ranks number five in the world in land clearing rates, behind the developing nations of Brazil, Indonesia, Sudan and Zambia. Previously Australia was ranked sixth behind Mexico—but we bumped those Mexicans.

Land clearing is the greatest threat to biodiversity loss in Australia, with millions of unnecessary deaths each year of a host of Australian native species. On World Environment Day in 1998, a report was released
which revealed the devastating impact of land clearing on animals. In Queensland alone, 68,000 long-nosed bandicoots, 22,400 sugar gliders, 17,000 brush-tailed possums and 7,500 greater gliders are killed every year by land clearing and millions more plants and animals die.

In November 2000, the Council of Australian Governments endorsed a proposed National Action Plan on Salinity and Water Quality. The national action plan on salinity invests $1.4 billion over six years in 21 priority catchments. The plan has very noble goals: to prevent, stabilise and reverse trends in dryland salinity affecting the sustainability of production, the conservation of biological diversity and the viability of our infrastructure; and to improve water quality and secure reliable allocations for human uses, industry and the environment.

The Prime Minister at the time recognised how critical controlling land clearing is to the effective implementation of national action plans. The Prime Minister said in relation to land clearing in salinity risk areas:

Recognising the fact that land clearing in salinity risk areas is a primary cause of dryland salinity, effective controls on land clearing are required in each jurisdiction:

- any Commonwealth investment in catchment/region plans will be contingent upon land clearing being prohibited in areas where it would lead to unacceptable land or water degradation; and
- the Commonwealth will require agreement from relevant States/Territories ... that their vegetation management regulations are effectively used or, where necessary, amended to combat salinity and water quality issues.

The Commonwealth has entered into a bilateral agreement with Queensland implementing the principles of the NAP as set out by the Prime Minister. What is extraordinary about this bilateral agreement is that it does absolutely nothing about land clearing in Queensland, despite the commitments made in 2000. You cannot have an effective action plan on salinity without action to prevent the causes of salinity. This plan does nothing to stop rampant tree clearing in Queensland, although the Howard government promised to stop tree clearing in those areas where it threatens to degrade either land or water.

The agreement sets no caps on clearing and imposes no moratorium on clearing in high salinity risk areas, nor does it set targets for land cover and protection of native vegetation. And it endorses Queensland’s Vegetation Management Act, the act under which record tree clearing rates in Queensland have been facilitated. The state government continues to issue large-scale clearing permits for leasehold land. The Commonwealth is trusting a piece of Queensland legislation that the Howard government had previously recognised is not working. The $160 million for addressing salinity in Queensland, inadequate as that is when spread over seven years, is now in danger of being wasted on more working groups and more tree planting, while the bulldozers and chains continue to flatten the bush.

It is worth recalling that the Australian Conservation Foundation, in conjunction with the National Farmers Federation, recently estimated that the annual cost of repairing Australia’s land and water—and that is primarily associated with damage caused by land clearing—would be approximately $6.5 billion every year for 10 years. The national action plan’s $1.7 billion over seven years falls far short of that need. Based on the bilateral agreement with Queensland, it is likely to fall even farther short in accomplishing its stated objectives. The irony, of course, is that for a little over $100 million the Commonwealth could have bought the controls on land clearing in Queensland that it says are necessary. Instead, it is spending $162 million in Queensland for a project that is not going to address the most critical factor in preventing salinity.

If the current government cannot deal with the most pressing environmental issue in Australia it is bad enough, but when they spend $162 million to pretend that they are it is even worse. Despite years of promises and political posturing, native vegetation is still being cleared at unsustainable rates in the Australian bush. It is clear that the Queensland ALP is not going to address the problem. Unfortunately, it is also clear that the federal coalition is not going to do it either.
Land clearing is a recognised threat to the Great Barrier Reef. Sediment and nutrient run-off into the reef from the various catchments are now recognised as having damaged the inshore areas of the reef. While the Commonwealth has set targets for discharges from rivers into the Great Barrier Reef lagoon, it has imposed no requirements in relation to land clearing—ultimately the primary cause of degrading water quality within the reef area.

Salinity is a huge problem, but in many ways it is a symptom of a greater underlying problem, which is the clearing of native vegetation. A major book published in 2002 by the Australian Institute of Marine Sciences includes a number of contributions that speak about poor land use practices in Queensland and the impact of those practices on our wetlands, rivers and oceans. For instance:

Land under sugarcane and, by implication, changes in land use, which involve clearing of trees have a detrimental impact on water quality ... it is clear that grazing is likely to be the principal contributor of sediment and possibly nutrients to the GBR. Johnson et al. conclude that reform is required at policy, planning, and enterprise levels if the impacts of terrestrial activities on the ecological, economic and social values of the GBR are to be minimised in the future.

It is also clear that unless a change in current land use policy, planning, and management occurs, then the area of freshwater wetland and riparian forest ecosystems in many of the catchments adjacent to the GBRMP will be reduced to a very low level. It is likely that many areas of remnant freshwater wetlands and riverine rainforest vegetation are already less than is required to perform as an effective and functional biological unit.

Even if we are not addressing salinity in Queensland as an environmental issue, even if it was not the government’s No. 1 environmental issue, Australia’s overriding commitment to protect the World Heritage values of the Great Barrier Reef would require that salinity, and with that land clearing, in Queensland is addressed. It is a tragedy that we see at this particular juncture a national action plan which actually fails to address the principal causes of salinity and is little more than a band-aid on the issue. What we are talking about is probably planting more trees when trees are being cut down faster than we can actually plant them.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (6.06 p.m.)—I was waiting to hear in Senator Cherry’s presentation one word of congratulations to the Howard government for taking the most significant steps forward in environmental management in Australia’s history. I was also waiting for perhaps an acknowledgment that the Natural Heritage Trust was the biggest and best contribution towards the environment of any government in this nation’s history. But, with the Democrats, there is never a sign of responsible attention to detail, always criticism and carping, negative contributions.

The bilateral agreements under the National Action Plan on Salinity and Water Quality were signed with Queensland on 1 March this year. In those agreements, Queensland has reconfirmed its commitment to prohibiting land clearing where it would lead to unacceptable land and water degradation. Queensland is addressing the commitment through a community consultation process to provide the development of regional vegetation management plans. The bilateral agreement also includes a commitment by the state to implement a jointly agreed rapid salinity hazard assessment process to ensure that by June 2002 robust information is available for the assessment of land clearing permit applications on a property by property basis. The bilateral agreement also provides the Commonwealth with access to data on vegetation clearing permit approvals to ensure that the state is fulfilling its obligations to halt clearing on land vulnerable to degradation.

The Commonwealth is satisfied that the Queensland government does have controls in place to prohibit land clearing that would lead to unacceptable land and water degradation. You will be aware, Senator, as will all senators, that the states, and in this case Queensland, have the primary responsibility for land management in the state, and that includes land clearing. Whilst that is the case, the Commonwealth is taking steps to secure national greenhouse and natural resource management outcomes. The Com-
The Commonwealth national action plan already includes a state commitment to, as I say, at least prohibit land clearing in priority catchment regions where it would lead to unacceptable land and water degradation.

The bilateral agreement fulfils the requirements of the national action plan intergovernmental agreement to prohibit land clearing in those circumstances. This always raises the question of property rights. The Commonwealth’s position is quite clear on property rights. The Commonwealth has reaffirmed its commitment to address property rights and compensation issues and has announced in its election commitments that COAG will address definitions of property rights, including water rights, and mechanisms to deliver just compensation for the loss of these rights. The issue of property rights and compensation is being considered as part of the work program of the Natural Resource Management Ministerial Council under the programs committee of the standing committee.

It is important to note that, while a number of states have effective regulatory regimes for land clearing in place, the main reason the national goal has not been achieved is that many states have not contributed sufficiently to the national endeavour. The goal cannot be achieved as long as Queensland land clearing rates remain at current levels, and New South Wales land clearing rates also remain too high. Significant improvements in other states and territories are also required. In calling for action by states and territories to address their responsibilities for management of native vegetation, the Commonwealth expects any action to follow soundly based science. Furthermore, any action must also provide for effective consultation with land-holders likely to be adversely affected by decisions to limit land clearing. It is the Commonwealth’s position that, where rights have been removed, the states and territories must meet any legal requirements for direct compensation to property rights holders. This is a precondition before the Commonwealth will consider any adjustment position.

The Commonwealth reiterates that land clearing is primarily a land management issue and is the responsibility of state and territory governments. The Commonwealth has, however, indicated that it would be prepared to provide a financial contribution commensurate with the reduction in emissions from land clearing negotiated and implemented by the Queensland government. Achieving a significant reduction in greenhouse gas emissions will involve a sizeable and sustained reduction in the ‘business as usual’ clearing rates over the past decade, beyond that flowing from the vegetation management regime in the national action plan.

What we are saying is that the Queensland government—as do all state governments—has primary responsibility for land management, for clearing management and for providing adequate compensation where rights are impacted upon. We have gone on to say that Queensland should pay compensation when rights are involved under its land management obligations and those obligations under the national action plan. But when there are reductions in land clearing in excess of that which will help meet the nation’s greenhouse gas emission reduction targets then the Commonwealth is prepared to make a contribution. We do not want to tell the Queensland government how they should do that; we do not want to be prescriptive about how a further significant reduction in land clearing and, consequently, greenhouse gas emissions can be achieved. It is up to the Queensland government, which has the relevant on-the-ground knowledge, to do that, because it is best placed to further develop a workable and cost-effective scheme and engender the support and commitment of the Queensland community that is crucial to the success of the implementation of sustainable land use practices. However, the Commonwealth does require that any scheme to provide for emissions reductions is readily verifiable and consistent with internationally agreed definitions and reporting requirements.

As a result of the Commonwealth’s insistence, there have been additional meetings between officials of both the Queensland and Commonwealth governments, and it seems that the matter is progressing. It is important that the governments should work together to
incorporate robust emission accounting and to ensure international climate change considerations are fully addressed.

We are waiting for a proposal from Queensland—that is, a proposal in addition to their land management regime and in addition to their obligations under the National Action Plan on Salinity and Water Quality. Any additional obligations to reduce land clearing that will have an impact upon greenhouse gas emissions, the Commonwealth will contribute to. We want to see what Queensland proposes, what money they are looking at, and we have indicated that we would very seriously work with them on the project.

The motion before the chamber talks particularly about the NAP agreement. Of course, that is only part of the equation. That has a specific reference to salinity and water quality. Beyond that, there is the issue of greenhouse gas emissions, and that is a separate issue or a different issue and an extension of the issue on which we are in very close contact with the Queensland government. We want to make sure, given goodwill between all parties, that the Queensland government complies with its obligations and financial responsibilities, as every other state has done. Mr Beattie has attempted to play politics in this. He knows he should do things he is not game to, so he is trying to blame the Commonwealth. You know that is right, Senator Cherry, The Commonwealth is doing the right thing. We are not going to be bluffeed. We want to be fair, but we want to make sure that Queensland does what needs to be done, pays for what it is responsible for, and then we will help in the broader question that follows to achieve the targets that Australia needs to achieve. The national action plan agreement is only part of the whole scene. We are dealing with the other issues in an extension of those issues, and I am sure we will get to the right conclusion, given the Prime Minister’s commitment to achieving appropriate targets.

Senator O’BRIEN (Tasmania) (6.16 p.m.)—This matter of public importance goes specifically to the issue of land clearing in Queensland in the context of the National Action Plan on Salinity and Water Quality. This is a matter of public importance, but it is only part, albeit an important part, of the broader issue of natural resource management that is challenging all of us—governments and communities alike. The control of salinity and the management of water are very much matters of public importance, they are matters of economic importance and they are matters of environmental importance. As I said, the specific question of land clearing is a key aspect of the debate, but it is only a part. I understand that Senator McLucarbus plans to address that particular matter in her contribution to this debate.

The solution to the increasing problems of salinity control and water management are to be found in a comprehensive, cooperative and inclusive approach to the management of land and water. I am confident that, at the time of the COAG Water Reform Agreement back in 1994, there was a level of goodwill and cooperation between the then Prime Minister, the state premiers and the chief ministers. I am sure the same could be said about the relationship between the first ministers of the Commonwealth and the states when the first agreement on the National Action Plan on Salinity and Water Quality was signed in November 2000. There may also have been some goodwill between the responsible federal minister and his state counterparts at that time. In fact, Mr Truss put out a media statement on 3 November 2000 headed ‘Truss welcomes commonsense agreement’. In that release, Mr Truss said:

and he is referring to the COAG agreement on salinity and water quality—means that for the first time the Commonwealth, states and territories have committed to working together on solutions to the specific problems of salinity and water quality.

The actual implementation of the national action plan has now stagnated, and there has been little progress on the fundamentals of the water reform program. These processes have stagnated because of the lack of goodwill and leadership shown by the Howard government, particularly by the Minister for Agriculture, Fisheries and Forestry, Mr Truss. Let me refer to a media report from the Weekly Times of 12 December last year.
In that article, Mr Truss blamed the states for delays in getting the salinity action plan off the ground. He accused the states of cost-shifting, and he said that some of the states were not committed to new money for the program. He said that the Commonwealth was not prepared to wait for the states and was considering going it alone. More recently, we have had an attack on the states about water reform by the Deputy Prime Minister, Mr Anderson.

A key aspect of these programs to control salinity and protect our water resource is the determination of the property rights of individual land-holders. If there is a desire by the broader community to acquire a private right, whether it be water or vegetation preservation, then the owner of that right must be appropriately compensated. This point was recognised by all governments back in 1994. The water reform agenda was incorporated into the national competition policy agreement in 1995. So the issue of water reform generally and property rights in particular was well and truly on the agenda when this government came into office in March 1996.

By calling for a national debate on water reform at last week’s ABARE Outlook Conference, Mr Anderson in fact highlighted the failure of the Howard government to give any priority to water reform in its first six years in office. The Howard government’s failure to give this important issue the priority it demanded in 1996 saw the momentum generated by the COAG decision lost, and the reform process has stagnated ever since. There is no doubt that the federal government has a key role to play in all of this. In his address to the ABARE Outlook Conference, Mr Anderson said that the advancement of water reform in Australia required both national leadership and national standards. And that is absolutely correct. But that national leadership has not been provided by the Deputy Prime Minister, who had direct responsibility for water reform from March 1996 until October 1998. Nor has it been provided by the Prime Minister. This is a government that prefers to blame the states for everything. We now have the Prime Minister and Mr Anderson talking about getting all the states together to work out how best to balance the needs of farmers and the needs of the environment. Mr Howard and Mr Anderson should have settled that balance with all the interested parties years ago.

These outbursts, first by Mr Truss and then by Mr Anderson, may make good copy but the problem remains when the media buzz is gone—and the necessary cooperation between governments has been further eroded. It is clear that the Commonwealth-state administrative framework in place to manage these programs is not working properly. At the last estimates hearings, the Department of Agriculture, Fisheries and Forestry advised me that the funding allocation for the national action plan was set at $5 million for 2000-01 but that amount was not fully expended. Officers then advised that the funding available for 2001-02—that is, $65 million—had only been extended to the extent that some $7.75 million had been transferred to the state of South Australia. The officers further advised that at the time of that estimates hearing just $9.5 million had been expended—that is, less than $10 million in the first 18 months of a seven-year $1.4 billion program.

It is important to note that we are not talking about on the ground activity here; we are talking about funding commitments. It is also important to note that the government was getting clear advice well before November 2000 about the actual threat to rural Australia from dryland salinity. There was a report to the government by the Prime Minister’s Science Engineering and Innovation Council in 1998. That report advised the government that at that time 2.5 million hectares were affected by dryland salinity, with the potential for that to increase to 15 million hectares in the next 30 years. In October 1999, the Murray Darling Basin Commission released the findings of its audit, and that put the issue back on the national agenda.

It is clear, therefore, that this is a problem that has been known to this government for some considerable period, and we are still a long way from even starting to address it. At the ABARE Outlook Conference, Mr Anderson also said there was a need for a uniform
approach to the issue of water property rights, and he was right again. But a uniform approach means a national approach, and a national approach brings with it a fundamental role for the Commonwealth. As I say, that is a role which has been ignored by Mr Howard and Mr Anderson for six years. If I had the time, I could make a lengthy analogy between the failure of this government with respect to dairy deregulation and its inaction for years in the initial phases when action was needed. I will not at this stage, because I do not believe I have the time.

But there is clearly a key role for all stakeholders in rebuilding Australia’s natural resource base. Any program such as the salinity action plan must have the support of all stakeholders, from the federal minister for agriculture down to individual land-holders. This, I must say, must be active support. This active support can only be forthcoming if the roles of all parties are clearly identified and articulated. All parties must be educated about the nature of the program, how it will be implemented and what minimum standards are expected from the implementation of the program. There may also be a need for incentives to ensure active support in these programs and, as I have said, compensation must be provided where individual rights are to be acquired.

Finally, it is fine for the Commonwealth government and the states to develop national plans such as the National Action Plan on Salinity and Water Quality, but there must be far more to these plans than a well-worded communique or a joint press release. There must be on the ground outcomes. That means programs that have clear and achievable goals; programs that have clear priorities; programs that acknowledge the property rights of individuals and compensate those individuals where their rights are acquired in the broader community interest.

I must say that this government has failed the environment and rural and regional landholders when it comes to the issue of national resource management and restoration. Why do I say that? Whether it be at stage 2 of the Natural Heritage Trust, whether it be regarding the National Action Plan on Salinity and Water Quality or whether it be on the issue of water reform, this government has shown that all it is about is political division. It is about the implementation of its plan, built on driving political wedges between the stakeholders in the potential outcomes these important programs might produce, and it is all about the attempted transfer of financial responsibility—and who can forget the recent problem we had in relation to Natural Heritage Trust stage 2 funding, where the Commonwealth has been demanding a far greater contribution to that funding than was required under stage 1, putting that forward as a barrier to the progress of that program.

And so the priority of the Commonwealth is not to remedy the environment but to shift the burden onto the states, notwithstanding that the states may already have made other commitments in other areas. Whereas in the case of the National Heritage Trust stage 1 the Commonwealth was prepared to accept a responsibility because its political imperative then was to try to get the political brownie points for its program, it is now seeing, with Labor governments in place, that it is politically sustainable to challenge those states to make contributions which will tax their budgets and make it more difficult for those states to participate in delivering the outcomes that are needed to restore our natural resource base through programs like the Natural Heritage Trust.

But one thing is certain out of all this: all of the government’s program is certainly not about agricultural sustainability and it is certainly not about environmental restoration. If that were the case, we would not be seeing, for example—under the national action plan, after having had this $1.4 billion program operating for about 18 months—our having had something less than $10 million expended, with no outcomes on the ground. Senator Ian Macdonald—But Queensland was slow to sign up.

Senator O’BRIEN—Senator Macdonald says that Queensland was slow to sign up. The fact is that, from the time in November 2000 when there was common agreement, this government has been playing politics and seeking to extract arrangements from the states that have not reflected what the needs of those states are and which have been de-
signed to make it more difficult for the states to become involved in those programs. But I predict that, down the track, this government will put its expenditure programs back so that, at the next election, as part of its program for the coming three years, it can trump a reannouncement of some of the funds it has already committed. That is the program of this government, that is what it intends to do, and that is why it is more interested in playing politics and driving in political wedges than getting results on the ground and delivering agricultural sustainability and environmental restoration.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (6.31 p.m.)—That was an amazing speech. If one was listening to that, one would think that the prime responsibility of land management and salinity was a Commonwealth issue. If Senator O’Brien cares to consult his Constitution, he will find that it is not. It is primarily a responsibility of the state governments, who are not meeting their responsibilities and are trying to flick it back to us. You cannot mount any argument at all to deny that, under the Constitution, the responsibility for maintaining tree clearing and salinity is a state responsibility. Even when we come in and kick the tin, you do not accept it; you want more and more.

This motion before us now goes to the failure of the bilateral agreement between Queensland and the Commonwealth, in relation to the National Action Plan on Salinity and Water Quality, to address the matter of land clearing in Queensland. Clearly, here the Democrats have confused the two issues: the salinity issue and the tree clearing issue.

I will refer to the salinity issue first and say that our credibility is good. Last week the Prime Minister and the Premier of Queensland signed a bilateral agreement, under the National Action Plan on Salinity and Water Quality, to address the salinity and water quality problems in Queensland. Not only did we do that but also we put $700 million into supporting it. That is hardly an act of a government that is walking away from its responsibilities. That is an act of a government that is taking the responsibilities that have been given to it under the Constitution and going further with them. It is an act of a government that is saying, ‘Well, we’ve got to do something. This is an enormous problem. It is probably beyond the capacity of the states to handle.’ But, Senator O’Brien, do not tell me for one minute that we are walking away from our responsibilities on this issue. I believe that every state, other than Western Australia, has signed this. But to commit $700 million to a problem that is basically a state problem shows the credibility—the overwhelming credibility—of the federal government and its commitment to address some of these environmental issues.

Yes, the land clearing is not as far advanced as the salinity problem is. But let us give credit where credit is due, and it is certainly due to a government that commits $700 million to a particular problem. As far as the tree clearing or land clearing part of the motion is concerned, there has been correspondence between Premier Beattie and the Prime Minister, Mr Howard. Even as late as 16 February, the Prime Minister wrote to the Premier and said that ‘the regulation of vegetation management is essentially a state responsibility’, and that ‘the responsibility for the design and implementation of land clearing arrangements remains a matter for your government’—and it is: it is a state responsibility. Every other state government in Australia has met its responsibilities and come down with some sort of clearing regime.

But, unfortunately, even though all the other states have cleared much of their land, Queensland has not proceeded down that clearing path and has a lot of uncleared land. That is unfortunate for the Queensland farmers. They do not mind sharing the responsibility, but they are saying that all the burden is being placed on Queensland. I want to say this: farmers are great environmentalists, because it goes to self-protection. If they do not look after their land, they will not have any land: it will not produce anything, it will not grow a crop, if it is flogged to death. Quite often you will hear them saying that, with X paddock, you cannot flog it; you have
to take the stock off it. I want to say this: there are no greater environmentalists than Australian farmers, because they have to be environmentalists. If they are not, they end up with their property greatly reduced in terms of its earning power.

The Prime Minister has said that land clearing and tree clearing is a state government issue. He then says, ‘We do have a greenhouse problem, but the Commonwealth does not wish to be prescriptive about how further significant reduction in land clearing is undertaken.’ So, in effect, the Prime Minister is saying, ‘Mr Beattie, you come up with a plan, you get the agreement of the graziers of Queensland with that plan, and we’ll come to the party again and give you further assistance.’

I reiterate the first part of my speech—there will be $700 million for salinity and then a commitment in writing that we will come in and pick up some of the tab for tree clearing. But, first, Premier Beattie has got to put that plan to the federal government, and he has got to get an agreement on that plan from the graziers. The Prime Minister has committed himself to fund some of the costs for the land clearing decision in Queensland.

This leads me to a problem we have in Australia with respect to property rights. Graziers and farmers were given water resources and they were given land title, and what went with those rights, those licences, those leases was ‘use it or lose it.’ They were told: ‘Get out there and clear!’ ‘Get out there and use the water!’ ‘Get out there and irrigate!’ ‘Grow cotton for the prosperity of Australia!’ ‘Grow wheat!’ Later on in time, we discovered that we had overcommitted those resources. People had put in infrastructure, but now they have to surrender some of those rights. They are doing it not on behalf of themselves but on behalf of Australians, because the amount of water resources was originally overestimated.

Senator McLucas  

 Senator McLucas (Queensland)  

(6.39 p.m.)—The issue of land clearing is, I believe, the most urgent and potentially the most devastating environmental and, consequently, economic issue that we as a nation face. While it is certainly the case for the nation, it is also certainly the case for my state of Queensland. We cannot look at land clearing simply in the context of salinity alone. Extensive land clearing affects biodiversity and it affects land degradation, including salinity issues. It affects water quality and, of course, the global issue of greenhouse. Any government’s response to the issue of land clearing, if we truly want to address this issue, cannot be compartmentalised into salinity alone. There needs to be a strategic approach that takes into account all of the relevant impacts across the ecosystem. It is not an issue that we can afford to waste time with; it is not an issue on which we can afford political argy-bargy. But the reality we face is that this is exactly the situation in which we find ourselves.

I turn now to the National Action Plan on Salinity and Water Quality. Labor supported the government’s proposal to deal nationally with the issue of salinity when the Prime Minister announced the National Action Plan on Salinity and Water Quality in October 2000. It is only sensible that a national response is required, given the geographical spread of the catchments and the need for a catchment based approach. It is also sensible that the states are involved in the response, but it is unfortunate that the attitude of the Commonwealth has militated against any activity or any solutions being delivered up to this time.

Queensland was the first state to sign the intergovernmental agreement on the national action plan in January 2001. The fact that Queensland was the first state shows their preparedness to deal with the issue promptly. Queensland is in a much better position than the southern and the western states to deal with salinity. We do not yet have the major salinity outbreaks that are experienced in other states so Queensland has the best chance to develop measures which can prevent the devastating environmental and economic impacts of salinity. Prevention, I suggest, is much cheaper; it is surely more desirable and in fact more effective than rehabilitation that will have to be adopted in other states. However, there remains only a small window of opportunity for Queensland to develop effective prevention strategies.
Last August, Queensland sent their signed bilateral agreement to the Commonwealth. Only two weeks ago, some seven months later, it was countersigned by the Commonwealth. Seven months that could have been used to further the work of preventing salinity in that state have been wasted. In fact, the only state the federal government had signed the bilateral agreement with before the federal election was the then coalition state of South Australia. We can only conclude that the Commonwealth is playing politics with the states on this issue. The fact is that the Queensland government was set to protect areas that were not only endangered but that were of concern under its freehold land clearing legislation.

The Queensland Labor government had consulted and negotiated extensively with industry and environmental interests in the development of this legislation. It had also committed over $100 million to ensure that the legislation could be properly implemented. What it needed from the Commonwealth was matching funding to compensate those affected by this legislation. Having heard Senator Boswell’s address, I have to say that he agrees with me. The Labor Party acknowledged that there was a role for the national government and in the last election considered their responsibilities and the national leadership that is required for salinity issues. They announced a comprehensive policy which would have delivered $100 million to Queensland to fund a partnership—a partnership between the state and the national government, and a partnership between landholders and governments and the environment sector to deliver a sensible, achievable outcome.

Landholders and leaseholders would have been compensated for changed agricultural practices. Land clearing rates would have slowed, and environmental outcomes would have improved. However, the federal government has been demanding matching funding from the state governments for its National Action Plan on Salinity and Water Quality. However, when the Queensland government needs $100 million in matching funding to address the serious issue of land clearing, it claims that issue is a state responsibility.

Tree clearing not only impacts on salinity and water quality but can also reduce biodiversity and lead to significant greenhouse gas emissions. Scientists in developing the framework to control tree clearing in Queensland chose biodiversity to underpin the decision-making process in that state. Degradation issues such as salinity were then overlaid over this biodiversity framework. The Howard government, I am afraid, does not seem to understand we need an integrated approach to address tree clearing that addresses not only salinity and water quality but also biodiversity and greenhouse issues. There is no consistency in the way the Howard government deals with environment and natural resource management issues. Its decision making is based on political expediency not sound environmental management.

There can be no clearer example of this than Deputy Prime Minister Mr Anderson’s ability to find $40 million during the election campaign for the Namoi cotton growers in his own electorate. During the Senate estimates, however, AFFA officials seemed to have no clear understanding of where the money was going to come from. They indicated that it may come from the national action plan or possibly from the Natural Heritage Trust. Mr Anderson can find $40 million for his own electorate, with no clear guidelines about how the money is to be spent or where it may come from. However, when a state Labor government develops legislation and commits over $100 million dollars to address the most serious environmental problem facing this country, Mr Anderson simply claims that it is a state responsibility. There is no strategic approach, no consistency, just political expediency from this government on environment and natural resource management issues.

What adds to my concern over this issue is that not only does tree clearing continue unabated but also this government has squandered half of Telstra in the process. The partial sale of Telstra, we were told, would address serious environmental and natural resource management issues. I am afraid it has not. The national action plan does provide an
opportunity to address tree clearing where it leads to dry land salinity and erosion impacting on water quality. However I believe that the federal government should work with the Queensland government to develop a separate package to deal comprehensively with the issue of tree clearing.

The National Action Plan on Salinity and Water Quality is devised to build on the Natural Heritage Trust. It is not a program designed to implement the legislative framework or the national strategic approach that is required to control tree clearing. The Queensland government has the legislation but it needs the Commonwealth government to match its funding so that it can compensate those affected. This is no less than the Commonwealth is demanding of the state in relation to funding for the national action plan or now the NHT.

I know that community groups in northern Queensland are frustrated with the federal government. During recent discussions with regional strategy groups, such as the Burdekin Dry Tropics Group which has developed a natural resource management strategy for the Burdekin catchment, members expressed frustration at the lack of action from the federal government. It has been 16 months now since the announcement of the national action plan and no money at all has hit the ground in northern Queensland. The community is extremely frustrated and it deserves to be treated in a more inclusive way. It is distressing that tree clearing continues at alarming rates in Queensland and urgent action is required to stop what is happening. The Howard government’s attempts to blackmail the Queensland Labor government are not going to solve this issue. The Queensland government clearly has the capacity and the will to act on this issue but it needs federal government support.

Senator HERRON (Queensland) (6.49 p.m.)—The motion before us refers to ‘the failure of the bilateral agreement between Queensland and the Commonwealth in relation to the national action plan for salinity to address the matter of land clearing in Queensland’. Senator Cherry spoke to that and, of course, erected a straw man and then demolished it. I was going to restrict my remarks to the motion but I will digress for a moment to respond to both Senator O’Brien and Senator McLucas and demolish them. Their party had 13 years to do something about salinity in this country and they did nothing. Senator McLucas comes in here and complains about the 16 months in which no money has come forward, and the seven months until the agreement was signed, but the reality is that this government was the first government in history to do something about the salinity problem. Then they digressed in other directions.

I will respond precisely to Senator Cherry and his straw man. The bilateral agreement between the Commonwealth and Queensland, as Senator Ian Macdonald said, was signed on 1 March this year. Indeed, every state that has so far signed bilateral agreements with the Commonwealth to implement the National Action Plan on Salinity and Water Quality does engage tree clearing quite comprehensively as a fundamental issue in dealing with salinity and water quality. More than that, the issue is also dealt with as one of the core issues in the overarching intergovernmental agreement for the national action plan from which the bilateral agreements have subsequently been developed.

Clause 27 of the intergovernmental agreement prohibits tree clearing in priority catchment areas where it would lead to ‘unacceptable land and water degradation’. In the bilateral agreement itself there are numerous references to vegetation management aimed at achieving tree clearing constraints, again, not just in Queensland but in all other states that have become parties to the program. This is quite central to the entire approach being adopted by the Commonwealth and states in this historic effort to engage the salinity and water quality challenges facing the country. Clause 20.3 of the agreement with Queensland delivers a commitment from Queensland to ensure, to the best of its abilities, that regional vegetation management plans for the priority regions are completed in a way that informs the development of national resource management plans that will be developed to implement the national action plan and which will provide the key guide as to where clearing may or may not
occur in the context of the national action plan.

There are then a range of clauses to ensure both the Commonwealth and the state meet their obligations under that clause. For example, clause 20.5 provides for a rapid salinity assessment to be engaged in order to inform the development of the regional vegetation management planning process that is under way in Queensland under its own vegetation management legislation, which in turn will be a key contributor to the wider natural resource management plans of the national action plan process. As my colleague Senator Boswell quite rightly pointed out, in the Constitution that is a state responsibility—a key point that seems to have been missed by the speakers from the other side. Admittedly there are state Labor governments right throughout the country, and one would not want to think that they would be partisan in that approach and would have a different approach if it were any other government of another political persuasion, but one is constrained to think that that may be their reasoning.

The rapid salinity mapping provision is there to ensure the decisions made by Queensland in relation to tree clearing in areas covered by the national action plan might be well informed, even ahead if necessary, of the finalisation of the natural resource management plans where vegetation management will be a key element—and I pay due credit to the Queensland government for that. Clauses 20.7 through to 20.9 then deal with the issue of ensuring there is an appropriate level of information sharing between Queensland and the Commonwealth for both governments to feel confident each is meeting its obligation under the national action plan in relation to ensuring there is, as the intergovernmental agreement requires, no land clearing that leads to unacceptable land or water degradation.

So there are in fact comprehensive references to tree clearing in the bilateral agreement as befits the clear understanding that such clearing is well known to be one of the causes of dryland salinity, which is what the national action plan seeks to address in terms of its impact not just on land degradation but on water degradation and in order to protect Australia’s productive farm and grazing land as important contributors to our economy. So for Senator Cherry to claim the bilateral agreement does not address the issue of tree clearing is just plain wrong. If what he is really saying is that the Commonwealth should not have signed an agreement with Queensland to combat salinity and water quality problems in that state without some sort of agreement for a total ban on tree clearing then he fails totally to understand the national action plan. If his observation was rather that there is more to be done in relation to further constructive dealing with Queensland on vegetation management issues then he would be right and he should be perfectly confident that that work is indeed ongoing. But to claim that the bilateral agreement does not deal with the issue in relation to the matter at hand, which is the National Action Plan on Salinity and Water Quality, is just plain wrong and a misinterpretation.

The ACTING DEPUTY PRESIDENT—Order! The time for the debate has expired.
matters referred to the committee during the previous parliament.
Ordered that the report be adopted.

BUDGET
Consideration by Legislation Committees
Reports
Senator McGAURAN (Victoria) (6.56 p.m.)—Pursuant to order, and at the request of the chairs of the respective committees, I present the reports from the Community Affairs Legislation Committee, the Employment, Workplace Relations and Education Legislation Committee, the Environment, Communications, Information Technology and the Arts Legislation Committee, and the Finance and Public Administration Legislation Committee in respect of the 2001-02 additional estimates, together with the Hansard record of the committees proceedings and documents received by a committee.
Ordered that the reports be printed.

COMMITTEES
Scrutiny of Bills
Report
Senator MACKAY (Tasmania) (6.56 p.m.)—On behalf of Senator Cooney, I present the second report of 2002 of the Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 2 of 2002 dated 13 March 2002.
Ordered that the report be printed.

DOCUMENTS
Auditor-General’s Reports
Report No. 36 of 2001-02
The ACTING DEPUTY PRESIDENT (Senator McLucas) (6.57 p.m.)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 36 of 2001-02—Information support services—Benchmarking implementation and production costs of financial management information systems.

DELEGATION REPORTS
Parliamentary Delegation to France
Senator McGAURAN (Victoria) (6.57 p.m.)—by leave—I present the report of the Australian Parliamentary Delegation to France which took place from 1 October 2001 to 4 October 2001.

GOVERNMENT AGENCY CONTRACTS
Return to Order
The ACTING DEPUTY PRESIDENT (Senator McLucas)—I table the following document pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:
Departmental and agency contracts—Letters of advice—Employment and Workplace Relations portfolio.

COMMITTEES
Membership
The ACTING DEPUTY PRESIDENT (Senator McLucas)—The President has received letters from party leaders seeking variations to the membership of various committees.
Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (6.59 p.m.)—by leave—I move:
That senators be discharged from and appointed to committees as follows:
Community Affairs Legislation Committee—
Participating member: Senator Crossin
Community Affairs References Committee—
Participating member: Senator Crossin
Economics Legislation Committee—
Participating members: Senators Cherry and George Campbell
Economics References Committee—
Participating members: Senators Cherry and George Campbell
Employment, Workplace Relations and Education Legislation Committee—
Participating members: Senators Cherry, Collins and Crossin
Employment, Workplace Relations and Education References Committee—
Participating members: Senators Cherry, Collins and Evans
Environment, Communications, Information Technology and the Arts Legislation Committee—

Participating member: Senator George Campbell

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

Participating members: Senators George Campbell and Evans

Finance and Public Administration References Committee—

Participating members: Senators Crossin and Evans

Foreign Affairs, Defence and Trade References Committee—

Participating member: Senator Evans

Legal and Constitutional Legislation Committee—

Participating member: Senator Evans

Substitute member: Senator Ludwig to replace Senator McKiernan till close of business 12 April 2002

Legal and Constitutional References Committee—

Participating members: Senators Crossin and Evans

Substitute member: Senator Ludwig to replace Senator McKiernan for the committee’s inquiry into outsourcing of the Australian Customs Service’s Information Technology

Rural and Regional Affairs and Transport Legislation Committee—

Participating member: Senator Evans

Substitute member: Senator Colbeck to replace Senator Ferris from 19 March 2002 till close of business 22 March 2002

Rural and Regional Affairs and Transport References Committee—

Participating members: Senators Crossin and Evans


Question agreed to.

AUSTRALIAN CITIZENSHIP LEGISLATION AMENDMENT BILL 2002

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 1) 2002

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION AMENDMENT BILL 2002

COAL INDUSTRY REPEAL (VALIDATION OF PROCLAMATION) BILL 2002

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (FURTHER SIMPLIFICATION OF INTERNATIONAL PAYMENTS) BILL 2002

TAXATION LAWS AMENDMENT (SUPERANNUATION) BILL (No. 1) 2002

INCOME TAX (SUPERANNUATION PAYMENTS WITHHOLDING TAX) BILL 2002

TAXATION LAWS AMENDMENT (FILM INCENTIVES) BILL 2002

PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) AMENDMENT BILL 2002

STUDENT ASSISTANCE AMENDMENT BILL 2002

First Reading

Bills received from the House of Representatives.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (7.00 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have eight of the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.
Second Reading

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (7.02 p.m.)—I table a revised explanatory memorandum relating to the Taxation Laws Amendment (Film Incentives) Bill 2002 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIAN CITIZENSHIP LEGISLATION AMENDMENT BILL 2002

The purpose of this bill is to update a number of aspects of Australian citizenship law.

The bill was originally introduced into the parliament in August 2001 by my colleague the Hon Philip Ruddock and flows from the government response to the report of the Australian Citizenship Council, Australian Citizenship for a New Century. I commend Philip Ruddock for his significant contribution in this area.

The Australian Citizenship Council reported in February 2000. The government response, Australian Citizenship… a Common Bond, was released in May 2001.

The government response is designed to encourage all Australians to value their citizenship and contains a commitment to update and strengthen aspects of citizenship law.

The government agreed with the Australian Citizenship Council that, in its relatively short 53 years of existence, Australian citizenship has been a major success story.

Apart from giving a new and unique legal status to those in Australia at the time of its introduction, Australian citizenship law has evolved to be one of the most welcoming and inclusive in the world and has been the basis for over 3 million migrants becoming full participants in our society.

The government believes that the overall inclusive and non-discriminatory approach to Australian citizenship, that is premised on welcoming, without undue barriers, migrants and humanitarian entrants who come to Australia as part of the planned migration and humanitarian programs, should continue as the basis for future Australian citizenship law and policy.

Accordingly, there will be no change to the basic criteria for grant of Australian citizenship which, in general, are working well.

Clearly, some aspects of citizenship legislation need, over time, to evolve to reflect the changing realities of the Australian community.

This bill updates aspects of citizenship law, refines and enhances provisions relating to children and young adults, and strengthens existing integrity measures.

Turning firstly to the need to update the law on loss of citizenship, this bill will repeal section 17 of the Australian Citizenship Act 1948, so that adult Australian citizens in future do not lose their Australian citizenship if they acquire another citizenship.

The government’s decision to proceed with this change follows widespread community consultation over the last few years, undertaken initially by the Australian citizenship council and, more recently, by the government through the release of a discussion paper.

Submissions to the government strongly supported repeal of section 17: over 800 submissions were received in response to the release of the discussion paper in June 2001; almost all supported repeal of section 17. In fact, since the launch of the government response we have received close to two thousand representations from people expressing support for the early repeal of section 17.

This change will allow the growing numbers of internationally mobile Australians to take advantage of opportunities overseas, while maintaining their links with Australia and bringing back to the Australian community their valuable expertise and knowledge.

It will also bring Australia into line with the citizenship law of many other comparable countries, including the U.K., Canada, New Zealand, USA, France and Italy.

The changes will benefit those adult Australian citizens who acquire another citizenship after the new law is passed and comes into effect.

This bill also introduces a number of enhancements to citizenship legislation in the interests of young Australians.

The bill extends the citizenship by descent provisions to allow children born overseas to an Australian citizen parent to be eligible for registration as an Australian citizen by descent until they turn 25 years of age. Currently the age limit is set at 18 years.

Similarly, the bill extends the resumption provisions to allow young persons who renounce their Australian citizenship in order to retain another citizenship, to be eligible to resume their Australian citizenship until they turn 25 years of age.
Many young people re-examine their identity and future around the ages of 18 to 25. These changes will give young people more opportunities to acquire or resume Australian citizenship.

The bill will also provide for children under 16 who acquire Australian citizenship by grant with their parent, or at a later date, to be given their own citizenship certificate.

Currently the law requires children under 16 to have their names endorsed on the back of their parent’s certificate.

Provision of individual citizenship certificates to these children is an appropriate way to recognise their individual citizenship status and will facilitate their having appropriate citizenship documentation upon reaching adulthood.

Turning to integrity issues, this bill strengthens the integrity of the citizenship process in a number of ways.

Firstly, the bill requires persons aged 18 years and over who seek either to be registered as Australian citizens by descent, or to resume Australian citizenship, to be of good character.

It is important that these people of adult age be of good character to access Australian citizenship.

Secondly, the bill extends the ban on the grant of Australian citizenship from 2 years after release from prison, to 10 years, for a person who is a serious repeat offender.

The government agrees with the Australian citizenship council that a period of 10 years represents a more appropriate length of time for any such applicants for citizenship to demonstrate that they are of good character.

Thirdly, the bill introduces powers for the minister to revoke, in certain circumstances, the grant of a certificate of citizenship before actual conferment of citizenship and also to defer conferment of citizenship for a 12 month period in certain circumstances.

These changes will ensure that a person does not automatically proceed to become an Australian citizen if, in the period between a decision to grant and actual conferment of citizenship, it becomes evident that the person does not, or may not, meet the requirements for grant of Australian citizenship.

Fourthly, the bill provides the minister with a power to revoke the grant of a certificate of Australian citizenship before conferment of citizenship where the person has failed to make the pledge of commitment within 12 months after being notified of the decision to grant citizenship, without an ‘acceptable reason’.

Acceptable reasons will be prescribed in regulations. Currently the citizenship act leaves open indefinitely the time a person, approved for Australian citizenship, has to make the pledge of commitment.

I believe that in their totality, these initiatives will significantly enhance the integrity of the citizenship process.

This bill also extends concessions in relation to meeting the residence in Australia requirement for grant of Australian citizenship, which have been available for many years to people who have served in the permanent defence force, to people who have served as full time members of an Australian reserve force for at least six months.

Although Australian citizenship is now a requirement for service in the reserve forces, this has not always been the case.

There may, therefore, be some people who have spent substantial periods of time in the reserve forces who have not yet acquired Australian citizenship and such people will benefit from this change.

This change recognises the significant contribution of our reserve forces.

This bill also inserts a note referring to “people smuggling” offences in the provision relating to deprivation of Australian citizenship.

This amendment will not change the existing policy settings for deprivation of Australian citizenship.

Rather, it will highlight that a person who committed a “people smuggling” offence before a decision to grant a citizenship certificate, and is sentenced to imprisonment for a period of not less than 12 months, after lodging the application for the citizenship certificate, may be deprived of Australian citizenship.

The government considers it important to draw attention to the potential for the existing citizenship deprivation provisions to be used in this way as we wish to highlight the seriousness that we attach to people smuggling crimes.

Finally, the bill makes the avenue of review available for decisions on revocation of the grant of a certificate of citizenship before conferment of citizenship; decisions on resumption of Australian citizenship by young people; and decisions on good character in applications for registration of Australian citizenship by descent.

In summary, this bill will update and enhance citizenship law to improve its operation in some important areas.
It is an important bill and one which will help create an even more robust Australian citizenship for the 21st century.

My colleague the Hon Philip Ruddock had great pleasure in introducing the bill into the last parliament and I know that he continues to have a close, personal interest in Australian Citizenship and the value these changes will make to a great many Australians.

I commend the bill to the Senate.

HIGH EDUCATION LEGISLATION AMENDMENT BILL (No. 1) 2002

In the May 2001-2002 budget, the Government announced the establishment of an interest-free loan scheme designed to expand opportunities for overseas-trained professionals to meet the formal recognition requirements of their professions in Australia. The purpose of this Bill is to establish this loan scheme, called the Bridging for Overseas Trained Professionals Loan Scheme (BOTPLS) to assist overseas trained professionals to cover the costs of bridging training.

Australia attracts a significant number of overseas-trained professionals, most of whom intend to work in their profession in Australia. Many professions have regulations associated with employment, some of which are legal while others are a matter of employment practice. All such professions require the assessment of qualifications and, in some cases an examination is required. For many overseas trained professionals, bridging courses are recommended, either as preparation for the examination or to make up knowledge gaps that have been identified through the assessment process. For example, a dentist or medical practitioner might take a clinical bridging course to prepare for the examination while an overseas trained lawyer or an accountant might be required to take a unit in Australian taxation law.

Governments have long recognised the value to the community of assisting overseas trained professionals to undertake bridging courses and the Commonwealth Government took over responsibility for funding such courses from the State Governments in the early 1990’s. While the current programme has benefited approximately 500 people per year, the demand for bridging courses has exceeded the supply because the number of places has been limited by the programme budget. Some course providers have restricted their offerings in line with the availability of government-funded places. It is expected that the new programme will make it possible for more people to take advantage of bridging courses and providers may respond by making the courses more accessible.

The purpose of this Bill is to expand the opportunities for overseas-trained professionals to undertake such bridging courses without increasing the burden on Australian taxpayers. To be eligible for the loan, the applicant must hold professional qualifications that have been awarded in another country. In effect this means that these people will be post-graduate students and it is in line with current trends in higher education funding that students pay full fees for post-graduate courses. Last year, in order to improve Australia’s skills base, the Post-graduate Education Loan Scheme (PELS) was introduced to give post-graduates access to the same sort of financial assistance that is available to undergraduates who defer their education costs through HECS.

The proposed bridging loan scheme will provide similar assistance to overseas-trained professionals who enrol in bridging courses. As the courses are limited to non-award courses of no more than one year’s full-time study, these people are likely to enter the work force and begin repaying their loans more quickly than either HECS or PELS recipients. Participants repay their loan through the taxation system once their income reaches the minimum threshold for compulsory repayment.

Australian permanent residents who hold a Centrelink concession card will still have access to the Assessment Fee Subsidy For Disadvantaged Overseas-Trained Australian Residents (ASDOT) programme, which will not be affected by this Bill.

It is expected that implementation of the bridging loan scheme will provide overseas trained professionals with a cost-effective pathway to recognition. Under the new scheme clients will not be prevented from enrolling in bridging courses due to limitations on the number of government-funded places. Nor will they be dissuaded from pursuing training because they are unable to pay course costs at the time of enrolment.

To be eligible for the new scheme applicants will require an assessment statement from the relevant gazetted assessing authority and this will specify the nature of the additional training that is required.

Based on the numbers who have participated in the current bridging programme and predicting an increase over time, it is estimated that the loans provided under the proposed scheme will amount to some $12 million over the next five years and will assist in the order of 3,000 participants to enter their profession in Australia.
It is the Government’s intention that the new bridging loan scheme will commence on 1 July 2002. The Bill allows for transition arrangements for participants who started their bridging course in first semester 2002.

I commend the Bill to the Senate.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION AMENDMENT BILL 2002

The Human Rights and Equal Opportunity Commission Amendment Bill 2002 will ensure that the States are bound by the complaints and remedies provisions in the Human Rights and Equal Opportunity Commission Act 1986.

The bill is needed to rectify a drafting oversight that was identified in a Federal Magistrates Service case late last year called Rainsford v State of Victoria [2001] FMCA 115.

The oversight occurred in amendments in the Act that commenced on 13 April 2000.

These amendments were made in the Human Rights Legislation Amendment Act (No. 1) 1999 (the Amendment Act).

Prior to the commencement of the Amendment Act on 13 April 2000, the legislative structure for handling complaints alleging unlawful discrimination was set out in each of the Acts dealing with the specific areas of sex, disability and race discrimination.

That is, the Racial Discrimination Act 1975, the Sex Discrimination Act 1984, and the Disability Discrimination Act 1992 respectively.

The complaints and remedies provisions in each of these Acts bound the States prior to the commencement of the Amendment Act.

When the complaint handling structure was moved from the three specific Acts into the Act, no provision was made to ensure that the Act bound the States in relation to complaints and applications to courts.

The provisions in each of the anti-discrimination acts continued to apply to the Sates in the same way as before—but the complaint handling structure did not.

This was an unintended drafting oversight in the Amendment Act.

The reforms in the bill will make sure that actions for unlawful discrimination under Commonwealth anti-discrimination law can be brought against a State in the same way as before the Amendment Act.

These amendments have retrospective effect from 13 April 2000 so that there is no gap in coverage.

Individuals who believe that they have been discriminated against by a State since that time will be able to pursue a complaint after commencement of the bill—as if the drafting oversight had not occurred.

This will be welcome news to applicants in Commonwealth anti-discrimination cases against States.

Since the Amendment Act States have acted as if they were bound by Commonwealth anti-discrimination law—as indeed they were intended to be.

The measures in the bill simply re-instate the situation that was believed by all to be the case prior to the Rainsford decision.

Consistently with this Government’s commitment to the effective operation of Commonwealth anti-discrimination laws, the Government has moved quickly to remedy this unintended drafting oversight.

The bill will have little, if any, financial impact.

COAL INDUSTRY REPEAL (VALIDATION OF PROCLAMATION) BILL 2002

The purpose of this bill is twofold: firstly to confirm that the Coal Industry Repeal Act 2001 commenced on 1 January 2002 as intended; and secondly to validate all actions taken on the assumption that it commenced on 1 January 2002.

Last December the Governor-General in Executive Council made a Proclamation setting the commencement date at 1 January 2002, but because of an administrative oversight the Proclamation was not Gazetted before that date, which means the Act may not have commenced on 1 January as intended.

This has ramifications for actions taken by New South Wales which rely on the commencement of the Coal Industry Repeal Act 2001.

The Coal Industry Repeal Act 2001 provides for the dissolution of the Joint Coal Board and enables New South Wales to transfer all of its functions, staff, assets and liabilities to a new body established under New South Wales law. This removal of unnecessary Commonwealth involvement in the New South Wales coal industry has been supported by all parties. The commencement by Proclamation of the Coal Industry Repeal Act 2001 was timed to coincide with the commencement of New South Wales legislation—the Coal Industry Act 2001—establishing a new body to take over the properties and functions of the Joint Coal Board. As well as allowing for a seamless transition, the coordinated commencement date also reflects a Parliamentary
undertaking that the Government would not proclaim the Coal Industry Repeal Act 2001 until New South Wales was ready to go ahead.

From 1 January 2002, New South Wales has acted as if the Proclamation fixing the commencement date of Coal Industry Repeal Act 2001 had been properly constituted. The legal basis of many of the actions taken by the New South Wales Government and the ongoing activities of Coal Services Pty Ltd—the new body established by New South Wales to take over the properties and functions of the Joint Coal Board—is uncertain.

While this uncertainty remains, it can act to constraint on the activities of Coal Services Pty Ltd in providing essential services to the New South Wales coal industry. There is an urgent need to remedy this situation and to put beyond doubt the validity of all actions taken on the assumption that the Coal Industry Repeal Act 2001 had come into force on 1 January 2002.

The Government has taken urgent action to remedy the situation and provide certainty to the operations of the New South Wales coal industry.

As an interim measure, the Governor-General’s Proclamation was gazetted on 1 February 2002. This provides a signal confirming the Commonwealth’s intent that the Coal Industry Repeal Act 2001 commenced on 1 January 2002. However, the validity of the Proclamation and hence the commencement of the Act still remains uncertain.

This bill is necessary to put beyond doubt that 1 January 2002 is the date of commencement for the Coal Industry Repeal Act 2001 and to validate all actions taken on the assumption that the Act had come into force on that date. I seek the full support of this Parliament in progressing this bill quickly.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (FURTHER SIMPLIFICATION OF INTERNATIONAL PAYMENTS) BILL 2002

The purpose of the bill is to give effect to the 2001-02 Budget initiative to bring the payment of Australian pensions to people overseas long-term in line with international standards. It also equalises the rules under which overpayments are recovered from people receiving foreign pensions.

The rate of Australian pensions paid in Australia does not depend on a person’s length of Australian residence. However, Australian pensioners residing overseas on a long-term basis are paid a ‘proportional’ rate that reflects their length of Australian residence. Currently, to be paid a full pension after an absence of longer than 26 weeks, pensioners overseas are required to have 25 years of Australian working life residence. Other countries require that people contribute for around 40 years before the full rate of pension can be paid, and often there are further restrictions on the payability of these pensions outside those countries.

To bring Australia in line with international standards this bill extends the required residence period to 30 years under the Social Security Act 1991.

The bill also further recognises the valuable contribution that senior Australians make to our community. The bill allows people who defer their age pensions and register with the Pension Bonus Scheme to add their bonus periods under the Scheme to the Australian working life residence period they accrued before they reached age pension age. As a result they may be paid a higher long-term overseas rate.

The amendments made to the Social Security Act 1991, in relation to the Australian working life residence, will only apply to anyone who departs Australia after the commencement day of the amendments. A person who is absent from Australia on the commencement day will be subject to these amendments only if they return to Australia and stay for 26 weeks or more.

The bill also equalises the treatment of debts incurred by people who receive lump sum payments of foreign pension.

Where a person receives lump sum arrears, of a comparable foreign payment from a country with which Australia has an international social security agreement, the overpayment of Australian pension, for the period covered by lump sum, is recovered. In contrast, where the same type of lump sum payment is received from other countries, no debt is currently incurred. The new debt recovery provision in the Social Security Act 1991 ensures that overpayments of Australian social security payments arising from these arrears payments are debts and that they are recoverable.

TAXATION LAWS AMENDMENT (SUPERANNUATION) BILL (No. 1) 2002

The Government announced in its ‘A Better Superannuation System’ statement last year that temporary residents permanently departing Australia would be able to access their superannuation funds before preservation age. Temporary residents who have permanently departed Australia will not be retiring in
Australia and often wish to take their superannuation benefits with them to the country in which they live, but are currently unable to do so. The Government is proposing amendments to the Superannuation Industry (Supervision) Regulations, which will in future allow such persons to access their superannuation on departing Australia.

However, as the payment will be to a temporary resident who will not be using the payment for retirement in Australia it would not be appropriate for the payment to receive concessional taxation treatment. Accordingly, this bill, in conjunction with the Income Tax (Superannuation Payments Withholding Tax) Bill 2002, imposes special rates of taxation on superannuation paid to temporary residents permanently departing Australia, and requires funds to withhold taxation from such payments at those rates. These amendments will claw back the taxation concessions on these payments while still allowing temporary residents permanently departing Australia to take their superannuation, rather than requiring them to leave it in Australia until retirement.

Full details of the measures in this bill are contained in the explanatory memorandum. I commend the bill to the Senate.

INCOME TAX (SUPERANNUATION PAYMENTS WITHHOLDING TAX) BILL 2002

This bill, in conjunction with the Taxation Laws Amendment (Superannuation) Bill 2002, imposes special rates of taxation on superannuation paid to temporary residents permanently departing Australia. Together with proposed amendments to the Superannuation Industry (Supervision) Regulations, these amendments will claw back the taxation concessions on these payments while still allowing temporary residents permanently departing Australia to take their superannuation, rather than requiring them to leave it in Australia until retirement.

Full details of the measures in this bill are contained in the explanatory memorandum. I commend the bill to the Senate.

TAXATION LAWS AMENDMENT (FILM INCENTIVES) BILL 2002

This bill creates a refundable tax offset for film production in Australia. This was announced by the Government on 4 September 2001 as part of its ‘Integrated Film Package’.

These measures are designed to give effect to the Government’s strategy to provide an incentive to attract expenditure on large budget film productions to Australia. This is aimed at providing increased opportunities for Australian casts, crew, post-production and other services to participate in large budget productions, and to showcase Australian talent—with concomitant benefits for employment and skills transfer.

The incentive has a number of eligibility criteria, which are aimed at large budget film productions that have significant production expenditure in Australia. In particular films will have to meet a minimum requirement of at least $15 million in qualifying Australian expenditure to be eligible. Films with at least $15 million but less than $50 million in qualifying Australian expenditure will have to spend seventy per cent of their total expenditure in Australia. Films with qualifying Australian production expenditure of $50 million or over will not have to meet the seventy per cent requirement.

The provision of a refundable tax offset will allow Australia to compete internationally for large budget film productions. The refundable tax offset is to be applied at a rate of twelve and a half per cent to qualifying Australian expenditure of a film project. This incentive is expected to amount to approximately 10 per cent of a film’s cost of production, varying as qualifying Australian expenditure is more or less of the total production expenditure.

Eligible films must have been completed on or after 4 September 2001. The refundable tax offset for film production expenditure in Australia is effective from the announcement date and can be claimed from the income year ended 30 June 2002.

Since the Government announced its plan to provide a refundable tax offset for film production in Australia, consultation has occurred with domestic and international large film studios, film producers, and film industry peak bodies.

The Government considers the consultation process involved with this measure to have been a very positive and worthwhile process. I would like to thank all those involved in that process for their effort in contributing to the development of this bill.

Full details of the measures in this bill are contained in the explanatory memorandum. I commend the bill to the Senate.

PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) AMENDMENT BILL 2002

The Protection of the Sea (Prevention of Pollution from Ships) Amendment Bill will amend the
Protection of the Sea (Prevention of Pollution from Ships) Act 1983 (the “Pollution Prevention Act”). The Pollution Prevention Act implements the International Convention for the Prevention of Pollution from Ships, commonly known as MARPOL, and it is therefore the principal Commonwealth Act intended to prevent pollution from ships.

Recent amendments to the Pollution Prevention Act revised the offence and penalty provisions. These were implemented by the International Maritime Conventions Legislation Amendment Act 2001 (the “IMCLA Act”) most of which commenced on 1 October 2001.

Prior to the commencement of the IMCLA Act amendments only owners and masters of ships could be prosecuted for discharges of pollutants, such as oil, noxious substances or garbage from their ships. The IMCLA Act amended provisions in the Pollution Prevention Act to ensure that any person, rather than just the ship’s master or owner, whose negligent or reckless conduct causes an unlawful discharge of pollutants from a ship into the sea is guilty of an offence. Owners and masters of ships remain strictly liable for discharges of pollutants from their ships, whether or not other persons have recklessly or negligently discharged pollutants, although owners and masters, because they are held strictly liable, are subject to lesser penalties.

An unintentional consequence of the IMCLA Act amendments to the Pollution Prevention Act was to exclude the offence provisions from taking affect in Australia’s Exclusive Economic Zone. In accordance with the original policy intent behind the IMCLA Act the current bill provides that the offence provisions in the Pollution Prevention Act have effect in the Exclusive Economic Zone.

In relation to the offences of strict liability there are a number of existing defences set out in the relevant provisions of the Pollution Prevention Act. For example, there is no strict liability offence if a discharge occurs for the purpose of securing the safety of the ship or saving life at sea or the discharge occurs in accordance with the strict conditions set out in MARPOL.

STUDENT ASSISTANCE AMENDMENT BILL 2002

The purpose of the bill is to amend the Student Assistance Act 1973 (the Act). The ABSTUDY and Assistance for Isolated Children (AIC) schemes are non-statutory (executive) schemes funded through the Appropriation Acts. The Student Assistance Act 1973 provides the statutory mechanism in relation to debt recovery and administrative appeals for these schemes.

The first amendment is to permit Social Security, Veterans’ and Family Assistance legislation overpayments to be offset against benefits payable under the AIC scheme and the ABSTUDY scheme, as had previously been permitted until 1998.

The second amendment is a minor change to update the definitions in the Act to reflect that the Aboriginal Overseas Study Assistance Scheme no longer exists.

The third and final amendment is to increase the 7-day notification period within which students are obliged to notify of certain prescribed events in Section 48 and related sections of the Act to a 14 day period. This amendment will align Section 48 of the Act with Section 344 of the Act, which relates to the notification period for a change of address. It will also provide a consistent approach to the administration of the AIC and ABSTUDY schemes and other Commonwealth programs administered by Centrelink.

These proposed amendments will ensure greater consistency in arrangements between the Student Assistance Act and the Social Security Act in terms of permitting the recovery of overpayments and also the required notification period.

I commend the bill to the Senate.

Debate (on motion by Senator Mackay) adjourned.

Ordered that the Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002 and the Income Tax (Superannuation Payments Withholding Tax) Bill 2002 be listed on the Notice Paper as one order of the day, and the remaining bills be listed as separate orders of the day.

REGIONAL FOREST AGREEMENTS BILL 2002

In Committee

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Hogg)—The question is that Australian Greens amendment (6) on sheet 2432 revised be agreed to.

Senator MURPHY (Tasmania) (7.03 p.m.)—In regard to this amendment, I made the point earlier about the Commonwealth having constitutional power to put laws in place. The matter I referred to earlier was
part V, section 51(xxxxix) of the Constitution. Section 51(xxxxix) says:

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to:

(xxxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judiciary, or in any department or officer of the Commonwealth.

That is my argument—we have the constitutional right. I am really doing that for the information of your officers, Minister Macdonald, who were seeking that information. I was going to try and get it to them otherwise, but I have now put it on the public record.

Senator BROWN (Tasmania) (7.05 p.m.)—This amendment, on behalf of the Australian Greens, will ensure that there is parliamentary scrutiny of the regional forest agreements. Both the Labor Party and the government have said, ‘There are mechanisms for looking at the regional forest agreements and, when those agreements default in terms of management, employment commitments and the environment, the parliament will be able to look at it.’ What both the Labor Party and the government do not say is that they will have no power to do anything about it. The whole thrust of this piece of legislation is to remove the current powers—and obligations which come with those powers—to manage, on behalf of the nation, and oversee the natural values of forests and to ensure that the states, which are getting more than $300 million out of national taxpayers to inject into the industry, expend that money judiciously and with good employment outcomes.

The evidence is clear that there has been job shedding on a very large scale, particularly in Senator O’Brien’s home state, my home state of Tasmania. Despite repeated challenges to both the Labor Party and the government in here, this is not commanded, because there is nothing to be said about it by Senator O’Brien on behalf of the Labor Party or by the government. Hundreds of jobs have been shed and hundreds of people have been sacked from the industry of native forest logging since Prime Minister Howard signed the agreement with the then Liberal Premier—which was taken up with even greater gusto by the now Labor Premier, Jim Bacon—in Tasmania, in which the Prime Minister said it would create 550 jobs and that, to that end, they would put $80 million for starters into the Tasmanian industry. In fact, a minimum of 450 jobs has been lost. Senator O’Brien is not going to deny that, the government is not going to deny that, yet we have this extraordinary situation where both of them will say, ‘We’re doing this for jobs.’

Senator O’Brien has today said, ‘Well, we might get some veneer made. The Finns are looking at the whole logs we’re exporting to Finland and, if they’re impressed, they might come and set up a veneer plant in Tasmania using regrowth.’ What Senator Murphy has had to say about that is enlightening: that it has been tried before—and it has—and the promise is always kept there, dangling in front, but it does not turn out. The idea that a use, such as veneer, has to be found for regrowth points to another major fault with the whole way the forests in Tasmania are being handled—that is, where are the sawlog forests for the future? Huge amounts of Tasmania have been planted with Eucalyptus nitens. I challenge either the government or the opposition to get up and say this is good sawlog timber. It is not; it is fast-growing, imported eucalypt from the mainland, which is for pulp.

It is not a sawlog driven strategy we have had in Tasmania; it is a pulp driven strategy—that is, a woodchip driven strategy—which denies and puts the lie to the idea this legislation is aimed at creating jobs, because the woodchip industry is a gross job shedder. That is why jobs have been lost since Prime Minister Howard made his hollow promise. The sawlog industry has been bypassed and, as we heard in that letter to Senator O’Brien from Mr Hayward from Wigeena earlier today, the fact is that over 90 per cent of the Tasmanian native forests is now being exported as woodchips rather than being utilised as sawlog. This is extraordinary because, in other countries, it would be the
other way around: it would be 90 per cent going to sawlog and 10 per cent, as waste, going to woodchipping. This is a rampant misuse and waste of a once-only resource in the native forests of Tasmania. That is why Senator Murphy has felt impelled to take such a forward role in the debate—because he has been there at the coalface, he has represented the workers and he has seen the industry mismanagement with his own eyes.

We need parliamentary scrutiny for exactly the opposite reason to the one given by Senator Macdonald on behalf of the government. He says, 'It is a democratic bill; it will take away mischievous government intervention.' What he means by that is that it will take away the ability of governments to act at all in the national interest. Acting on the environmental interests of the Australian people is seen by the minister and by the Howard government as mischievous, whereas we know, in effect, that the Australian people have moved well ahead of both the National Party and the Labor Party and want to see what is left of these grand forests and their wildlife protected because they are enormous job creators in terms of the attractiveness of those forests—both to Australians and to people from all around the world.

It is instructive to look at the financial performance of Forestry Tasmania because that brings into focus why there should be a national overview. Remember that Forestry Tasmania has been in receipt of enormous public largesse, including from the federal taxpayer. In 1988 it received $51.44 million as a result of the Helsham inquiry settlement, and that came out of taxpayers' pockets right around Australia. In 1990, the then Labor Premier, Michael Field, tragically transferred the accumulated $272 million debt of Forestry Tasmania into the public debt. In other words, he took it off Forestry Tasmania, which had been growing this debt—to use Treasurer Costello's new verbiage—and put it into the public debt where it could not be seen but where, since that year, it has been attracting interest-free payments and, therefore, has been taking millions of dollars out of schools, hospitals, police stations and other public amenities in Tasmania. Tens of millions of dollars have been lost because of Forestry Tasmania's debt.

Then, in 1997, after this regional forest agreement was signed by Prime Minister Howard, $110 million all up went into the Tasmanian industry—$64 million earmarked for Forestry Tasmania. In 1998, $52.197 million of capital and interest due on softwood loans from the Commonwealth was written off. If you put those together, you have well in excess of half a billion dollars going into the forest industry, and particularly Forestry Tasmania, out of the public purse in the last 14 years. Half a billion dollars in a little state like Tasmania!

It is worth noting that Forestry Tasmania's pre-tax operating profit is well below what would be expected in the private sector. It had a 1.1 per cent return on net assets in the last available year, 1999-2000. It would be more profitable to put the money that has gone to Forestry Tasmania into an interest bearing bank account. The pre-tax profit of Forestry Tasmania of $8.3 million in that year is even less than it first appears, because it includes interest income of $2.9 million from investments, including $71 million of the RFA money. A big component of the profit Forestry Tasmania can show is actually interest out of the taxpayers' money going through the RFA into Forestry Tasmania. It is not from the selling of the forests at all, because that is being subsidised. The people making the profit out of the forests are Gunns Pty Ltd. They have a 35 per cent return on their investment while Forestry Tasmania mismanages the public domain of the forests and, even worse, uses the largesse coming from here to falsely give the appearance that it is making a profit when it is not.

Forestry Tasmania's profit has fallen dramatically over the three financial years to 1999-2000, despite increasing wood volume sold. Operating expenses have risen faster than operating revenue, despite the higher wood volumes—most of which come from native forests. It is just not possible to work out which components of operating expenses are blowing out, because the annual report does not give that breakdown. However, the recent borrowing of $14 million by Forestry Tasmania dramatically exceeds the amount
borrowed over the last few years. I ask the minister, as surveillance now, not some delegated committee further down the line: why are the profits in Tasmania falling while the amount of wood cut and processed is increasing? Why are the returns so low on that asset? Why are the operating costs blowing out? What has happened to the public money? What is the pre-tax profit for this year estimated to be? Why did Forestry Tasmania have to borrow $14 million in the last year when it had only so recently received $110 million, or at least $64 million of the $110 million, from Tasmanian taxpayers? What is going on?

I will return to this matter tomorrow, because when you look at Forestry Tasmania’s so-called ‘profit’, you find that it has been falsely aggregated by a reassessment of the value of the standing forests in Tasmania. From year to year they say, ‘The value of the forests has gone up by X million dollars. That is profit.’ It is a very false accounting trick. If you take that out, Forestry Tasmania is running at a very great loss—despite the millions being injected into it by the public purse. Meanwhile, up the road in the private sector, Gunns Pty Ltd is making a killing through exporting the forests to the Japanese woodchip market at a huge windfall profit to itself because its infrastructure is paid for through Forestry Tasmania by the public. The other thing that Gunns Pty Ltd is so good at doing to enhance its profit line is sacking its workers. Where is the CFMEU and where is the Labor Party when that happens? They are silent.

Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation) (7.18 p.m.)—There is one minute left for this debate and, for Senator Ludwig’s benefit, I rise now. If I did not, Senator Brown would use an obtuse standing order to speak for another 15 minutes. Whilst I am here to answer questions that are germane to the bill, none of the questions Senator Brown has put to me on this occasion are. I will take the next 40 seconds to point out another of the inconsistencies of Senator Brown’s argument.

We were talking this morning about an incident concerning the Tasmanian wedge-tailed eagle—something that Senator Brown was blaming on the RFA. We now find, through interjection, that the incident occurred in 1992. As with so many of Senator Brown’s allegations, the incident referred to occurred many years ago, and his use of the incident to criticise Tasmanian forest management therefore takes into account none of the improvements since that time. It does not take into account the National Forest Policy Statement and it does not take into account the RFAs and the better management since those times. It is just typical of Senator Brown’s deliberate misconstruction of the real issues involved in this debate.

Progress reported.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

Population Policy

Senator PAYNE (New South Wales) (7.20 p.m.)—It was a pleasure to see and hear Senator McLucas in the chair this afternoon. I want to make a few remarks this evening on a broad policy area, often known as population policy. The day before yesterday, the All Party Parliamentary Group on Population and Development met. It is a group of which I have been a member for some time and which is usually focused on population policies in our region. I was very pleased to be made the secretary of that group this week. I am hopeful that there will be a focus in this parliamentary term on population policy issues in Australia. I suspect that if media attention since last month’s population summit in Melbourne is any indication, this is likely to occur.

What is more important is that the debate is an informed, serious-minded one and, most particularly, an open-minded one. While the national media attention is welcome, for the most part it has glossed over the finer detail of issues, including, some would say, the state of the environment. That has been a disappointment of the coverage. The link between population and environment is extraordinarily complex and deserves deep consideration. Within each component part of the population debate, such as the
environment, there is great divergence of views. Take for example the argument that population size is not the dominant factor in environmental outcomes. Agricultural activity in this country is geared more towards our overseas markets. For example, Australians consume only eight per cent of the total Australian water consumed. The rest goes into our agricultural exports.

While population size may not be a dominant factor in environmental degradation, it is very important as an indirect link. In a globalised economy, the bigger the population size, the more imports we require to be brought into Australia. It follows naturally then that we would have to ride our primary industries and our processing industries to drive our exports to pay for those imports.

There is a range of views amongst environmental policy activists concerned with population. Some would describe as austere and perhaps technologically pessimistic the view of the Australians for a Sustainable Population Group, who basically want nothing short of immediate action to reduce our population. That, on the other hand, is tempered by bureaucratic analysis which, while being concerned about long-term sustainability, asserts that we will in fact face a critical stage in about 70 years from now.

So those who have promoted panic in the recent past concerning resources have, on some views, burdened themselves and some aspects of the green movement as a whole with a credibility challenge. In the 1980s, for example, some environmentalists misinterpreted the findings of the Club of Rome as saying that the world’s natural resources would be consumed by the end of the 1990s. Clearly they did that to spur reform. Instead, because the world has not ended as perhaps predicted, aspects of the green movement are not always treated as seriously as perhaps they ought to be. In the Australian just this week, for example, one columnist wrote:

... the notion that Australia can’t hold any more people without choking implies that science, the supposed ally of the greenie, won’t find new ways to protect or improve the environment in the future.

So, aside from those who oversimplify the debate, we have others who dismiss some very real concerns in the community. That is a tension that does not add anything but rather detracts from the seriousness of the debate itself. People have every reason to take a serious look at ethnic harmony, the economic negatives of unskilled migration—as they are often called—the environment and other factors. All of these issues deserve consideration. One does not need to be dismissive of problems in absorbing New Australians or of concerns about the environment to promote population growth. I think that any difficulty in absorbing New Australians is more than made up for by their long-term productivity and the enrichment they bring to Australia and to the national diversity, which will be a real asset in an increasingly globalised system.

We have only to look at, for example, the celebration of next week’s Harmony Day. I have spoken before of the richness of our Australian community, particularly of course in Greater Western Sydney. Next week’s Harmony Day coincides with the UN International Day for the Elimination of Racial Discrimination. It has been growing bigger every year. As the Minister for Citizenship and Multicultural Affairs has said:

The concept of Harmony Day grew from the Commonwealth Government’s Living in Harmony initiative in 1999 and provides a valuable opportunity for people to celebrate Australia’s cultural diversity and stand up against racism.

So whether for Harmony Day this year you are a supporter of Guides New South Wales, a fan of Killing Heidi, a member of the Returned Services League, a member of Scouts Australia or a supporter of Surf Lifesaving Australia, all those diverse groups will be part of the celebration of that diversity on Harmony Day next week.

On the issue of environmental concern, although I am in favour of an increased population for Australia over the next 50 years, I can also acknowledge that resource management is a serious problem, if not an immediate crisis. That is not about holding two opposing views; that is about balance. Our over-reliance on non-renewable energy and inefficient use of renewable resources have to be addressed. Real concerns about our environment should be the driving force
for investment in new technology and infrastructure. It is entirely possible that a larger population would, in fact, mean more money to invest in green technology. I want to refer briefly to Minister Kemp’s speech at last week’s Ian Clunies Ross National Science and Technology Award presentation dinner where he said:

… there are some very positive signs. Domestic and international demand for ‘green industries’ is high. More Australian businesses and environmental industry customers are adopting a triple bottom line approach and voluntarily taking action to improve their performance—the environment as a business externality is being progressively internalised.

At a recent forum on research setting priorities, Australian scientists nominated the environment and sustainability issues as the top future research priorities. Clearly, there is a strong concern and a need and desire for knowledge.

An OECD study indicates that only half of the environmental technology the world will need in 2015 has been invented. In 40 years time there will be many well-to-do industries that do not exist today.

According to a CSIRO team that has reviewed the findings of the Club of Rome, it has always been a misinterpretation that ‘adjustment pain’ would happen sooner rather than later. The CSIRO says that the club’s position was that serious resource scarcity would occur in around 2070. But, clearly, from the blase comments in the press, typified by the one I referred to earlier, many remain to be convinced.

We need to bring together sufficient power and force to really deal with long-term problems that can be resolved only in a series of electoral cycles, not in one government term. One of the most pressing is changing our stock of infrastructure rather than only the invention of new technologies. That is a process that takes decades. The big inertia that holds back progress is the investment of dollars and technology that we currently have in our current infrastructure into new systems to the point that it actually has a real effect on cleaning up air and water.

The last time we had a major population debate in this country was post World War II, and we are all enjoying the legacy of the decision to boost our population through increased immigration 50 years on. The link that is often drawn between environmental damage over that same period and population size many would say is largely spurious. In fact, it is rather a problem that lies in environmental management. While the environment must be a factor in population forecasting, other considerations will also prevail. The effect that population growth has on our economy, the effects of the mix of our refugee, family reunion, skilled migration and general migration streams have on the economy, the issues of internal distribution of our population and international relations are the key issues that should be top of mind in Australia’s population debate.

I am interested to note the involvement of Professor Borrie in a population conference to be held in Sydney this coming October. The 1973 Borrie report was the first indication that Australia’s ageing population was a cause for concern and that government policy planning should take note of this issue. This had an enormous effect and was one of the things that led to, for example, the introduction of a superannuation system in this country and, in more recent times, many would say, a broad based indirect tax. I will look with great interest at that October demographers’ conference because it does have the potential to deliver some real suggestions on population policy rather than just being another talkfest.

It is interesting to note that, since the conference in the late 1940s, we have had countless others which have been important for public airing of opinions and for sharing of information and theories but they have not really reached the sort of agreement that occurred in the 1940s. Since so much time has passed since World War II, it is also important to note that international relations does not seem to be the same sort of dominant consideration, notwithstanding the recently launched war on terror. The most recent Melbourne conference indicated in parts of its communiqué that there were other factors which they regarded as important to be part of an integrated policy framework. I look forward in this term to continuing to discuss the issue of population policy and exploring...
other challenges and developments in this area.

**Cancer Council of New South Wales: Research Projects**

Senator HUTCHINS (New South Wales) (7.30 p.m.)—Last Thursday I had the honour of being invited to the awards of the Cancer Council of New South Wales for 10 new research projects in New South Wales. I was the only federal member of parliament there. I am not sure whether or not any of my colleagues were invited. It was held in the American Club in Macquarie Street in Sydney. If colleagues are invited to attend at this venue, I suggest that they do because it gives you a great view of Sydney Harbour while you enjoy a meal and hear about the great work being done by the Cancer Council of New South Wales.

Dr Andrew Penman, who is the head of the Cancer Council of New South Wales, announced funds from the council of $1.8 million to 10 new research projects. At the lunch to announce the winners of the 10 projects were a number of people who had survived cancer and their families, a number of corporate donors and a number of people connected with bequests from estates and their families, who may have been second and in some cases third generation from the original persons who donated their money to the Cancer Council of New South Wales. There were also, of course, a number of people from the medical and scientific community. A number of these donors are and wish to remain anonymous. Their contribution to trying to lift the level of research into this life-threatening disease is to be commended.

Madam Deputy President, I have approached the Government Whip on this: I have a copy of the fact sheet from the Cancer Council of New South Wales dated 7 March which lists in no particular order the 10 recipients of the research project awards. I seek leave to incorporate in Hansard the fact sheet.

Leave granted.

The document read as follows—

Fact Sheet
The Cancer Council
New South Wales
Thursday 7 March 2002

$1.8m of Cancer Council funds to 10 new research projects:
**MRI/MRS applied to breast cancer detection, diagnosis and prognosis**
Dr Carolyn Mountford—Institute for Magnetic Resonance Research, St Leonards
This project trials the use of a new breast cancer test that promises to be more accurate, non-invasive and without side effects. Using magnetic resonance technology, the test can diagnose and stage breast cancer without the need for surgery or X-rays. If proven, this test will mean fewer women develop lymphoedema due to too much lymph tissue being removed.

**Molecular mechanisms of drug resistance in childhood acute lymphoblastic leukaemia**
Dr Richard Lock—University of New South Wales
The researchers have developed an experimental model that mimics the proliferation and dissemination of leukaemia cells in order to determine why some children with acute lymphoblastic leukaemia (ALL) do not respond well to drug therapy.

**The role of FHL1 and SPINK1 in androgen-independent prostate cancer**
Dr Qihan Dong—University of Sydney
Prostate cancer cells are dependent on male hormones or androgens for their growth. When men have prostate cancer that has spread and can’t be removed by surgery, they are given hormone therapy that stops the production of androgens and therefore the growth of the cancer. However, for an unknown reason, this therapy is only effective for one year. This project aims to find out why.

**A national consortium for research into familial breast cancer**
A/Prof Judy Kirk—Familial Cancer Clinic, Westmead Hospital
The aim of this Australia-wide study is to collect data on approximately 700 families who inherit a predisposition to breast cancer, in order to provide more accurate genetic counselling, better surveillance and ultimately, better preventative and treatment methods.

**Lymphocyte activation and anti-tumour immunity mediated via SAP-associating surface receptors in health and disease (Lymphoma)**
Dr Stuart Tange—Immune Regulation Group, Centenary Institute
This study looks at an inherited immunodeficiency called XLP that is associated with an increased susceptibility to the glandular fever virus
that can lead to the development of lymphoma. There are wide reaching applications for understanding anti-viral immunity and the development of cancer in the general population.

**Sentinel node Vs axillary clearance trial (breast cancer)**

Dr John Stevens—St Vincent’s Hospital Lismore

This study tests a new surgical procedure for breast cancer called Sentinel Node Biopsy (SNB) that limits the amount of tissue that is removed. It is an opportunity for improving the outcomes for many women who undergo surgery for breast cancer.

**Role of 1,25dihydroxyvitamin D3 in photoprotection (skin cancer)**

A/Prof Rebecca Mason—University of Sydney

Vitamin D is normally made in skin by the action of sunlight and is important for the absorption of calcium and phosphate. This study looks into previous observations that have indicated vitamin D may also play a role in protecting skin cells from the damaging effects of sunlight.

**Regulation of beta-catenin nuclear trafficking in cancer**

Dr Beric Henderson—Westmead Institute for Cancer Research, Westmead Millennium Institute

Beta-catenin is a protein that is over expressed in a number of different cancers including colon cancer, liver cancer and melanoma. This study looks at why too much beta-catenin converts normal cells to cancer cells, in order to develop new drugs that inhibit this process.

**When the treatment goal is not cure: a randomised trial of decision aids for patients with incurable metastatic cancer**

Prof Martin Tattersall—University of Sydney

This project tests the usefulness of particular aids for patients with incurable breast or bowel cancer to allow them to participate more in decisions about their care. These aids include an instrument used by doctors and patients in consultations and a take-home booklet and audiotaape for patients, which both outline treatment options, benefits and likely side effects.

**Role of PETA-3/CD151 in epithelial cancer invasion and metastasis**

A/Prof Leonie Ashman—University of Newcastle

This project seeks to determine the role of a protein (present on the surface of many cancer cells) in the spread of cancer, and to test the ability of antibodies to reverse this spread. While this study involves skin and breast cancer cells, the findings should apply to a broad range of tumours.

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Senator HUTCHINS—Madam Deputy President, if you saw me at question time today struggling over the word ‘advocacy’ you can imagine my difficulty with some of the words in the research projects that are going on. I want to list in no particular order the professionals who were given the money for the research projects: Dr Carolyn Mountford, Dr Richard Lock, Dr Qihan Dong, Associate Professor Judy Kirk, Dr Stuart Tangye, Dr John Stevens, Associate Professor Rebecca Mason, Dr Beric Henderson, Professor Martin Tattersall and Associate Professor Leonie Ashman.

I want to highlight, again in no particular order, four of the projects that were recipients of the research grants. Dr Mountford is from the Institute for Magnetic Resonance Research at St Leonards. Her project trials the use of a new breast cancer test that promises to be more accurate, non-invasive and without side effects. Using magnetic resonance technology, the test can diagnose and stage breast cancer without the need for surgery or X-rays. If proven, this test will mean fewer women developing lymphoedema due to too much lymph tissue being removed.

Professor Judy Kirk is from the Familial Cancer Clinic at Westmead Hospital. The aim of her project is to have an Australia-wide study to collect data on approximately 700 families who inherit a predisposition to breast cancer, in order to provide more accurate genetic counselling, better surveillance and ultimately better preventative and treatment methods.

Dr John Stevens is from St Vincent’s Hospital in Lismore. His project deals with a sentinel node procedure for breast cancer. This study is to test a new surgical procedure for breast cancer called sentinel node biopsy that limits the amount of tissue that is removed. It is an opportunity for improving the outcomes for many women who undergo surgery for breast cancer.

Finally, I highlight the project of Professor Martin Tattersall from the University of Syd-
ney. His project is titled ‘When the treatment goal is not cure: a randomised trial of decision aids for patients with incurable metastatic cancer’. Professor Tattersall’s project tests the usefulness of particular aids for patients with incurable breast or bowel cancer to allow them to participate more in decisions about their care. These aids include an instrument used by doctors and patients in consultation and a take-home booklet and audio tape for patients which outline treatment options, benefits and likely side effects.

The Cancer Council of Australia commenced its events this morning with a parliamentary cancer information network meeting here. The council will have a number of events: in May of this year there will be the Biggest Morning Tea; in June an eat and run and nutrition physical activity and cancer conference; Daffodil Day is on 23 August; a cancer call is on 5 September; Australia’s Breast Cancer Day is on 28 October; and a national skin cancer action week is on during 17 to 23 November. It is important that we as parliamentarians recognise that money needs to be spent on research into how to deal with cancer. As I said, this $1.8 million came from private donors.

There are a number of state parliamentary colleagues there—Meredith Bergmann, the President of the Legislative Council of New South Wales, Jenny Gardiner and Don Harwin, both National Party state members of parliament, and two ex-MPs, Ron Phillips and Marie Ficarra.

While I have this time left, and I understand we are being broadcast, I want to make sure that people understand the facts about why this sort of research is necessary. One in three men and one in four women will be directly affected by cancer before the age of 75. Each year more than 80,000 new cases of cancer are diagnosed in Australia. More than half of them will be treated successfully. The survival rate for many common cancers has increased by more than 30 per cent in the past two decades, but cancer is still the leading cause of death in Australia—almost 36,000 people died from cancer in 2000, and that amounted to 28 per cent of all deaths. I bring this to the attention of the Senate because this is a truly generous effort by a significant number of people who wish to remain anonymous.

International Women’s Day
Adelaide Fringe Festival

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (7.39 p.m.)—I rise this evening to acknowledge this year’s International Women’s Day, which was last Friday, 8 March, and to wish women in this place and the House a particularly happy International Women’s Day, albeit belatedly. Of course, parliaments play a significant role in relation to improving the quality of women’s lives—for example, their rights to freedom from discrimination, their rights to control their own bodies—and in supporting legislation and policy that provides the supports for women’s lives. Fortunately, since Federation, the number of women in this and other parliaments in Australia has increased, albeit slowly. This year we also commemorate 100 years since most non-indigenous Australian women were granted both the right to stand for parliament and the right to vote. I am proud to state on the record that again South Australia, my home state, was one of the first places in the entire world to grant all women that right.

When we review our progress—and it is an appropriate thing to do given the centenary celebrations—we also recognise that we have a long way to go. We certainly have a lot to celebrate but we also have some campaigns to fight before, firstly, women are equally represented in our democracy; for example, the latest figures show that 27 per cent of parliamentarians are female. In the Australian federal parliament, 25 per cent of parliamentarians are women. Despite a growing voice in the parliament, there remains a great range of issues that need to be addressed. One of the issues that I would like to address tonight is the issue of paid maternity leave.

Certainly, in the last election campaign the Prime Minister, Mr Howard, named the top domestic challenge as ‘how we better balance work and family responsibilities, so important to millions of Australians and their families’. I agree with him. At that time the Australian Democrats proposed a national
paid maternity leave scheme. In the months since, I have heard a great deal from business people, both men and women, about maternity leave and paid maternity leave specifically. The response shows that our Prime Minister was indeed right in naming this as one of the top domestic challenges. As a number of businesses in this country have realised, paid maternity leave is an important part of the picture. Of course, workers with families need more than paid leave. Parents also need secure part-time work, accessible reasonably priced child care and flexibility in their hours and days of work, without being confined, if you like, to some kind of second-rate ‘serious parent track’ in their workplaces. Well towards the top of the list, however, must be a national system of paid maternity leave. It is clear that many Australians now believe that it is time to take a systematic approach to this issue. I am proud that the Democrats have been at the forefront of putting this issue on the national agenda.

Australia’s work and family practices, especially maternity leave, lag well behind the rest of the world, and they probably contribute to our falling fertility rates. At present, only about one-third of Australian women have access to any kind of paid maternity leave. Most are in the public sector or working for large employers. Many low income women can take leave on the birth of a child only if they have an alternative source of income, and yet their access to paid leave is probably disproportionately low. The option to stay at home with a new baby should not be a privilege available only to well-paid women in big workplaces or in government.

The large number of comments that have been made to me and the party about this issue suggest that we should be finding a national solution to this problem that at least provides some basic benefit to all Australian women who are in our work force. Unfortunately for the majority of Australian women today, waiting for the generosity of individual employers to volunteer paid maternity leave is clearly not a realistic or a feasible option. Indeed, I acknowledge that for many small businesses it creates a new problem with new fears about costs and, of course, labour market competition. I am told by the Federation of Business and Professional Women, which is an enthusiastic supporter of paid maternity leave, that many of the women who own small businesses cannot afford the time off even for themselves when they have a baby, let alone volunteer it for their employees, however much they might want to. So in some respects it is simply a matter of affordability. For every example of an advance in a big company, there are thousands of smaller businesses that are not in a position to offer paid maternity leave. As many have told me, they already juggle staff to cover unpaid maternity leave and many are concerned that an ‘employer pays’ system of leave will encourage discrimination against potential mothers.

Clearly, any national approach cannot afford to penalise small business. If small businesses have to pay for maternity leave, it will create a disincentive for them to employ women and potentially cost jobs. For these reasons alone, there is a strong argument for a basic level of maternity leave to be provided by government. Only this way can the element of luck be removed from accessing paid leave. Larger businesses can then offer longer periods of leave or even higher levels of pay, topping up the universal minimum payment for a minimum period.

Paid maternity leave will create a community benefit. It will make a difference to our economic health and the long-term health of our whole community. We all benefit from the creation of the next generation, not least in tax revenue and productive work. Many in our community, I think, recognise that the time is right to improve maternity and parenting supports in Australia.

I note that the opposition this week has said that it will go to the next election considering this issue and putting the issue of paid maternity leave on the agenda. Perhaps we can achieve some kind of cross-party support or, at least, debate on this issue in the interests of Australian women so that we do not have to wait any longer. We are already so far behind the other democracies and industrialised nations of the world. I want us to find a workable, fair solution. I look forward to hearing the views of employees, employers, small businesses, unions and community
organisations, as well as other parties, as we work towards a plan that my party is particularly determined to achieve.

As we approach a new budget round, the federal government should act on this issue. I call on the Prime Minister to take that real step forward for working families and for working women in particular. Why not adopt in-principle support for a national approach to paid leave, build it into the 2002-03 budget and take Australia into the 21st century in relation to a right that women in so many other countries enjoy?

In the remaining time, I want to pay tribute to the organisers of this year’s Adelaide Fringe Festival in my home state of South Australia. I might reserve my remarks on the Adelaide Festival for another time. It was a far more controversial venture this year, but I do commend the editorial in Monday’s Advertiser which I think highlighted some of the difficulties with this year’s festival. I want to acknowledge one good thing about the Fringe, apart from the many impressive acts, whether they were comedy or music or a range of other entertainment opportunities available to people. One comedian, Adam Hills, who is billed as Adelaide’s own, presented a couple of great comedy performances. He did so with some reflections on what a turbulent six months it has been for the world and for Australia. He rightly reminded us that, in the most difficult times in our history, comedy has often been a great salve—it has been a wonderful antidote to some of the most difficult things that happen to us as citizens or as countries. I would like to acknowledge that one of his shows has been made into a CD, the money from which will go to those visiting New York firefighters who, I understand, have been the guests of New South Wales recently. I will end by utilising what Adam Hills has coined as a motivational phrase that he is taking around the world: ‘Go you big red fire engine.’

Senate adjourned at 7.49 p.m.

**DOCUMENTS**

**Tabling**

The following government document was tabled:

Advance to the Finance Minister—Supporting applications for issues from the Advance during July 2001 to January 2002.

**Tabling**

The following documents were tabled by the Clerk:

- Financial Management and Accountability Act—
  - Financial Management and Accountability (Special Accounts) Amendment Determination 2002 (No. 1).
  - Financial Management and Accountability (Special Accounts) Determination 2002/01.

**Indexed Lists of Files**

The following documents were tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:

- Indexed lists of departmental and agency files for the period 1 July to 31 December 2001—Statements of compliance—
  - Department of Defence.
  - Department of Education, Science and Training.