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

PETITIONS

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

**Education: Deregulation of University Fees**

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

The petition of the undersigned citizens of Australia shows the widespread opposition to the deregulation of university fees within the Australian community.

We, the undersigned, believe that deregulation of university fees would:

- Prevent many academically talented students from undertaking university study simply because they come from a disadvantaged or lower to middle socio-economic background. It has been shown that the current HECS system already prevents many of these potential students from taking up a position at university. Therefore, if fees were to increase any further, as they certainly would with deregulation, many more potential students would be put in this unfortunate position. This has been shown in New Zealand where deregulating university fees led to a devastating fee increase of 92% between 1991 and 1999.
- Lead to the emergence of elite institutions that are inaccessible to many students. Competition, caused by deregulation, will mean that well-established and well-respected universities, such as the Group of Eight, will charge much higher fees than other universities. Thus, the possibility of attending these institutions will become out of reach for students from lower socio-economic backgrounds.
- Lead to an increase in the already massive levels of student debt and student poverty.
- Reduce diversity within student populations. Under deregulation prestigious and expensive courses such as dentistry, medicine, law and veterinary science would attract students from a very narrow, wealthy section of society. This would undermine diversity not only at university but also within these professions in the wider community.

Your petitioners therefore ask the Senate to:

- Reject any moves towards the deregulation of university fees.
- Ensure that there is an immediate injection of public funds to at least bring Australia’s university sector in line with average OECD expenditure.
- Re-introduce a system of HECS equity scholarships to allow people from disadvantaged backgrounds to enter tertiary education.
- Set up an inquiry into the shocking social problem of student poverty.

by Senator Crossin (from 10 citizens).

**Immigration: Asylum Seekers**

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

We, the undersigned, are concerned for the welfare of asylum seekers of East Timorese background. Many of these people have lived in our community for up to ten years, their children go to school here, they work beside us in our work places. They have integrated well into our society and live peacefully among us. They are family people and many of them are aged with close family ties here. Most of them have nothing to return to in East Timor- no homes, no jobs, no security and no hope of financial support from impoverished family and friends.

Your Petitioners ask, that in acknowledgement of the persecution and suffering they endured before leaving East Timor, and their commitment and contribution to the Australian community since coming here, that you request the intervention of the Minister for Immigration to grant them permanent residency in Australia on humanitarian grounds by means of a special Visa.

by Senator Crossin (from 22 citizens).

**Terrorism: Suicide Bombings**

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

We the citizens of Australia note that the practice of suicide bombing is a crime against humanity. This crime and its participants, organisers and supporters are guilty of a crime which has been committed against innocent civilians.

Further, we the undersigned note that there is no moral, religious, or political justification for this crime.

Your petitioners, declare therefore, that the perpetrators of these crimes should be prosecuted and punished by the appropriate international courts of justice.

We the citizens of Australia call on the Senate to act immediately to facilitate a debate at the next United Nations conference to declare, clearly and unequivocally, that the practice of suicide bombing is a crime against humanity.
by Senator Stephens (from 207 citizens).

Petitions received.

NOTICES

Presentation

Senator Forshaw to move on the next day of sitting:

That the following matters be referred to the Finance and Public Administration References Committee for inquiry and report by 8 October 2003:

(a) the adequacy and appropriateness of the framework for employment and management of staff under the Members of Parliament (Staff) Act 1984 (the MoPS Act);
(b) the role and functions of MoPS staff in assisting and advising their employers and interacting with the Australian Public Service and other stakeholder groups;
(c) the remuneration and conditions of employment of MoPS staff;
(d) the means by which MoPS staff are accountable to government, the Parliament and the public;
(e) suitable means by which the accountability of MoPS staff could be enhanced;
(f) the merits of introducing a code of conduct for MoPS staff reflecting the Values and Code of Conduct of the Public Service Act 1999, the key elements such a code should contain and the process by which such a code should be developed and introduced;
(g) suitable means by which the accountability of the Government for the employment of MoPS staff can be enhanced;
(h) the role of departmental liaison officers and their interaction with MoPS staff and departments; and
(i) appropriate amendments to the MoPS Act flowing from the above.

Senator Chris Evans to move on the next day of sitting:

That the Senate—

(a) condemns the Prime Minister’s re-writing of history, that bulk billing was never intended to be available to all Australians irrespective of their income;
(b) condemns the Prime Minister (Mr Howard) for seeking to make Medicare a second-class safety net for the poor rather than a guarantee of quality health care for all Australians irrespective of their ability to pay; and
(c) calls on the Government to urgently address the dramatically declining rates of bulk billing for all Australians as its highest health priority.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes the Human Rights Watch report, from December 2002 regarding the use of cluster bombs, which described these munitions used by both British and American forces as ‘fundamentally flawed’;
(b) recognises that by February 1993 unexploded bomblets had killed 1 600 Kuwaiti and Iraqi civilians and injured 2 500, sixty per cent of which victims were under 15 years of age;
(c) notes:
(i) that a leaked British Ministry of Defence report estimated that 60 per cent of the 531 cluster bombs dropped by the Royal Air Force during the Kosovo war missed their intended targets or were unaccounted for,
(ii) the provisions of the protocol additional to the Geneva Convention of 12 August 1949, relating to the protection of victims of international armed conflicts (Protocol 1) of 8 June 1977, to which Australia is a state party, in which Article 51 forbids indiscriminate methods and means of attack,
(iii) that unexploded cluster bomblets are indiscriminate and cluster bomblets cause higher rates of live ‘duds’ than other explosive munitions, and
(iv) that Article 35(2) of Protocol 1 additional to the Geneva Convention states, ‘It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering’;
(d) accepts the status of these munitions as being as unacceptably dangerous to the safety of civilians as the use of anti-
personnel landmines, which are banned under the Ottawa Convention;

(e) therefore, endorses the European Parliament’s call for the United Nations Convention on Certain Conventional Weapons (CCW) State Parties to declare an immediate moratorium until an international agreement has been negotiated on regulation or restriction or ban on the use, production, and transfer of cluster munitions under the CCW, including air-dropped cluster munitions and submunitions delivered by missiles, rockets and artillery projectiles; and

(f) calls on the Government to guarantee that Australian forces will not use, or be involved in the use of, these cruel and indiscriminate weapons.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I move:

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

No. 4 New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002
No. 5 Snowy Hydro Corporatisation Amendment Bill 2002
No. 6 Maritime Legislation Amendment Bill 2002
No. 7 Agricultural and Veterinary Chemicals Legislation Amendment Bill 2002
No. 8 Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2002
No. 9 Transport Safety Investigation Bill 2002
No. 10 Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 2002

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 a.m.)—I move:

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

(1) general business order of the day no. 50—Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2]; and

(2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 388 standing in the name of Senator Ridgeway for today, relating to the protection of Indigenous rights under copyright legislation, postponed till 18 March 2003.

LATE PAYMENT OF COMMERCIAL DEBTS (INTEREST) BILL 2003

First Reading

Senator CONROY (Victoria) (9.33 a.m.)—I move:

That the following bill be introduced: A Bill for an Act to provide for interest to be levied on the late payment of commercial debts arising in relation to contracts for the supply of goods and services, and for related purposes.

Question agreed to.

Senator CONROY (Victoria) (9.33 a.m.)—I move:

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

Question agreed to.

The speech read as follows—

Labor is introducing this bill to protect the interests of small business.
The purpose of the bill is to crack down on late payments by big business and government customers to their small business suppliers.

Many small businesses are finding that their big business and government customers are taking too long to pay their bills.

This creates cash flow problems for small business.

The bill implies a term in qualifying contracts that interest is payable on qualifying debts.

Interest starts accruing on the day after the debt is due. The Minister will determine the rate of statutory interest or the formula to be used for calculating the rate.

A qualifying contract is a contract for the supply of goods and services, where the purchaser is a large corporation or a Commonwealth agency, and the supplier is a small business and both are acting in the course of business.

Small business is defined as an independently owned and operated entity employing less than 20 people on a full time employment basis.

A large corporation is a corporation with a turnover in excess of $20 million per year.

Certain contracts are excluded from the definition of ‘qualifying contracts’.

Contracts which are not ‘qualifying contracts’ are called ‘excepted contracts’ and include contracts where the consideration is not monetary, consumer credit contracts and contracts intended to operate by way of mortgage, pledge or other security.

Contract terms which try to exclude the right to statutory interest are void unless there is a substantial contractual remedy for late payment of the debt.

The Government has demonstrated that it won’t act to protect the interests of small business.

This bill shows that Labor will.

Small business groups have also stated their support for this bill. Those groups include the Council of Small Business Organisations of Australia and the Motor Traders Association of Australia.

I commend this bill to the Senate.

Senator CONROY—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES

Postponement

Senator BROWN (Tasmania) (9.34 a.m.)—by leave—I move:

That general business notice of motion no. 387 standing in his name for today, relating to funding for disability services, be postponed till 18 March 2003.

Question agreed to.

Parliamentary Zone

Approval of Works

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.34 a.m.)—I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the installation of temporary vehicle barriers and permanent CCTV cameras.

Question agreed to.

Approval of Works

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.35 a.m.)—At the request of Senator Ian Campbell, I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Joint House Department for capital works within the Parliamentary Zone, being additional works at Reconciliation Place, namely, the design and content of the sixth sliver.

Question agreed to.

Indonesia: Terrorist Attacks

Senator BROWN (Tasmania) (9.35 a.m.)—I move:

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 26 June 2003:

The operation and effectiveness of Australia’s security and intelligence agencies in the lead up to the Bali bombings, including:
(a) the discrepancies, if any, between Australia and other nations (including the United States of America) in intelligence received regarding terrorist operations prior to the bombings;
(b) action taken in Australia and elsewhere to warn the public of potential dangers; and
(c) any other matters concerning security and intelligence agencies affecting Australians in relation to the Bali bombings.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.36 a.m.)—I seek leave to move an amendment to the motion.

Leave granted.

Senator FAULKNER—I thank the Senate. In doing so, I indicate that I fear I have no alternative but to read this amendment in its entirety into the record. I would prefer to have a form of words picking up on those areas which are amended in the motion. I am concerned, and I know my colleagues have been talking to senators around the chamber about this, that if I do not do it in this particular way we might not be able to faithfully record the motion. So you will have to bear with me for a moment or two, Mr President.

The PRESIDENT—As long as you address your remarks through the chair, as you always do.

Senator FAULKNER—Indeed, as I always do, as you would be aware. I move:

Omit all words after “26 June 2003”, substitute:

The performance of the Department of Foreign Affairs and Trade (DFAT) and other relevant agencies of the Commonwealth Government in the assessment and dissemination of threats to the security of Australians in South East Asia in the period 11 September 2001 to 12 October 2002, including:

(a) the assessment made by DFAT and other relevant agencies of the Commonwealth Government of the threat to Australians in South East Asia from al Qaeda (and associated terrorist organisations) prior to 11 September 2001;

(b) any change in the assessment of the threat to Australians in South East Asia from these terrorist organisations arising from the terrorist events of 11 September 2001 and the decision by Australia to participate in military actions with other coalition partners against al Qaeda in Afghanistan in November 2001;

(c) any further changes in the assessment of the threat to Australians in South East Asia from these terrorist organisations arising from the arrest and interrogation of the so-called ‘Singapore bombers’ between December 2001 and February 2002;

(d) any further change in threat assessments to Australians in South East Asia arising from the arrest and interrogation of Omar al-Faruq;

(e) any subregional variations on the assessment of the threat to Australians in South East Asia in the period 11 September 2001 and 12 October 2002, in particular within Indonesia, including Jakarta and Bali;

(f) any differences between the assessments of the threat made by DFAT and other Commonwealth Government agencies, and the assessments of the threat made by the United Kingdom, the United States, New Zealand, Singapore and Canada over the security of their nationals for the same period;

(g) any differences between the assessments of the threat made by DFAT and other related agencies of the Commonwealth Government and the content of the travel advisories, travel bulletins and embassy bulletins provided by DFAT over the period 11 September 2001 and 12 October 2002;

(h) any differences between DFAT travel advisories, travel bulletins and embassy bulletins between the period 11 September 2001 and 12 October 2002;

(i) DFAT’s conclusions of any deficiencies in the assessment system and the system for preparing travel advisories, travel bulletins and embassy bulletins in the period 11 September 2001 and 12 October 2002; and

(j) DFAT’s conclusions on improvements to be dissemination of travel
advisories, travel bulletins and embassy bulletins to the Australian travelling public in the future.

I have read the amendment out because, although I know that this has been discussed around the chamber, I am not certain that it has been provided in written form to senators yet.

The PRESIDENT—I understand that it has now been circulated.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.40 a.m.)—by leave—I understand that, at the whips meeting last night, the government had been advised that this motion moved by Senator Brown was going to be withdrawn. So it takes us by surprise that he is seeking to make it formal today. The amendment moved by the opposition is a comprehensive one, and one which has a great deal of detail. The government have only just seen this amendment. I believe that, really, this should be deferred, along with Senator Brown’s motion, to give the government time to have a look at this amendment and allow for further discussion on this matter. It really does take the government by surprise, and it deals with a very important issue. The government are faced with this opposition amendment only now. I am looking at it for the first time and I can see that it contains a great deal of detail on matters which are very important. I therefore think that a deferral is appropriate and in the best interests of the consideration of this matter.

Senator MACKAY (Tasmania) (9.42 a.m.)—by leave—To clarify what happened at the joint whips meeting last night, Senator Ellison is correct in saying that we were advised that this was likely to be withdrawn. However, it seems that procedurally—and I think it was broadly indicated by the opposition that there were discussions occurring with respect to this matter with the minor parties, in particular the Greens and the Democrats, which had not reached a conclusion at that point—the Labor Party has decided to progress this by way of an amendment to Senator Brown’s motion, so I think faith has been kept in that respect. I also indicate that, as far as the opposition is concerned, a lot of this has only come on fairly recently in procedural terms. So I would like to apologise to the Senate and make that clear.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.43 a.m.)—by leave—I hear the point, as does the chamber, that is made by Minister Ellison in relation to this particular matter and I appreciate the points made by Senator Mackay, the Opposition Whip. I have just had a chance to have a very brief discussion with Senator Brown about this, and I wish I had been able to speak to our colleagues in the Australian Democrats and others in the chamber. I think, given the circumstances, it is likely that we could deal with this by deferring it and bringing it back on the first day of sitting in the next sitting week. I think Senator Brown is amenable to that. It is always difficult to do these things on one’s feet, but Senator Stott Despoja has just stuck her thumb up in the air and I am going to interpret that not as a rude gesture but as a yes also. I think that in the spirit of the way we try to deal with these things in the chamber—and understanding what has occurred at the whips meeting and between those who negotiate on behalf of all of us in the chamber—there would be broad agreement in the chamber to be amendable to this matter being finalised on the next day of sitting. In making this contribution, I indicate that is the broad spirit around the chamber.

I also want to say that I have come to this matter only very late in the day. I was concerned and, as I have indicated to the chamber, that is why I read the proposed amendment into the record. If we deal with it in the way I have outlined, which is clearly within the spirit of what the minister and other colleagues from the crossbenches have also suggested, we can move on to the next important matter before us.

Senator HARRADINE (Tasmania) (9.45 a.m.)—by leave—I would like the Senate to understand the difficulties that are faced by Independents, for example, when receiving through the whips increasing numbers of notices of motion which are to be declared formal. I could be up all night studying the texts of the various notices that are given and on the following morning—as we are today,
Thursday, 6 March 2003

at a quarter to 10—I am expected to vote on the substance of those notices of motion. I appeal to honourable senators that it is getting out of hand. I have tried my best to stay on top of it all, and I am sure the other Independent senators have also. I would rather have some of these matters debated fully, because most of them deal with very serious matters which do require debate.

For example, you might have an issue with some aspect of a notice of motion, but it might be only a minor part, and you are then supposed to vote on it formally without an opportunity to amend it. Even if you do have an opportunity to amend a notice of motion, you cannot properly argue the case before the Senate. Something needs to be done about this. In the current instance, I wonder whether this notice of motion will clash with the reference of the Joint Standing Committee on Foreign Affairs, Defence and Trade on terrorism and Australia's preparedness for terrorism. It will also be covering, no doubt, the situation in Bali. I raise the matter with you, Mr President, and other honourable senators, with a plea to consider the issues that I have respectfully put forward.

The PRESIDENT—The matter concerning notices of motion could well be taken up with the Procedure Committee.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.49 a.m.)—by leave—I move:

That further consideration of the matter be an order of the day for the next day of sitting.

Question agreed to.

HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INSURANCE REFORM) BILL 2003

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.50 a.m.)—I move:

That the following bill be introduced: A Bill for an Act to amend legislation relating to private health insurance, and for related purposes

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.50 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.50 a.m.)—I table the explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill amends two Acts—the National Health Act 1953, and the Private Health Insurance Incentives Act 1997. Over the past few years, this Government has delivered a series of reforms, such as the 30% Rebate, Lifetime Health Cover and no-gap schemes. These reforms have made private health insurance a more attractive and affordable option for all Australians.

This bill builds on these very successful initiatives, and will drive increased value for money in private health insurance products by allowing funds to be more efficient and responsive to members’ needs. Specifically, the bill does three things.

Firstly, it decreases the regulatory burden surrounding health fund product design. Currently, health funds are required to seek approval from the Health Department for changes to rules and products. There is an overwhelming view that these arrangements are overly burdensome for both industry and government, and restrict competition. This bill cuts red tape for health funds by removing the existing regulatory regime, and replacing it with strategic monitoring and enforcement arrangements.

Funds will now be free to respond to members’ needs, and implement changes to products without detailed assessment. However, the government will closely monitor the performance of health funds against a series of performance indicators that are designed to ensure changes are consistent with government policy objectives and maintain the principle of community-rating. Where a fund fails to meet these performance indicators, or is discriminating against higher risk members, it will be required to explain its actions, and may face serious administrative sanctions.
Secondly, this bill enhances and strengthens consumer confidence in private health insurance. There is agreement from all parties that consumer protection and confidence in the private health insurance industry is essential if the industry is to survive and prosper.

The bill contains measures to ensure consumers are provided with more meaningful and transparent information about health funds products and rules. It increases the powers of the Private Health Insurance Ombudsman (PHIO) to investigate complaints and resolve disputes in a timely and efficient manner. It also establishes an annual ‘state of the health funds’ report. This report will provide consumers with much needed information on the performance of health funds.

Thirdly, the bill improves on some minor aspects of Lifetime Health Cover legislation to sustain high levels of membership in private health insurance. A single Lifetime Health Cover birthday will be established. This will increase the effectiveness of health fund promotional activities, and make it easier for consumers to remember to take out private hospital cover before incurring a Lifetime Health Cover loading.

Amendments contained within this bill will also ensure that Australians living overseas for periods of greater than one year and those veterans who lose entitlement to a Department of Veterans’ Affairs Gold Card do not unfairly incur a Lifetime Health Cover penalty.

Similarly, Australians living overseas on their 31st birthday and those migrants who entered Australia after the introduction of Lifetime Health Cover will be allowed a twelve-month period of grace to take out private health insurance without penalty.

I am glad to have the opportunity to acknowledge the range of stakeholders including health funds, private hospitals, and industry peak bodies that have contributed to the development of a range of reforms to private health insurance, and that give rise to this bill.

With almost half of all Australians having private health insurance, there is no doubt that the private health insurance industry is operating effectively alongside the public system. The bill delivers a balanced package of reforms that will drive competition, empower consumers to make more informed decisions, and encourage the industry to be more accountable for its performance. In short, the bill will help to make sure private health insurance remains affordable, and within reach of all Australians.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

HEALTH: NUCLEAR TESTING

Senator ALLISON (Victoria) (9.50 a.m.)—I move:

That the Senate—

(a) notes that:

(i) the Centres for Disease Control and Prevention in Atlanta and the National Cancer Institute (USA) draft report estimates that 11 000 people died from cancers relating to nuclear testing during the Cold War,

(ii) this new study considers the health effects of nuclear detonations, including those done in foreign countries, between 1951 and 1962, when open-air testing was banned, and concludes that radioactive fallout from the Cold War nuclear testing exposed virtually everyone in the United States and contributed to cancer deaths; and

(b) urges the Federal Government to contact servicemen who are found in the current Australian health study to have been exposed to high levels of radiation, for the purpose of assessing their health condition and providing medical services.

Senator Mackay—I understood there was an amendment to this motion.

Senator Allison—There is an amendment; it was circulated yesterday to all parties. This reflects the new amended motion.

The PRESIDENT—I understand that it has been included in the motion.

Question agreed to.

GIBB, MR MAURICE

Senator FERRIS (South Australia) (9.51 a.m.)—At the request of Senator Ian Campbell, I move:

That the Senate—

(a) notes, with great sadness, the passing of Maurice Gibb;

(b) conveys its sympathy to Robin, Barry and the Gibb family;

(c) recognises the important contribution that Maurice and the Bee Gees have made to the Australian music industry;
(d) records its appreciation for the inspiration that Maurice and the Bee Gees have provided to generations of young Australian musicians to venture overseas, build international audiences, expand Australia’s exports and economy; and

(e) notes that the works and great success of Maurice Gibb’s career as musician will be shared by future generations through his prolific recordings.

Question agreed to.

IRAQ

Senator ALLISON (Victoria) (9.52 a.m.)—I move:

That the Senate—

(a) notes:

(i) the remarks by the Prime Minister (Mr Howard) in January 2003 that he believed Iraq’s ‘aspiration to develop a nuclear capacity’ might be a sufficient reason for Australia to join in pre-emptive action, claiming ‘there is already a mountain of evidence in the public domain’,

(ii) that the Prime Minister has not provided any evidence that Iraq has or has access to nuclear weapons,

(iii) that former United Nations inspector, Mr Scott Ritter, has said that, by 1998, Iraq’s nuclear infrastructure and facilities had been 100 per cent eliminated and that whilst scientists there would still have the knowledge to reconstruct this infrastructure, this would not be possible while weapons inspectors were there, and

(iv) that according to United States (US) nuclear weapons analyst, William Arkin, the US Strategic Command is compiling a list of Iraqi targets with planning focussed on the role for nuclear weapons in relation to underground facilities and to stop chemical or biological attack;

(b) acknowledges the letter from the Prime Minister to the President of the Senate, dated 3 March 2003, in which he said, ‘...I see no prospect of nuclear weapons being used against Iraq’ and, ‘...if I believed that nuclear weapons were going to be used, I would not allow Australian forces to be involved’; and

(c) urges the Government to seek guarantees from the US Administration that no nuclear weapons will, under any circumstances, be used against Iraq.

Question agreed to.

HUMAN RIGHTS: BURMA

Senator PAYNE (New South Wales) (9.52 a.m.)—I, and also on behalf of Senator Ridgeway, move:

That the Senate—

(a) notes that:

(i) 9 March 2002 is a Global Day of Prayer for Burma, and

(ii) on this day, people throughout the world will pray for the physical and spiritual freedom of Burma;

(b) acknowledges that the human rights situation in Burma remains extremely grave, with severe restrictions on political freedoms and continued use of forced labour, torture, child soldiers and other serious abuses; and

(c) calls on the State Peace and Development Council of Burma to:

(i) take immediate steps to end human rights violations, and

(ii) restore the rule of law to Burma.

Question agreed to.

IRAQ

Senator MURRAY (Western Australia) (9.53 a.m.)—I move:

That the Senate—

(a) notes that an estimated 41 per cent of the Iraqi population is below the age of 14;

(b) believes that in any war in Iraq that a significant proportion of any killed, wounded, or affected civilians could therefore be children under the age of 14;

(c) requests the Government to advise the Senate in writing, by no later than Tuesday, 18 March 2003, in the event of Australian participation in war in Iraq, what plans it has to contribute to the recovery of injured children, and improving the circumstances of other children materially affected by the war.

Question agreed to.
COMMITTEES
Native Title and the Aboriginal and Torres Strait Islander Land Fund Committee

Meeting

Senator FERRIS (South Australia) (9.53 a.m.)—At the request of Senator Johnston, I move:

That the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 18 March 2003, from 8 pm.

Question agreed to.

AGRICULTURE: OVINE JOHNE’S DISEASE

Senator CHERRY (Queensland) (9.54 a.m.)—I move:

That the Senate—

(a) notes that:

(i) after more than a year and a half, the Howard Government is yet to respond to the July 2001 unanimous report of the Rural and Regional Affairs and Transport References Committee on the National Ovine Johne’s Disease (OJD) Program,

(ii) the administration of the program continued to cause severe hardship to sheep producers in New South Wales,

(iii) more than 1,000 sheep producers in Forbes on 3 February 2003 passed a vote of no confidence in the handling of the OJD Program in New South Wales,

(iv) New South Wales Agriculture has estimated that, if uncontrolled, the disease would escalate to cost the New South Wales economy $204 million in stock losses and $248 million on lost wool income annually, and

(v) the recent announcements by the New South Wales Government to improve the management of the OJD Program, including:

(A) assistance to stud operators to help them show their animals at shows and trade fairs,

(h) recent changes to policy to provide wider access to the OJD vaccine for farmers in the disease control zone,

(c) the provision of a $4.2 million to cover the shortfall in industry levy funds caused by the drought, and

(d) the creation of the new OJD Management Area, formerly known as the Southern Tablelands Residue Zone, to provide producers with greater trading opportunities; and

(b) calls on the Howard Government to respond to the Senate report, and demonstrate leadership on the development of a national OJD program as its contribution to the alleviation of social and economic hardship experienced by producers and rural communities.

Question agreed to.

IRAQ

Senator CHERRY (Queensland) (9.54 a.m.)—I move:

That the Senate—

(a) notes the opinion of former Australian ambassador to the United Nations (UN), Richard Woolcott:

(i) that it is not in Australia’s national interest to get involved in a distant, costly war,

(ii) that Iraq has been perfectly well contained by the UN for more than a decade, and

(iii) that Australia is becoming increasingly isolated diplomatically in its support for the United States; and

(b) calls on the Government to pursue continuing containment of Iraq under UN supervision as a viable alternative to a devastating and costly war.

Question negatived.

IRAQ

Senator RIDGEWAY (New South Wales) (9.55 a.m.)—I move:

That the Senate—

(a) notes that:

(i) respected world leaders such as Pope John Paul II and Mr Nelson Mandela have called for war against Iraq to be avoided,

(ii) the Pope said ‘the future of humanity can never be assured by the logic of war’, and called for a day of fasting on Ash Wednesday to remind people
of the long years of suffering endured by the Iraqi people,

(iii) that Mr Mandela said ‘the problems are such that for anyone with a conscience (who) can use whatever influence he may have to try to bring about peace’, and has warned President Bush that his administration risks destroying the United Nations if it attacks Iraq without international support;

(b) notes also that Interpol have urged the world’s police forces to prepare for an increase in terror attacks in the event of a war, warning that terrorist groups like al-Qaeda could use the war as a pretext to increase attacks; and

(c) urges the Australian Government to stay out of a war with Iraq with regard to Australia’s international standing and the clearly expressed views of the Australian people.

Question negatived.

FOREIGN AFFAIRS: UNITED STATES

Senator STOTT DESPOJA (South Australia) (9.55 a.m.)—I move:

That the Senate calls on the Minister for Foreign Affairs (Mr Downer) to:

(a) use all means at his disposal to investigate allegations that the United States of America (US) has intercepted telephone and e-mail communications of United Nations (UN) delegates in order to ascertain the voting intentions of members of the UN Security Council;

(b) ask the US Ambassador to Australia to explain the US position in relation to the allegations; and

(c) report to the Senate on the outcome of his investigations and the explanation, if any, provided by the US Ambassador.

Question put.

The Senate divided. [9.59 a.m.]


* denotes teller

Question negatived.

COMMITTEES

Community Affairs References Committee

Reference

Senator NETTLE (New South Wales) (10.03 a.m.)—I move:

(1) That the following matters be referred to the Community Affairs References Committee for inquiry and report by 18 September 2003:

(a) the financial sustainability of the Pharmaceutical Benefits Scheme (PBS), including the assumptions of forward estimates of the cost of the PBS to the Commonwealth Government;

(b) the social and economic implications of increasing the co-payment for PBS-listed medicines, including the long-term implications for the health of Australians;

(c) whether the cost of the PBS to the Commonwealth Government provides value for money to the Australian
community in terms of health outcomes;
(d) alternative means of funding the PBS, including:
(i) abolishing the Private Health Insurance Incentive Scheme and using the budget savings to fund the PBS,
(ii) a less regressive direct payment system taking into account ability to pay, and
(iii) abolishing the co-payment and replacing it with an increase in the Medicare levy;
(e) ways to map the prescribing habits of doctors and possible strategies to improve the quality of prescribing;
(f) the transparency of the PBS listing process, including the cost-benefit analysis that is conducted for drugs proposed for listing;
(g) whether the Commonwealth Government is making the best use of price-volume agreements to obtain the best value for money;
(h) the extent of leakage and means to eliminate it;
(i) whether voluntary controls on industry marketing practices are adequate or should be replaced with legislative controls;
(j) pharmaceutical industry practices that undermine the PBS and possible measures to eliminate or constrain these practices;
(k) cost shifting of pharmaceutical expenses from the states to the Commonwealth and ways to improve co-operation between the jurisdictions; and
(l) implications of any agreements that seek to link trade restriction practices to the operation of the PBS.
(2) That in conducting this inquiry, the committee is to invite public submissions and to conduct public hearings in all capital cities.

Question put.
The Senate divided. [10.07 a.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes……….. 2
Noes……….. 36
Majority…….. 34

AYES
Brown, B.J. * Nettle, K.

NOES
Allison, L.F. Alston, R.K.R.
Bartlett, A.J.J. Bishop, T.M.
Brandis, G.H. Buckland, G.
Calvert, P.H. Cherry, I.C.
Collins, J.M.A. Crossin, P.M.
Dennan, K.J. Evans, C.V.
Ferris, J.M. * Forshaw, M.G.
Greig, B. Hutchins, S.P.
Kirk, L. Knowles, S.C.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. Marshall, G.
McLucas, J.E. Moore, C.
Murray, A.J.M. O’Brien, K.W.K.
Payne, M.A. Ray, R.F.
Santoro, S. Scullion, N.G.
Stephens, U. Stott Despoja, N.
Tchen, T. Watson, I.O.W.
Webber, R. Wong, P.

* denotes teller

Question negatived.

INTERNATIONAL CRIMINAL COURT

Senator GREIG (Western Australia) (10.10 a.m.)—I move:

That the Senate—
(a) notes, with concern, that the United States of America (US) has:

(i) refused to ratify the Rome Statute, which established the International Criminal Court (ICC),

(ii) adopted a national security strategy which seeks to ensure that its military efforts ‘are not impaired by the potential for investigations, inquiry, or prosecution by the ICC’,

(iii) entered into agreements with a number of states under Article 98 of the Rome Statute to prevent the prosecution of American citizens for crimes against humanity, and

(iv) is seeking to enter into such an agreement with Australia;

(b) acknowledges the possibility that leaders and service personnel may be charged with war crimes arising from unlawful conduct during any attack against Iraq;
(c) reaffirms its support for the ICC and the important role that it plays in bringing to justice those who commit crimes against humanity; and

(d) urges the Government to take all measures necessary to ensure that, if Australia joins the US in an attack against Iraq, Australian personnel are subject only to Australian command and are not required to engage in any activity which may render them liable to prosecution under the Rome Statue.

Question negatived.

MILITARY DETENTION: AUSTRALIAN CITIZENS

Senator NETTLE (New South Wales) (10.10 a.m.)—I move:

That the Senate—

(a) notes the comments of the British Prime Minister (Mr Blair) regarding the detention of British nationals in Camp X-Ray, Guantanamo Bay, Cuba, that, ‘it is an irregular situation and certainly we would want to try to bring it to an end as swiftly as possible’;

(b) notes that Australian citizens Mr David Hicks and Mr Mamdouh Habib remain incarcerated in Camp X-Ray without having been charged or brought before the courts for trial;

(c) expresses ongoing concern at the shameful lack of action from the Government regarding this situation; and

(d) reiterates its call on the Australian Government as a matter of urgency to take whatever steps are required to return both Mr Hicks and Mr Habib to Australia to determine whether they should be freed or face trial, as is their right.

Question agreed to.

COMMITTEES

Community Affairs References Committee

Extension of Time

Senator HUTCHINS (New South Wales) (10.11 a.m.)—I move:

That the time for the presentation of the report of the Community Affairs References Committee on poverty and financial hardship be extended to 18 September 2003.

Question agreed to.

Finance and Public Administration References Committee

Extension of Time

Senator FORSHAW (New South Wales) (10.11 a.m.)—I move:

That the time for the presentation of the report of the Finance and Public Administration References Committee on recruitment and training in the Australian Public Service be extended to 26 June 2003.

Question agreed to.

IRAQ

Senator NETTLE (New South Wales) (10.12 a.m.)—I move:

That the Senate calls on the Prime Minister (Mr Howard) not to commit Australia to joining a ‘coalition of the willing’ in a military invasion of Iraq.

Question put.

The Senate divided. [10.16 a.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes…………… 9
Noes…………… 34
Majority……… 25

AYES

Allison, L.F. * Bartlett, A.J.J.
Brown, B.J. Cherry, I.C.
Greig, B. Murray, A.J.M.
Nettle, K. Ridgeway, A.D.
Stott Despoja, N.

NOES

Alston, R.K.R. Barnett, G.
Bishop, T.M. Boswell, R.L.D.
Brandis, G.H. Buckland, G.
Calvert, P.H. Campbell, I.G.
Collins, J.M.A. Denman, K.J.
Eggleston, A. Ferris, J.M. *
Forshaw, M.G. Hutchins, S.P.
Johnston, D. Kirk, L.
Knowles, S.C. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
Marshall, G. McLucas, J.E.
Moore, C. O’Brien, K.W.K.
Payne, M.A. Ray, R.F.
Santoro, S. Scullion, N.G.
Sherry, N.J. Stephens, U.
Tchen, T. Watson, J.O.W.
Webber, R. Wong, P.

* denotes teller
Question negatived.

IRAQ

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (10.20 a.m.)—I move:

That the Senate—

(a) notes that:

(i) the United Nations (UN) General Assembly President, Mr Jan Karvan, has criticised the Australian Government’s statement that the UN would become irrelevant if it failed to enforce its resolution on Iraq, and intends to meet with the Minister for Foreign Affairs (Mr Downer) in the week beginning 2 March 2003 and explain the position of the UN General Assembly, and

(ii) the United States Administration had indicated that it considers another resolution on Iraq desirable but not necessary; and

(b) opposes Australia joining or supporting a war against Iraq without, at a minimum, a UN resolution authorising force.

Question put.

The Senate divided. [10.22 a.m.]

(The President—Senator the Hon. Paul Calvert)

AYES

Allison, L.F. *
Bartlett, A.J.J.
Brown, B.J.
Cherry, J.C.
Greig, B.
Murray, AJM.
Nettle, K.
Ridgeway, A.D.
Stott Despoja, N.

NOES

Alston, R.K.R.
Barnett, G.
Bishop, T.M.
Boswell, R.L.D.
Brandis, G.H.
Buckland, G.
Calvert, P.H.
Campbell, I.G.
Collins, J.M.A.
Denman, K.J.
Eggleston, A.
Ferris, J.M. *
Forshaw, M.G.
Hutchins, S.P.
Johnston, D.
Kirk, L.
Knowles, S.C.
Ludwig, J.W.
Lundy, K.A.
Mackay, S.M.
Marshall, G.
McLucas, J.E.
Moore, C.
O’Brien, K.W.K.

Payne, M.A.
Ray, R.F.
Santoro, S.
Scullion, N.G.
Stephens, U.
Tchen, T.
Watson, J.O.W.
Webber, R.
Wong, P.

* denotes teller

Question negatived.

MEDICARE: BULK-BILLING

Senator NETTLE (New South Wales) (10.24 a.m.)—by leave—I move the motion as amended:

That the Senate—

(a) notes the remarks of the Prime Minister (Mr Howard) that bulk-billing was never intended to be a universal scheme and that the Government could not afford to provide universal free coverage for all Australians;

(b) condemns the Prime Minister for seeking to return Australia to an age of charity for the ‘less fortunate’, in place of guaranteeing good quality health care for all Australians irrespective of their ability to pay; and

(c) calls on the Government to examine ways to fund a universal scheme, starting with abolishing the private health insurance rebate;

(d) notes the principles enshrined in the Health Care (Appropriation) Act 1998 under which states are funded for health services, which are: that public hospital services must be provided free of charge to public patients; access to these services must be on the basis of clinical need and within a clinically appropriate period; and that people should have equitable access to public hospital services regardless of their geographical location; and

(e) calls on the Government to extend these principles to all those health services for which the Commonwealth has responsibility.

Question agreed to.

IRAQ

Suspension of Standing Orders

Senator NETTLE (New South Wales) (10.25 a.m.)—Pursuant to contingent notice of motion, I move:

That so much of the standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely
a motion to give precedence to a motion about Iraq.

It is an urgent matter today that the parliament has the opportunity to debate whether Australia is involved in a war on Iraq, especially as part of the coalition of the willing. The Prime Minister said yesterday that only cabinet would make this decision. Yesterday I asked the government why, given that the US congress, the House of Commons in the UK and the French assembly have all had the opportunity to register their votes on whether to endorse a war on Iraq, this government continues to deny the representatives of the Australian people this opportunity—a democratic right that our allies and others have seen to fit to uphold. I ask the government whether it will be allowing this parliament a vote on our involvement in an attack on Iraq. Why is it that this government does not share the view of, for example, Tony Blair’s cabinet that democracy demands that such a process, irrespective of its constitutional necessity, be allowed to be carried out? It is simply unacceptable for such a decision to be made without debate, without the opportunity for this parliament to question the government and without the opportunity for the people of Australia to see where their representatives stand on this matter.

George Bush has now proposed a deadline of Friday next week, by which time, if the UN Security Council have not authorised a war on Iraq, the US and the coalition of the willing plan to disarm Iraq by force. George Bush has said that he believes Australia to be a part of the coalition of the willing. We hear today that Prime Minister Howard is saying that he believes there is already enough legal authority to go ahead with an attack on Iraq. I challenge the Prime Minister to show us his legal advice—which at this stage seems to be contrary to all other advice that international legal professionals have shown us—about why, if the United States continued with a war on Iraq without the endorsement of the United Nations Security Council, it would be legal. Given that today the Prime Minister is reasserting his belief that it would be legal for such an action to proceed, I challenge the Prime Minister to show us his legal advice and to table that advice he has received which he believes makes it appropriate to go forward.

Today may be the last opportunity for representatives of this parliament to raise their concerns and get their views on the record before a war starts. Some of the questions that still urgently need to be answered include: why does the government believe that a military response to the problems of Iraq will lead to democracy and stability, despite the fact that, of the 19 countries the US has bombed since World War II, not a single one has achieved a stable democracy as a result; what will be Australia’s responsibilities in postwar Iraq; how long will our troops stay to rebuild the country; how much will that cost; what nuclear, chemical or biological contamination will they, along with the innocent citizens of Iraq, be exposed to in the process; and, finally and most importantly, how can this government justify sending Australian troops to a war on Iraq when the peaceful options for resolution have not been exhausted, when the inspection process is proceeding and when a decision to send Australian troops to a war on Iraq is opposed by the overwhelming majority of Australian people?

The Prime Minister has blatantly disregarded every clear statement by the public on this issue. He has dismissed offhand the millions of people who took to the streets two weeks ago. He has denigrated the largest and most coherent public protests in the history of this country and he has tried to deflect their message, pretending it was for Saddam Hussein when, quite clearly, it was for him. He is now attempting to gag the parliament from voting on this decision. It is outrageous that, when I asked the question yesterday about why this parliament is not allowed to vote on such an important issue, we were told that executive prerogative was the answer. (Time expired)

Senator ALSTON (Victoria—Deputy Leader of the Government in the Senate) (10.30 a.m.)—The government will not be supporting this motion. In fact, we are very concerned about the process as much as the substance. We do not know what the substance is. What we do know is that Senator Nettle has not seen fit to make us aware of
this or to give us notice of it in advance. Quite clearly, she has been encouraged by Senator Brown to take this approach. Not only do we object on the process point, but also we object on the matter of principle.

Senators Nettle and Brown both know that the parliament has already had a debate on this subject. Parliament will have the opportunity to further debate the subject. As Senator Hill pointed out yesterday, you will probably get different outcomes from the Senate and the House of Representatives, so how that could constitute a vote of the parliament, I do not know. In any event, you will have your opportunity in due course, but you should not have it today.

Senator BROWN (Tasmania) (10.32 a.m.)—Senator Nettle is doing the job of the government here. We are in the position where Australian troops have been committed to the Middle East, and Mr Howard himself says that we could be at war within a week, even before this parliament comes back. Yet, here is the government cavilling about a motion that would have this as a matter of debate for today, if the motion is taken up.

Senator Ian Campbell—Where is the motion?

Senator BROWN—I would ask the same question: where is the government’s motion for promoting a debate and a vote on this serious matter in the Senate? This is where the government is defaulting. There should be a motion here from the government, but there is none.

Senator Alston—Mr Acting Deputy President, I raise a point of order. I seek your guidance and, indeed, a ruling as to whether there is a requirement for the parliament to be made aware of the substance of the motion before we can possibly make an informed decision in relation to a suspension. Senator Brown is now carrying on as though somehow the government has a responsibility to put down a motion. I presume we are talking to a motion that Senator Nettle is proposing to move, but how on earth can we do that without knowing what it is? She is waving it around, so she has it, but she has deliberately chosen not to make it available. It seems to make a farce of the process. I ask you how on earth this chamber can be expected to consider the matter properly without knowing what we are being asked to suspend standing orders for.

Senator BROWN—I would like to speak on that point of order.

The ACTING DEPUTY PRESIDENT (Senator Watson)—I do not think it is necessary. I will make a ruling. It is essential that the subject matter be referred to in the motion. I think that has been done. You can proceed.

Senator Alston—Mr Acting Deputy President, I raise a point of order. It does not, in my view—and, I think, in the view of the government—give us any guidance at all to know that the subject matter is Iraq. You might as well say that the subject matter is world peace. No-one has any idea what that means in the context of considering whether to support a suspension of standing orders. In other words, you need to know what you are being asked to consider before you can properly decide whether you are in favour of a suspension. We are not in favour of suspension but I nonetheless make the point, because I think that, in order to conduct debates in any sort of sensible way, it is necessary to be given notice of more than the subject matter. I would ask you to further consider that ruling for the future.

Senator BROWN—On the point of order—

The ACTING DEPUTY PRESIDENT—I am going to rule on this now, Senator Brown. I think that you will not be worried. The subject matter is the subject for debate and it is not a matter for the chair.

Senator BROWN—I would ask that the clerk read the motion to the Senate.

Senator Alston—I see no reason why Senator Brown cannot do us the courtesy of telling us what he has in mind.

The ACTING DEPUTY PRESIDENT—Unfortunately, the motion has not been moved. The clerk cannot read it until it has been moved.

Senator Alston—in other words, it is perfectly proper for Senator Brown to do the
right thing and tell this chamber what he has in mind.

Senator BROWN—Mr Acting Deputy President, I call your attention to the state of the chamber.

The ACTING DEPUTY PRESIDENT—At the present time, Senator Brown, to bring you up to date, we are debating the suspension.

Senator Jacinta Collins—He is calling for a quorum—he is allowed to do that.

The ACTING DEPUTY PRESIDENT—Yes.

(Quorum formed)

Senator BROWN—Senator Nettle’s motion reads:

That the Senate:

(a) notes that as Australia moves to the brink of war with Iraq as part of a ‘coalition of the willing’, the Government refuses to debate the matter or inform the Australian people of its intentions regarding our troops involvement, rules of engagement, or post war commitments. Nor justify the inevitable deaths of tens of thousands, perhaps hundreds of thousands of innocents as a result of such a war; and

(b) consequently debate the matter, before any other business, for a period of one hour in order that these issues be addressed ahead of any decision to go to war.

I seek leave to move that motion on behalf of Senator Nettle.

Senator Ian Campbell—You’re a joke! One hour!

The ACTING DEPUTY PRESIDENT (Senator Jacinta Collins)—We are on a suspension of standing orders. You cannot move the motion at the moment.

Senator BROWN—Thank you. The government thinks that this motion is a joke, but the people of Australia think that this matter is very, very serious. The Australian people have a right to expect that, as Senator Nettle said, their parliament will have a vote—the same as the House of Commons, the same as the French assembly, the same as both houses of the US congress, including the Senate, and the same as the United Nations. We are on the brink of war. We have 2,000 defence personnel ready to take part in that war, presumably under United States command. And this government says that it will not have a debate on the eve of that war. That is not a joke; that is a total dereliction of its obligation to ensure that such an important matter is debated by the parliament.

A bit later in the day the government is going to ask for the suspension of standing orders so it can get its hands on the money from the Timor Gap oil. I ask you: which is the most important thing on the agenda of the Australian people? I can tell you that it is the war. The lives of Australian defence personnel and Iraqis should come before dollars—not the other way around, as the government has it. But no, this government does not want to debate that war today; it wants to debate, on behalf of the oil corporations, how to get its hands on the East Timorese people’s oil. That is its agenda for today—and it is disgusting.

I would expect the opposition to support Senator Nettle in ensuring that priorities are turned around and that we get a debate on this matter today. The Australian people—the Prime Minister uses that terminology all the time, so I will this time—would expect also that this parliament debate this matter today and give precedence to it, because it is a matter of national importance. It has huge ramifications beyond the 2,000 people the Prime Minister has sent, without the authorisation of parliament, to take part in an attack on Baghdad at the behest of George W. Bush. This has ramifications for 20 million Australians off into the future in a huge variety of ways.

One might ask: how can the Prime Minister be giving a stamp of approval to sell more wheat to Iraq at the same time as he wants to bomb it with George W. Bush? Who is caught in the middle here? It is the 27 million Iraqi people, the 200,000 defence personnel from elsewhere and the 2,000 sons and daughters of this nation. And the government says, ‘Don’t debate it; we don’t want to have a debate on this.’ The government stands indicted by its own obstruction to that debate, and with it the opposition if they do not support Senator Nettle’s motion.

(Time expired)

Senator LUDWIG (Queensland) (10.42 a.m.)—I know everybody is concerned about
the potential war in Iraq; I think that goes without saying. I do not think there would be anyone in this chamber or in the other house that would not be concerned about the consequences of a war. The problem we always face in this place, and I think this highlights it, is that we do disagree on policy—and this is the place to have a policy debate. We have had a policy debate on the possible war on Iraq. It went for something in the order of two days, as I recollect. Since that time a number of motions have been put before the chair in this house and there have been, from my recollection—and I stand to be corrected—a number of matters dealt with during the adjournment in relation to this serious issue.

Where we stand at the moment, at about 10.45 a.m., is that there is half an hour allotted for the debate in relation to the notice moved by Senator Nettle for the suspension of standing orders to deal with the contingent motion. We have not actually got to the motion that Senator Nettle has foreshadowed she would proceed with. So that in itself is not before the chair. What we are dealing with, then, is the process we should adopt in relation to that. There is a process that we should adopt at this late hour, because it is a late hour, and I will explain the times that we have available for debates today. At 12.45 p.m. we will go on to non-controversial legislation and deal with other matters. We have this morning to deal with the Petroleum (Timor Sea Treaty) Bill 2003.

Labor gave a commitment before Senator Nettle indicated that the Greens wanted to debate a suspension of standing orders today, as I understand it. We were informed only last night that there was likely to be a suspension of standing orders moved today in relation to this issue. Given those circumstances, Labor stands by its commitment in relation to the Petroleum (Timor Sea Treaty) Bill 2003. Provision was made for that matter to be dealt with today. If, in relation to the contingent notice, this matter continues for another five or ten minutes—or the full half-hour—the time will be close to 11 o’clock. We would then have in the order of an hour to debate this issue, according to Senator Nettle’s motion. Then, if you allowed the procedural matters to ebb and flow, we would have a very short space of time in which to deal with the second reading stage, the committee stage and the third reading stage of consideration of the Petroleum (Timor Sea Treaty) Bill.

The Petroleum (Timor Sea Treaty) Bill is extraordinarily important. Parliament needs to pass it. I notice that a second reading amendment in relation to the Petroleum (Timor Sea Treaty) Bill, foreshadowed to be moved by Senator Stott Despoja on behalf of the Australian Democrats, comes to the same conclusion that we have. It reads:

However, the Senate notes that East Timor stands to lose billions of dollars in revenue from the Bayu Undun development if the Bills are not passed today and it is the express wish of East Timor that they are passed:"

This is important. The only way this place will work is if we deal with the process by agreement with everyone. We are given the ability to have debates and to allot time accordingly. This is one of those times where the process has to be dealt with in the way that we have committed ourselves to. The ability of the parliament to have policy debates as needed will continue.

Senator ALLISON (Victoria) (10.47 a.m.)—The Democrats support the suspension of standing orders. On 4 February this place last debated the question of Australia attacking Iraq. Since then, the Democrats have put possibly 100 questions on notice. Today it will be observed that each of us has put up a motion relating to the matters that are unresolved, unanswered by this government about this war. By the next time we meet—18 March—Australia could well be at war with Iraq, so I think it is reasonable for there to be another debate. But, more than that, I think it is reasonable for the government to be asked to answer some very fundamental questions about this war: is it going to be an illegal war; will Australia join the United States in action against Iraq without United Nations sanctions?

I want to run through some of the questions implicit in our motions this morning, only two of which were supported by the Senate, to our great disappointment. Senator Murray pointed out that 41 per cent of the
Iraqi population is below the age of 14. This is a war against children. We have not heard anything from the government about what it would do to assist injured children in Iraq, how it would deal with a situation of possibly widespread killing of young people in that country.

Senator Stott Despoja talked about the pressure being exerted on the United Nations. How reasonable is it for Australia and the United States to be chasing around United Nations representatives on the Security Council in order to get them to shift their position and support a motion which would authorise this war? I recall that earlier in this debate, back in January, our Prime Minister said that he did not think there was any need for any further United Nations resolution. Public opinion has turned that around, both here and in the United States. So a UN resolution has become more and more important to allow all three governments—the coalition of the willing—to get some sort of support within their countries for such action.

Senator Greig talked about the International Criminal Court and raised the question of whether or not our leaders and our service personnel may be charged with war crimes arising from unlawful conduct during any attack against Iraq. This question has not been resolved. We have had no sensible answer from the government as to whether our troops, our personnel, are at risk.

Senator Ridgeway pointed to the fact that highly respected world leaders Pope John Paul II and Mr Nelson Mandela have called for a war against Iraq to be avoided. The Pope said that the future of humanity can never be assured by the logic of war and called for a day of fasting on Ash Wednesday to remind people of the long years of suffering endured by the Iraqi people. I will not repeat the quote from Mr Mandela. But we have had no response from the government as to whether our troops, our personnel, are at risk.

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Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.52 a.m.)—I want to add some thoughts to this debate on the motion for the suspension of standing orders, to support the Deputy Leader of the Government in the Senate, Senator Alston, and the articulate expression about the Senate’s program and processes today by the Manager of Opposition Business, Senator Ludwig. We have now seen the motion that Senator Nettle is seeking to have debated if the suspension motion is successful. At the time that Senator Alston spoke, we had not seen the motion, but we had heard that Senator Nettle wanted to suspend standing orders to allow a debate about Iraq. We have now seen the detail of the motion, and that is what has caused me to make a contribution.

I note that the Australian Democrats support the motion for the suspension of standing orders. I would have thought that the Australian Democrats, generally speaking, would bring a far more detailed analysis of these issues to the parliament than the Greens. They are far less likely to engage in publicity seeking stunts than the Australian Greens. I guess that is to the detriment of the Australian Democrats in the short term, because politically they do not get the attention that the fine art of political stuntism that has been perfected by Senator Bob Brown tends to attract. I say to the Australian media: try
to look through this bloke. Look at the quality of the policy, look at the consistency of the ideas, and you will find a hollow shell.

We have been asked to suspend standing orders to debate a motion that talks about the government refusing to debate the matter of Iraq. Senator Nettle, Senator Brown and the Democrats know that this parliament has already had two detailed debates during which any senator who wanted to was able to talk about the important international security issues particularly as they relate to Iraq. Both the Prime Minister and the Leader of the Government in the Senate yesterday reiterated that, in the event that Australian troops need to be committed, there will be a parliamentary debate, just as there was in 1991, when the former Hawke government committed Australian troops to a UN supported action to remove Saddam Hussein’s troops from Kuwait.

In this suspension motion today, what are the Greens, with the support of the Democrats, asking us to do? It is to say, ‘Let’s suspend standing orders to have a debate for one hour.’ It is my understanding from the standing orders—which is not always the best but I do study them from time to time with the help of the Clerk for some guidance—that the speaking times would be 20 minutes. So we are being asked by the Greens and the Democrats to have a debate about the rules of engagement and a range of other matters relating to a potential conflict in Iraq for one hour. This is from the Australian Democrats, who are meant to believe in bringing things before the parliament and to have discussion about them through democratic processes, and from the Greens, who sometimes encourage that sort of stuff when it suits them on a particular day. But they want to have three senators out of 76 speak on this matter!

I say to you, Madam Acting Deputy President, and to the observers from the gallery: look at this as a cruel, disgraceful stunt that demeans—that wherever you stand in this debate, the great thing about Australia is that we have this fantastic democracy and we have this fantastic democratic chamber, the Australian Senate. We have different views about the commitment of Australian troops and we should respect those views, but do not let us be told that you are serious about this issue, other than for your cheap personal political ambitions when you ask this great institution to debate this important issue for one hour and allow three senators to speak. You cannot be serious. You demean yourselves and you demean this great political institution, and in so doing you demean Australia as a democracy.

Question put:

That the motion (Senator Nettle’s) be agreed to.

The Senate divided. [11.01 a.m.]

(11.01 a.m.)

(11.01 a.m.)

(Ayes...)

Bartlett, A.J.J.

Lees, M.H.

Nettle, K.

Stott Despoja, N.

Barnett, G.

Boswell, R.L.D.

Buckland, G.

Carr, K.J.

Conroy, S.M.

Crossin, P.M.

Ferguson, A.B.

Forshaw, M.G.

Hogg, J.J.

Hutchesins, S.P.

Kirk, L.

Lundy, K.A.

Marshall, G.

McGauran, J.J.J.

Payne, M.A.

Scullion, N.G.

Stephens, U.

Watson, J.O.W.

Wong, P.

* denotes teller

Question negatived.
MEDI CARE: BULK-BILLING

Senator LUDWIG (Queensland) (11.05 a.m.)—by leave—I wish to speak to a matter that arose during general business notices of motion. We voted for general business notice of motion No. 371, standing in the name of Senator Nettle—and I am pleased that Senator Nettle is in the chamber. There was a problem in relation to it that created a little bit of paperwork confusion, and it is not surprising given the number of motions that were dealt with today and the other issues that have been about. I seek leave to have the question put again.

The ACTING DEPUTY PRESIDENT (Senator Jacinta Collins) —Is leave granted for the question to be put again?

Leave granted.

The ACTING DEPUTY PRESIDENT (Senator Jacinta Collins) —The question is that the motion be agreed to.

Question negatived.

COMMITTEES

Regulations and Ordinances Committee
Ministerial Correspondence and Delegated Legislation Monitor

Senator McGAURAN (Victoria) (11.07 a.m.)—On behalf of Senator Tchen and the Standing Committee on Regulations and Ordinances, I present a volume of ministerial correspondence relating to the scrutiny of delegated legislation for the period June 2002 to February 2003 and the Delegated Legislation Monitor for 2002.

WORKPLACE RELATIONS AMENDMENT (PROTECTING THE LOW PAID) BILL 2003

First Reading

Bill received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (11.07 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 ABETZ (Tasmania—Special Minister of State) (11.08 a.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—

The bill proposes that the objects of the Workplace Relations Act be amended to include a primary focus on the low paid and their needs in adjusting the safety net.

It is the intention of the Workplace Relations Act 1996 that awards should provide a safety net of fair minimum wages and conditions without discouraging agreement making for award workers above that safety net. The federal workplace relations system is now firmly focused upon the setting of wages and conditions of employment at the enterprise level. Agreement making gives employers and employees the opportunity to increase the productivity and competitiveness of Australian enterprises. This in turn ensures a stronger and more resilient economy with healthier employment prospects. In this way agreement making at the workplace level offers rewards for employees, employers and for Australia as a nation.

A key part of the principal object of the Workplace Relations Act is that actual wages should, as far as possible, be determined by bargaining at the workplace or enterprise level. A central feature of the legislative framework is the Australian Industrial Relations Commission’s role in encouraging bargaining. Decisions of the Commission on the adjustment of rates of pay in awards need to be consistent with and reinforce the safety net role of awards. This is important to ensure genuine safety net standards, to encourage agreement making and to meet overall economic objectives.

This bill is part of the Government’s continuing effort to protect the employment prospects of the low paid and to reduce the prospect of unemployment for vulnerable low-skilled workers. While unemployment has fallen substantially from the highs of the early 1990s and Australia is weathering the economic effects of international uncertainty, many people still find it difficult to gain employment.

The bill proposes that the objects of the Workplace Relations Act be amended to include the needs of the low paid as a primary focus in adjusting the safety net. It is further proposed that section 88 of the Workplace Relations Act be
amended to require the Commission to consider the following matters when adjusting the safety net:

- the primary consideration of the needs of the low paid, including their need for employment
- the employment prospects of the unemployed; and
- the capacity of employers to meet increased labour costs.

In introducing this bill the Government is demonstrating its ongoing commitment to maintaining a safety net of minimum wages and conditions for low paid employees, as well as enhancing the employment prospects for the low-paid, low-skilled and unemployed. The bill is also consistent with the Government’s commitment to create an appropriate framework for pay and working arrangements to be determined at the workplace level.

Debate (on motion by Senator Crossin) adjourned.

PETROLEUM (TIMOR SEA TREATY) BILL 2003

PETROLEUM (TIMOR SEA TREATY) (CONSEQUENTIAL AMENDMENTS) BILL 2003

PASSENGER MOVEMENT CHARGE (TIMOR SEA TREATY) AMENDMENT BILL 2003

First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (11.08 a.m.)—I move:

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

Senator BROWN (Tasmania) (11.09 a.m.)—Madam Acting Deputy President, I object. These are extraordinarily important bills. I will not object, of course, to the motion that the bills be read a first time, but I will object at the outset to the process which the government is about to engage in today, particularly in light of the fact that the government has just voted down a debate on the impending war in Iraq. It now introduces a bill into the Senate which went through the House of Representatives yesterday. I have no problem with that, but I wish to flag that I will have a problem with consequent events if the government moves to have this legislation railroaded through the Senate today.

Question agreed to.

Bills read a first time.

BUSINESS

Consideration of Legislation

Senator ABETZ (Tasmania—Special Minister of State) (11.10 a.m.)—I seek leave to move a motion to exempt these bills from the provisions of standing order 111.

Senator BROWN (Tasmania) (11.10 a.m.)—by leave—I wish to speak about the seeking of leave to move a motion for the exemption of these bills from the provisions of standing order 111. I will be granting leave because it is not my intention to go through the long tortuous process that the government would need to go through if I block leave at this stage. But I do so with a very heavy heart. I totally object to what is happening here. The government wants to seek leave now to suspend standing orders—having not been able to do so over a debate on the war in Iraq which the Prime Minister tells us will be happening in about a week’s time—because (a) the government did not get its act in order to have this legislation brought before the parliament long ago and (b) it now wants to railroad through a piece of legislation which is totally inimical to justice, fair play, decency—to a proper regard by our nation for our newest and poorest neighbour, East Timor. I am going to allow leave, and the processes after that we will deal with as they come. But I state my objection now and will continue to do so as this process moves forward.

Leave granted.

Senator ABETZ (Tasmania—Special Minister of State) (11.12 a.m.)—I move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to these bills. I table a statement of reasons justifying the need for these bills to be considered during these sittings. The statement reads:

Urgent passage is required to establish an international legal basis for development of major oil and gas deposits in the Joint Petroleum Development Area (JPDA). Without the legal frame-
work in place industry will be unable to commit to investment in the area and benefits to both Australia and East Timor may be lost. In particular, such development will underpin the economic future of East Timor and strengthen its ties with Australia.

The main projects include the Bayu-Undan and Greater Sunrise developments and investment that are estimated to collectively contain recoverable reserves of around 11 trillion cubic feet of gas and 700 million barrels of petroleum liquids.

Bayu-Undan, which lies wholly within the JPDA, is estimated to contain around $A15 billion worth of petroleum. While East Timor will receive ownership of 90 per cent of the resource, Australia will also receive substantial benefits from the development and processing of natural gas, including construction and operation of an LNG plant in Darwin.

Greater Sunrise, with petroleum resources valued at around $A30 billion, is particularly important for Australia, with 20.1 percent of its reserves located within the JPDA and 79.9 percent located within Australian waters.

Alexander Downer, the Minister for Foreign Affairs, is flying to Dili today to sign a treaty which was hammered out some time last year. The government did not get this legislation into the parliament to have it ratified until yesterday, and it wants it through today. The argument is that, with the Japanese, the Bayu-Undan part of the development—the contracts for that and the sale of the products from that—needs to be fixed within the next few days, if not the next few weeks. Why has the government not got its house in order? The question is: why did we not get this legislation—if not at the end of last year—when the parliament resumed in February?

I believe we are being ambushed with this legislation. In the absence of any explanation as to why it could not have been brought into the parliament before yesterday, let alone into the Senate today, we are being ambushed, in the interests of the big oil companies, to cheat East Timor. We Greens are not going to be a part of that. This is outrageous legislation. This is the big oil companies, with the active compliance of the Prime Minister, no less, defrauding East Timor of its resources. It is a fraud. It is illegal. When we get to the bill, I will be moving certain amendments to at least try to fix the worst of it. Alexander Downer, the minister, is flying to Dili because, as he said this morning, Australia stands to get $50 billion out of this. Wrong! The big oil companies are going to snatch the majority of that. It is $50 billion which belongs to East Timor. The reserves we are talking about are wholly within East Timor’s legal seabed limits. We will be talking about this a little further.

This is outrageous. It is illegal and it is unethical. No wonder the government wants to rush it through here. It says, ‘Let’s not have the debate going a little longer. Let’s coerce everybody, including the Senate and the East Timorese, by saying that, if you do not this, these contractual arrangements might fall through in a few days time.’ This is a studied manipulation of the Senate. I hope the opposition will not put up with it, but I suspect they will. We will wait; we will hear. I am going to have quite a lot more to say about this. I am very angry about this
legislation—and I do not use that word lightly.

The less than one million East Timorese have a very powerful and wealthy friend and neighbour in Australia. When it comes to the crunch on the major resource base that this poor country has, here is Australia rushing through legislation, and demanding and coercing the East Timorese into the same action, which defrauds them of that resource. It is a shameful day in Australian politics. It is a shameful day in international relations in our region. It is a shameful day in this parliament. I will be having quite a lot more to say about it before this debate is through.

Senator STOTT DESPOJA (South Australia) (11.21 a.m.)—I will not go to the substance of the Petroleum (Timor Sea Treaty) Bill 2003, the Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 and the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003 because this not the time to do it, although I understand why people find this legislation very hard to support. I want to put it on record that, while the government will get its leave to debate the legislation before us, the Democrats wish to object in the strongest possible terms about the process. For most of us and our advisers who have been awake studying this legislation through the night, it is an entirely unacceptable situation to deal with these bills with less than 24 hours notice. We have had less than 24 hours to look at the information before us in the form of these bills being tabled and available for us to discuss them. Indeed, it has been virtually impossible to draft amendments that should be drafted, that should be considered and debated, that should be passed in order to alleviate the worst aspects of the legislation and that seek to improve it in the way that it should be. On behalf of the Democrats I want to make that clear, through you, Madam Acting Deputy President, to the government.

I concur with Senator Brown on the issue of the reasons for urgency. While I acknowledge that we are between a rock and a hard place, the rationale that has been put forward is the fact that the treaty is to be ratified by the 11th and today is the sixth. You only have to do the math to work out that this is the last possible parliamentary opportunity for us to debate and pass the legislation so that it is ready for the ratification of the treaty. That is the reason for urgency. That is why the Australian Democrats have agreed to this debate. That is why we will not stand in the way of leave for debating this legislation, but I do not think anyone in this chamber could hold their head high and genuinely, honestly, say that the process has been anything but deficient.

We know that this treaty was available. The aspects of this treaty have been studied by the Joint Standing Committee on Treaties, and I should acknowledge the work of Senator Andrew Bartlett in relation to that. The Democrats put a submission in and we put very clearly on record our concerns and our unhappiness with the substance of the legislation. I record my disappointment today, as I will in the debate later, that the recommendations we put forward have not been adopted by government. Given that they were not going to change the elements, or the substance, of the treaty as it had been discussed and debated, why did it take so long for it to get to the chamber? Why did it take so long for it to get to the House of Representatives—which it did only yesterday—so that we are in this extraordinary situation today where we are dealing with it literally on the run. I have had an opportunity to circulate a second reading amendment that goes to the heart of some of the Australian Democrats’ objections. While this should have been a day of celebration, it is not.

On a final note, while I find this legislation very hard to support, I am listening to who is asking me to support it: Oxfam; Community Aid Abroad; the President of East Timor, representing the East Timorese people, Jose Ramos Horta, who is well known to us all. When these people, with whom many of us have been involved in the debate about East Timorese independence for many years now—certainly since the inception of the Democrats—ask us to support it, it places us in a very difficult and gut-wrenching position. I think ‘heavy heart’ was the expression that Senator Brown used. It is a difficult situation in which we find ourselves today. I do not know if my party can
actively support this legislation. We will certainly have to see what amendments are debated on the floor and what amendments the clerks have had time to draft, because that is literally the situation in which we find ourselves. The government will have leave to have this debate. I think the Australian people and the East Timorese people are under no illusions as to how this debate has come about. They are very much aware of the heavy-handed tactics that have been used in the discussion, in the debate, in the negotiation process, and recognise that the real reason for urgency, which is not referred to in this memo, is the fact that we have five days and this is our last parliamentary opportunity. So we will have the debate.

Senator O’BRIEN (Tasmania) (11.25 a.m.)—The opposition will support this motion. The reason that this matter is now urgent is the absolute tardiness of the government in bringing this legislation before the parliament. It should have been here at least three months ago. As a result, we are running up against the deadline that Senator Stott Despoja has referred to. I am satisfied that this is a treaty which has the support of East Timor and the Australian government. There are extreme consequences if the legislation is not dealt with today. We know we have until 12.45 to deal with it, so I am not going to spend a great deal of time on my feet now. I sincerely hope that the wishes of the people of East Timor, as represented by their government, are reflected in this debate today. The opposition will certainly be respecting that in the way that we deal with this legislation.

Senator ABETZ (Tasmania—Special Minister of State) (11.26 a.m.)—I am grateful for the indications that have been given that we can proceed with the debate. It is unfortunate when legislation comes up on short notice and there are time frames that have to be met, but this was a relatively complex matter. As I understand it, 12 separate pieces of legislation needed to be amended. That complexity of course takes some time. I simply indicate for the record—and we will undoubtedly go through this ad nauseam in the debate—that the democratically elected government of East Timor supports this legislation going through this place. If individual senators in this place happen to think that, having being elected by the people of Tasmania or indeed other places, they have greater authority to speak than the Prime Minister of East Timor on this issue, I would find that somewhat patronising, nearly colonial, but we will get to that debate later on. It is a nation in its own right. It has self-determination. I have a press release, which I will read into the record later if need be, that was issued by the Prime Minister of East Timor only yesterday in support of the legislation. I will not go on. I thank the Senate for allowing this bill to proceed and I accept that it does make it difficult with amendments et cetera, for which I apologise.

Question agreed to.

Senator Brown—I ask that both Senator Nettle’s and my objections and opposition to the motion be recorded.

PETROLEUM (TIMOR SEA TREATY) BILL 2003
PETROLEUM (TIMOR SEA TREATY) (CONSEQUENTIAL AMENDMENTS) BILL 2003
PASSENGER MOVEMENT CHARGE (TIMOR SEA TREATY) AMENDMENT BILL 2003

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (11.28 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

PETROLEUM (TIMOR SEA TREATY) BILL 2003

The purpose of the Petroleum (Timor Sea Treaty) Bill 2003 is to give effect to the Timor Sea Treaty signed by Australia and East Timor on 20 May 2002.

The Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 and the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003 which I will also introduce to Parliament, provide for amendments that will be required to related Acts to reflect the new legisla-
tion and repeal the Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990.

The Treaty provides a framework for the exploration, development and exploitation of the petroleum resources in the Joint Petroleum Development Area (JPDA) created by the Treaty.

Ratification of the Treaty will enable industry to rapidly proceed with development of Timor Sea natural gas.

East Timor separated from Indonesia on 26 October 1999 (Australian time). Since then, Indonesia has had no jurisdiction over East Timor or the maritime zones generated by East Timorese territory, nor over petroleum operations in the former Zone of Co-operation (now known as the JPDA).

Subsequently, Australia entered into an agreement with the United Nations Transitional Administration in East Timor (UNTAET) that allowed Australia and East Timor to benefit from the continuation of exploration and production activities in an area of overlapping territorial claims in the Timor Sea.

This agreement continued the arrangements that had been in place with Indonesia, but with UNTAET as the new treaty partner.

On 20 May 2002 East Timor became independent and UNTAET’s administration ceased.

On that date, East Timor and Australia signed a new Treaty to govern operations in the former Timor Gap and an Exchange of Notes to govern the period until the new Treaty came into force.

The Exchange of Notes effectively continues previous arrangements until the new Treaty comes into force. However, it is intended that when the Treaty does enter into force its provisions will be applied retrospectively to 20 May 2002.

Aspects of the Treaty include:

- the former Zone of Cooperation Area A now becomes the Joint Petroleum Development Area (JPDA);
- sharing by Australia and East Timor of upstream petroleum revenue split 90/10 in East Timor’s favour, where previous arrangements between Australia and Indonesia saw a 50/50 revenue split;
- a joint three tiered administrative structure involving both Australia and East Timor to govern the day to day running and broader policy issues in the JPDA;
- a tax code for the imposition of taxes on income derived from the JPDA, and;
- continuation of current terms and conditions for the existing Elang-Kakatua project as well as Bayu-Undan and Sunrise.

The previous arrangements with Indonesia have demonstrated that the joint development concept is an effective means to allow petroleum exploration and development to take place in an area of overlapping claims.

Those arrangements worked effectively from 1991 to 1999 and facilitated the expenditure of over US$700 million on petroleum exploration and development in the former Zone of Cooperation.

The first commercial production of petroleum in the former Zone of Cooperation commenced in July 1998 with the development of the Elang-Kakatua oilfield. The field is now nearing the end of its commercial life, producing at a rate of about 6,000 barrels of oil per day.

Total revenue to Australia from this source is expected to be about A$0.5 million in 2002-03, and has been in excess of A$40 million to date, in addition to company tax receipts.

Two other discoveries in the JPDA are moving towards first production over the next few years.

Firstly, joint-venture partners in the Bayu-Undan field have been working towards developing its liquids phase.

Production of the field’s estimated 400 million barrels of condensate and Liquefied Petroleum Gas (LPG) is expected to commence in mid 2004. Total investment in the liquids phase of the project is estimated to be around A$3.5 billion.

The partners also plan to establish a liquefied natural gas (LNG) processing facility near Darwin to process the field’s 3.4 trillion cubic feet of gas for export. The planned gas phase for Bayu-Undan involves an additional investment of around A$800m for a pipeline, and it is estimated that investment in an LNG plant near Darwin will approach A$2 billion.

Production is scheduled to commence in 2006, and the yearly value of LNG exports from this facility is expected to approach A$1 billion per year at full production.

Over the life of the project, total revenue to Australia from the liquids and gas phases, including revenue from the pipeline and LNG plant are expected to total to some A$1.5 billion. East Timor revenues are expected to be around A$6 billion.

Secondly, industry is considering development options for the Greater Sunrise field, which con-
tains an estimated 8.35 trillion cubic feet of natural gas and 295 million barrels of condensate.

As the field straddles the border of the JPDA and Australian jurisdiction, an International Unitisation Agreement has recently been agreed between Australia and East Timor to allow the development to proceed. Development of the Greater Sunrise field could provide revenue to Australia of around A$8.5 billion.

As can be seen from the examples I have given today, industry is prepared to invest huge amounts in the JPDA, with resulting substantial revenue to Australia. The enactment of these bills will provide the legislative framework under which these projects can be realised and contribute significantly to investor certainty in the area.

It is clearly in the national interest that this bill be approved as soon as possible. I commend this bill.

PETROLEUM (TIMOR SEA TREATY) (CONSEQUENTIAL AMENDMENTS) BILL 2003

The Government recently introduced to Parliament the Petroleum (Timor Sea Treaty) Bill 2003, which is a package of three Bills, and which gives effect to the Timor Sea Treaty.

The Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 gives effect to provisions contained in certain Articles of the Treaty relating to criminal jurisdiction, customs, employment regulation, migration, quarantine, income tax and fringe benefits tax. The bill also repeals the Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990.

The related Acts which will be amended as a result of the principal Act are the:

- Crimes at Sea Act 2000
- Customs Act 1901
- Fringe Benefits Tax Assessment Act 1986
- Income Tax Assessment Act 1936
- International Organisations (Privileges and Immunities) Act 1963
- Migration Act 1958
- Passenger Movement Charge Collection Act 1978
- Petroleum (Submerged Lands) Act 1967
- Quarantine Act 1908
- Superannuation Guarantee (Administration) Act 1992
- Taxation Administration Act 1953
- Workplace Relations Act 1996

A further Act, the Passenger Movement Charge Act 1978, is amended by a separate bill, the Passenger Movement Charge (Timor Sea Treaty) Bill 2003. This Act requires a separate amendment bill as the Act itself imposes a tax.

In most cases, the consequential amendments to the various Acts are relatively minor—in many instances they merely amend the relevant Act by using expressions such as “Joint Petroleum Development Area” where “Area A of the Zone of Cooperation” or simply “Area A” previously appeared, as is the case in the Migration Act 1958 or Petroleum (Submerged Lands) Act 1967 amongst others.

In the case of amendments to tax-related Acts, the changes are in some cases more detailed, for instance applying the transfer pricing provisions to transactions between Australia and areas such as the JPDA where Australia has a shared allocation of taxing rights with another country, and providing foreign tax credits for foreign tax paid to the other country (e.g. East Timor) by Australian residents on income from such an area. These changes are explained in detail in the notes on clauses section of the Explanatory Memorandum.

The Timor Sea Treaty is to be taken to have effect on 20 May 2002. In order for this to take place certain parts of the bill retrospectively amend relevant legislation as of 20 May 2002.

However, to prevent any retrospective criminal liability arising under the amendments, offence provisions in the Petroleum (Timor Gap Zone of Cooperation) Act 1990 have been preserved from repeal for the period between 20 May 2002 and the date at which this Act receives Royal Assent.

It is clearly in the national interest that these legislative amendments be approved as soon as possible. I commend this bill.

PASSENGER MOVEMENT CHARGE (TIMOR SEA TREATY) AMENDMENT BILL 2003

The final bill to give effect to the Petroleum (Timor Sea Treaty) Act 2003 is the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003.

The changes to the Passenger Movement Charge Act 1978 effected by the bill are of a purely technical nature, and will not alter existing arrangements.

Most simply reflect the change of name of the area formerly referred to in Passenger Movement Charge Act 1978 as “Area A”, which is reference to the former Zone of Cooperation Area A, situated in the waters between Australia and East...
Timor, to the “Joint Petroleum Development Area”.

This change of name is required as a result of the ratification by Australia and East Timor of the Timor Sea Treaty which was signed by the Prime Minister on behalf of Australia on 20 May 2002 and which replaces the former Timor Gap Treaty.

The Treaty arrangements we have entered into with East Timor do not change the rights and responsibilities of companies and persons working in the Timor Gap.

Instead, it provides for a continuation of those arrangements with effect from 20 May 2002. It is therefore appropriate for this bill to retrospectively amend the relevant legislation from that date.

I commend this bill.

Senator O’BRIEN (Tasmania) (11.29 a.m.)—As I indicated, we welcome the Petroleum (Timor Sea Treaty) Bill 2003, the Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 and the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003 to the Senate some three months after they were due. We should question the extraordinary manner in which the government has handled what is a critically important treaty to both Australia and East Timor. On Tuesday night, the opposition was advised by the government of the introduction of these bills, then by 2 p.m. yesterday we were advised that they were to be pulled from the Notice Paper. In what was an on-again off-again scenario, the bills were introduced into the House two hours after the scheduled time and, only with Labor’s cooperation, they passed through the House nine minutes before its adjournment last night.

What has been even more interesting is the 10 months it has taken for the government to do what could have been done in three months. The delay has been agreement on the International Unitisation Agreement relating to the Greater Sunrise field, which straddles the Joint Petroleum Development Area. The Greater Sunrise partners claim that it is critical to their interests and to the nation’s interests that the treaty not be ratified prior to the signing off of the unitisation agreement. Why? Because whilst ever the Timor Sea Treaty remains unratified the Australian government enjoys greater negotiating strength. The other reason is related to the diplomatic mismanagement of the entire negotiation process by the foreign minister, Mr Downer—a process by which Mr Downer has demonstrated his ability to throw ministerial tantrums in public and in private.

Australia’s long-term strategic policy objective in East Timor is surely to help it become a viable state free from foreign interference, free from internal unrest and free to determine its own destiny. It is obviously in our national interest to have a good relationship with our closest neighbour, East Timor is one of the poorest states in the world with GNP per capita of less than $US340 and an annual budget of around $US77 million. Foreign aid currently constitutes more than 40 per cent of East Timor’s GDP.

These bills implement the ratification of the Timor Sea Treaty. When the United Nations Transitional Administration in East Timor, UNTAET, became the administering power in East Timor, it took over Indonesia’s rights and obligations under the old Timor Gap Treaty. On 5 July 2001, Australia and the administration concluded a memorandum of understanding that put in place a new Timor Sea arrangement. The arrangement provides that, of the petroleum produced in the Joint Petroleum Development Area, 90 per cent shall belong to East Timor and 10 per cent shall belong to Australia. The Joint Petroleum Development Area is delimited along the same boundaries as set out in the Timor Gap Treaty. On 20 May last year, Australia and independent East Timor signed the Timor Sea Treaty, which allows for the continued exploration and exploitation of the resources of the Joint Petroleum Development Area on the same terms as set out in the July 2001 arrangement entered into with the UN administration.

The Joint Select Committee on Treaties of this parliament held an inquiry into the Timor Sea Treaty throughout the course of 2002 and recommended its ratification. A key sticking point was the desire of some in the energy sector—Greater Sunrise field partners, in particular—to secure an international unitisation agreement prior to ratification. The objective of the International Uniti-
The Howard government had committed to ratifying the treaty by 31 December last year. Labor has been critical of its failure to do so because it has put at risk another project—the Bayu-Undan project—which lies wholly in the Joint Petroleum Development Area. The Bayu venture partners have a contract to supply liquefied natural gas to Japanese power producers from an LNG plant to be constructed in Darwin. Appearing before a Joint Select Committee on Treaties hearing last year, DFAT First Assistant Secretary Dr Geoff Raby declared the government’s preparedness to risk the Bayu-Undan project and the estimated $A2 billion in government revenue it would provide to ensure the best possible deal is secured with respect to the International Unitisation Agreement.

The Bayu-Undan project is critical to the Northern Territory’s economic future. The potential loss of the Darwin LNG plant represents a huge human and financial cost to the Northern Territory including the equivalent of $US1 billion for the pipeline from the Bayu-Undan field to Darwin, $US1½ billion in investment in Darwin for the LNG plant, 1,200 jobs in Darwin during the construction phase and 100 direct jobs during the operation phase. In addition, the loss of indirect jobs could be as high as 500.

To meet their gas supply contract obligations, the Bayu partners require ratification of the Timor Sea Treaty by 11 March 2003—next Tuesday. Labor in the Senate will do all that is possible to ensure that these bills have a smooth passage by the close of business today and to secure the Bayu-Undan project and the economic benefits this project represents to Australia and, more importantly, to East Timor. In closing, I acknowledge the role of the member for Lingiari, Mr Snowdon, and Senator Trish Crossin for their endeavours in assuring that this bill has come before parliament, thereby assuring the benefits that will flow from this legislation to Darwin and East Timor and to the people of both countries. I should also congratulate the Northern Territory Labor government, which has demonstrated its ability and willingness to work in partnership to deliver benefits to the people of the Northern Territory.

I am aware that an amendment has been circulated in the name of Senator Stott Despoja. That amendment is yet to be moved, but I want to indicate that, whilst the opposition shares some of the views expressed in that motion, it will not be able to support it. Point (b) of the amendment deals with the government’s insistence on signing the IUA relating to the Greater Sunrise oilfield. The opposition is not in a position to come to a conclusion on this issue and neither was the Joint Standing Committee on Treaties. Prime Minister Alkatiri will be signing the international unitisation agreement on Friday and the executive council of this country will, I understand, give assent immediately on the signing of the international unitisation agreement. Therefore, this amendment is hypothetical.

In relation to point (c) of the amendment, the government has denied that the treaty, and in particular Greater Sunrise, is the reason for withdrawal. The department has advised that the court may give East Timor a worse outcome. Both sides, Australia and East Timor, are comfortable with the far more generous agreement—that is, moving from a fifty-fifty split to a 90-10 split in East Timor’s favour—and an agreement between the two nations which, according to their Prime Minister, East Timor is happy with ensures East Timor will see revenue flowing immediately the IUA has been signed. If we were to rely on the court option, we do not know how long it would be before East Timor received much needed revenue. A matter such as this could possibly be tied up in the court for years. So the opposition will not be supporting the amendment, and I thought I would use this opportunity to make...
these comments even though the amendment has not yet been moved. We will be supporting the bills.

Senator STOTT DESPOJA (South Australia) (11.40 a.m.)—I rise to speak on the Petroleum (Timor Sea Treaty) Bill 2003, the Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 and the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003. I thank Senator O’Brien for making the Labor Party position clear. The Australian Democrats begin this debate by recording strongly our opposition to the process. As Senator O’Brien and others have outlined, there have been ample opportunities for the government to bring legislation on the Timor Sea Treaty to the parliament before now. I record the disappointment of all that it has taken place in this way. We recognise that the legislation before us will be passed, and the effect of the legislation will be to provide what are now desperately needed resources to the East Timorese people. We understand that fiscal and regulatory certainty is vital to ensure ongoing investment in and development of the petroleum rich area of the Timor Gap. However, we have very serious concerns regarding the fairness of the Timor Sea Treaty, particularly relating to the way that the Australian government has negotiated with the East Timorese in bringing the treaty to the point of ratification. I take this opportunity to put some of those concerns on the public record. The Australian Democrats have provided our concerns to the Joint Standing Committee on Treaties previously, and I am sorry and angry that the opportunity was not taken by the government to bring up some of those points during negotiation. As I said, there has been sufficient time.

The Democrats have never believed that this debate should occur in a context of pitting the interests of the East Timorese against those of Australians. On the contrary, we believe that it is in Australia’s national interest for East Timor, our newest neighbour, to develop into a strong, prosperous and democratic nation with a proper regard for the rule of law. In its submission to the inquiry of the Joint Standing Committee on Treaties, the East Timor Institute for Reconstruction Monitoring and Analysis warned East Timor faces a serious risk of becoming a failed state:

... without economic security, and without the ability to rely on the rule of law both within our country and internationally.

A strong East Timor will help to defuse other tensions within our region rather than add to them. I mentioned Oxfam Community Aid Abroad earlier, an organisation I am sure all of us have contact with. I do, as Democrat spokesperson on foreign affairs and aid issues. Oxfam Community Aid Abroad have urged us to support this legislation. Their submission said:

For Australia, an economically unviable East Timor could threaten national security and that of the region. An unstable East Timor could lead to a flow of refugees to Australia with associated costs. The Australian and international community would expect the Australian government to bear much of the responsibility for increased humanitarian aid and assistance, and the provision of continued peacekeeping and security assistance to East Timor.

Of course, we should be contemplating increased aid. Unfortunately, that is not a debate we will be able to have today, because of lack of time.

The Democrats also believe that it is in Australia’s national interests to support the structures and principles of the international legal system, a system that has been established to promote collective security, the maintenance of international peace, just resolution of disputes et cetera. In practical terms, this means submitting to the rule of law even when this is contrary to our more immediate and financial interests. For this reason, the Australian Democrats strongly oppose the government’s decision to withdraw from the jurisdiction of the International Court of Justice with respect to the determination of seabed boundaries. I was going to move an amendment on that, but I see Senator Brown has covered the issue in his amendment relating to the International Court of Justice. The Democrats will be strongly supporting that amendment. It is an appalling move by the government to withdraw from the jurisdiction of that court, and it sets a poor example. While we are talking about the promotion and establishment of
democratic institutions and the rule of law in East Timor, this sends a very poor message. As one submission said:

Australia and others in the international community consistently encourage East Timor’s new government to implement democracy, the rule of law, transparency and safeguards against corruption as we develop our governmental structures and practices ... At the same time, Australia is not practising what you are preaching. When your country withdrew from legal processes for resolving maritime boundary disputes, you taught us the opposite message—that when the booty is large enough, the legal principles go out of the window.

We have got an opportunity to put those legal principles back in, and I hope that senators will consider that today.

Significantly, East Timor was given no prior notification of Australia’s decision to withdraw from the jurisdiction of the court. That is extraordinary. The national interest analysis expressly stated that this was to prevent any action being commenced against Australia that could not be initiated after the declaration had been made. With respect to the distribution of resources under the treaty, the Democrats believe that a 90-10 split in favour of East Timor represents a fair allocation of the distribution of these resources within the Joint Petroleum Development Area, as defined by the treaty. In fact, I think former Senator Vicki Bourne, who was foreign affairs spokesperson for the Australian Democrats and a long advocate for independence in East Timor, advocated that on record in the very early days of the debate about the treaty.

But, as we know, in the context of this treaty the boundaries of the joint development area are contentious. It has been argued that they permit Australia to gain the benefit of resources which rightfully belong to the East Timorese. East Timor claims that the boundary between Australia and itself should be determined according to the median line between the two countries, whereas Australia of course argues that it should be determined according to the outer limit of the natural prolongation of the continental shelf at the Timor Trough, which is about 50 kilometres south of East Timor’s coast. A series of legal opinions have given rise to conflicting interpretations of international law as it applies to the delimitation of seabed boundaries between East Timor and Australia. These divergent and often quite persuasive opinions illustrate the complexity of the legal principles governing the delimitation of seabed boundaries and the unique factual circumstances of this particular case. So we are aware of the complexities of these debates and the equally persuasive nature of some of the differing legal opinions. No-one is pretending that this is easy or not a grey area.

The Democrats believe that these seabed boundaries must be determined in accordance with the provisions of the United Nations Convention on the Law of the Sea and any applicable customary law. If the parties are unable to reach a fair and just agreement then they should submit to the jurisdiction of the International Court of Justice. By proceeding with the ratification of the treaty and finalising the unitisation agreement before the determination of seabed boundaries, Australia not only is accessing resources that potentially belong to East Timor but might actually prejudice East Timor’s future claims to the disputed areas.

So what we are now left with is a situation in which Australia has no incentive and no legal obligation to negotiate with East Timor in an attempt to conclusively determine these seabed boundaries. This is an appalling way for Australia to treat our newest nation neighbour. I think it really highlights the hypocrisy of the government in this debate. As we know, it is necessary for this treaty to be ratified before 11 March to ensure that the Bayu-Undan development proceeds. We have heard debates previously about the urgency associated with this legislation because of that very tight time frame—again a tight time frame that the government could have alleviated.

The Timorese people, as we know, urgently require the resources that will flow from this development. We are hearing that from their government, the representatives of the President and community aid organisations. While I acknowledge the comments of Senator Abetz on record earlier about paternalism or patronising and colonialist attitudes, I am quite happy to disagree on occa-
sions with other governments. I think the most recent example in my case would be the governments of the United States and the UK. Just because a government says something on behalf of its elected people—

Senator Abetz—Pity you don’t disagree with Iraq!

Senator STOTT DESPOJA—I certainly disagree with Saddam Hussein.

Senator Abetz—As an afterthought!

Senator STOTT DESPOJA—I am not going to demean this debate, which is an incredibly important one for the East Timorese people, by getting sidetracked, but the principle of not always agreeing with what a government says is a legitimate one, even if it is a democratically elected government, as in the governments of the UK and the US. We are as senators entitled to disagree with what a government says. The difference in this case for me is that the people who have been democratically elected are the very same people with whom we have been involved in the debate about a free East Timor for many years and that I trust these people. When Xanana Gusmao, the President, or Jose Ramos Horta say that this is in their interest then I believe them. That is why I approach this debate with a heavy heart, wanting these resources to be available to the East Timorese who desperately need them but at the same time wanting my country to save some face by doing the right thing on behalf of not only the East Timorese national interest but our own. Hence the importance of reinserting in this debate the International Court of Justice. We should be dealing with the issue of seabed boundaries in a way that does not compromise future claims and ensures that allocation of resources is fair. So I want the government to do that and at the same time I recognise that the people who I have worked with and admired in this debate are asking us to pass these laws.

The Democrats have consulted directly with a number of groups, including the government, on this issue. I have of course met with Minister Downer and his department. I have also met with many other organisations, such as Oxfam Community Aid Abroad, and they have urged us to support the passage of these bills. So we cannot stand in their way, and we will not. However, because of the ongoing dispute regarding maritime boundaries and the extent to which the Greater Sunrise field lies within the joint development area, East Timor wanted ratification to proceed independently of the unitisation agreement. The unitisation agreement provides that 79.9 per cent of the Greater Sunrise oil and gas field lies within Australia’s jurisdiction, while the remaining 20.1 per cent falls within the JPDA. As we know, the Timorese dispute this and, under the principles of international law, argue that most, if not all, of Greater Sunrise rightfully belongs to East Timor.

By insisting that the unitisation agreement be finalised prior to the ratification of the treaty, the government has compelled East Timor to agree to compromise its long-term interests in order to meet its short-term needs. Australia’s insistence has resulted not only in an unsatisfactory outcome for the East Timorese people but also in a situation where the ratifying legislation was delayed, as we see, until the last moment. Here we are rushing this legislation through—and it is not even the eleventh hour anymore; it is almost the twelfth hour—without proper scrutiny. This is not the way to make good laws; we know that. This does not promote good governance and it does not set a good example to our nearest neighbours.

The Democrats also take this opportunity, therefore, to put on record our disappointment at the absence of a number of matters from the treaty and from these bills: for example, environmental standards to be observed in relation to petroleum activities within the joint development area and occupational health and safety standards to apply to those who work within that area. We certainly welcome the announcement this week of Australia’s latest aid package to help reduce poverty within East Timor. There is no doubt that East Timor desperately requires such assistance, both financial assistance and other types of assistance, particularly in these formative years. It is hypocritical of the government on the one hand to provide aid to East Timor but on the other hand to poten-
tially prevent East Timor from accessing resources which arguably belong to it and which would enable it to progress more rapidly towards financial independence. As Dr Alkatiri indicated last week, the best way to alleviate poverty in East Timor is to give it an equitable share of the revenues from the Timor Sea petroleum developments.

The Australian government has acted as a bully throughout these negotiations with East Timor and I am ashamed of the way that we have dealt with East Timor on this issue. Compare this to the way that, in recent times, this government—and I acknowledge this—played a leadership role, eventually, in stopping human rights abuses against the East Timorese people by helping them achieve independence. That was a proud moment for our nation. It was long overdue, and I will not go into the history, but it was a proud moment. The Australian government did play a leadership role in helping East Timor to the point of independence, but now we have turned around and are potentially strangling its access to much needed resources. We urge the government to proceed with negotiations with East Timor for the final delimitation of the seabed boundaries. We urge the government to do so in good faith and in accordance with the relevant principles of international law. We urge the government to resubmit to the jurisdiction of the International Court of Justice so that it can determine those disputes in relation to maritime boundaries. I think it is time for us to show leadership to our new neighbour, and we must act responsibly and fairly in our dealings with it.

I reiterate the concerns of the Australian Democrats over the way that this process has come about and the eleventh hour dealings before us today in relation to the legislation. There is a bit of legislation there; it is not a one-page bill, and nor would you expect it to be. Going through the legislation, as we have been doing overnight, there are many aspects which we would have liked to have spent more time on. We would have liked to ask the government about some of the issues and, as I said earlier in the debate, have vital amendments drafted to ensure that we submit to international law and try to get a better deal for our East Timorese neighbours. The Democrats will not stand in the way of the passage of this legislation—I have said that on the record—but I make it clear that we are not happy with the process and we are not happy with the final legislation. We understand the reasons for urgency, hence our willingness to allow this debate to occur. I think the numbers are such in the chamber today that this legislation will pass. I acknowledge the request of the East Timorese people made through their elected representatives; their Prime Minister and their President. For that reason, we will not be opposing this legislation before us today.

My concerns are outlined in a second reading amendment that has been circulated in my name on behalf of the Australian Democrats. I thank Senator O’Brien for outlining his opposition. Needless to say, I am a little disappointed—it would be nice to win something in this debate. Who knows, you may have a change of heart on some of the amendments before you and we may see a bill which is better not only for the East Timorese people but also for the Australian people, whom we are here to represent. That is what I would like to see. I move:

At the end of the motion, add “but the Senate:
(a) condemns the Government’s handling of these bills and the manner in which it has conducted negotiations with East Timor regarding the Timor Sea Treaty, in particular:
(i) the very late introduction of the bills prior to the commercial deadline for ratification of the treaty, which has limited the ability of the Parliament to properly scrutinise the bills;
(ii) the Government’s insistence on signing the International Unitisation Agreement relating to the Greater Sunrise oil and gas field prior to ratifying the treaty; and
(iii) the Government’s withdrawal from the jurisdiction of the International Court of Justice to determine disputes regarding maritime boundaries; and
(b) notes, however, that East Timor stands to lose billions of dollars in revenue from the Bayu Undun development if the bills are not passed today and that it is the express wish of East Timor that they are passed.”

Senator CROSSIN (Northern Territory)
(11.57 a.m.)—The passing of the Petroleum
(Timor Sea Treaty) Bill 2003, Petroleum (Timor Sea Treaty) (Consequential Amendments) Bill 2003 and the Passenger Movement Charge (Timor Sea Treaty) Amendment Bill 2003 will mark a significant day for the Northern Territory. I want to take on board and acknowledge all of the comments made by the Australian Democrats in relation to the passage of this bill and about how inept—I think it would be fair to say—the government has been in ensuring that proper scrutiny is applied to these bills as they go through the parliament. In prefacing my comments, let me say that these bills will give effect, as we all know, to the Timor Sea Treaty between Australia and East Timor. The bills will provide a framework for the exploration, development and exploitation of the petroleum resources in what is now known as the Joint Petroleum Development Area created by the treaty. This legislation is critically important not only for Australia but even more so for East Timor. In some respects, the comments made today have been correct. Those of us who have stood side by side with the East Timorese people and been with them all through their long struggle for independence would have wanted a better outcome would have wanted a better outcome from what this government proposes with the unitisation agreement. At the end of the day, both the President of East Timor, Xanana Gusmao, and Jose Ramos Horta have indicated to us that the East Timorese government is happy for this legislation to be passed and it is with that agreement that we will support this.

This will underpin the economic well-being of both Australia—and, in particular, the Northern Territory—and East Timor. It benefits Australia and provides certainty for investors by establishing a legal basis for continued development of major oil and gas deposits in the Timor Sea. Both projects rely on the passage of this legislation before they proceed—those projects, of course, are the Bayu Undan project and the proposed Sunrise gas field. Petroleum production and revenue as a result of the treaty will more than likely be split between Australia and East Timor on a 90-10 basis, with the 90 per cent in East Timor’s favour.

The unnecessary delays in the ratification process have put at risk a multibillion dollar gas project and trade deal as well as hundreds of potential Northern Territory jobs. Up to $2 billion in revenue is expected to be generated for this government and this country. Why has it taken this government so long to get this legislation before this parliament, days before a deadline indicated to us by the gas companies and nine months after the signing of the treaty last May? We talk about it being one minute to midnight—it is almost one second to midnight here. We expected this legislation to be dealt with last year. One has to ask why it was not ready to come before the parliament last year and why this legislation has not undergone the scrutiny and examination that every other piece of legislation usually enjoys and deserves in this parliament.

Last year the Joint Standing Committee on Treaties presented its 49th report. Even there, in one of its recommendations, it suggests that the government of Australia use its best endeavours to try and get the treaty ratified ‘in any event before 31 December 2002 as this would serve the best interests of both nations’. But there have been delays and there have been unsatisfactory answers as to why there have been delays. In the Senate estimates in February I asked representatives from the Department of Foreign Affairs and Trade where the legislation was at and what the impediments were. Although I understand that they are not responsible for drafting the legislation, I asked if the impediment was due to the fact that the unitisation agreement had yet to be signed—was this government holding the East Timorese government to ransom by saying, ‘You sign the unitisation agreement, and we will give you the treaty ratified’? But the representatives from the Department of Foreign Affairs and Trade indicated to me that they did not believe there was any impediment. I said, ‘Does the unitisation agreement need to be signed, sealed and delivered before the Timor treaty can be ratified?’ Dr Raby answered, ‘That is not necessarily so.’ I asked, ‘One is not dependent upon the other?’ His answer was, ‘There is no technical dependency.’ So we have never been given any clear reason why this legislation
has taken so long to come before this parliament. We do know that it is in some way linked to contracts that may or may not have an 11 March date on them. But, really, this legislation could have been dealt with before the Christmas period and be well and truly out of the way by now. It has taken this government 10 months to do what it could have done in a number of months following the signing of the treaty last May.

It is expected that East Timor can receive billions of dollars over the 20-year lifespan of this project. It is difficult to overstate the importance of this revenue to the world’s newest and also poorest nation—one that is also a very dear and close neighbour of this country. Australia, of course, will receive substantial benefits from the development and processing of natural gas. Over the life of the project, total revenue to Australia from the liquid and gas phases is expected to total almost $1.5 billion. So this is a significant and substantial investment for our economy. One would have thought that the government might have dealt with it with a little more haste than it has. The gas deposits in the Timor Sea are almost three times as large as those that were in the North West Shelf and they are conservatively estimated to be worth at least $100 billion. This project will no doubt cement the position of Darwin and Australia in the world energy market. In total, we are talking about $2 billion for the pipeline from Bayu Undan to Darwin and $1.5 billion for investments in Darwin alone. The Bayu Undan project is estimated to contain around $US15 billion worth of petroleum.

The bringing of gas onshore to the Northern Territory allows for the multimillion dollar development that has been recently announced at McArthur River and the expansion and development of mining activities by Alcan at Nhulunbuy, not to mention, of course, significant growth in jobs and opportunity for people in the Territory and for businesses as well. I want to pay tribute to the Northern Territory Labor government—and, in particular, to the Chief Minister, Clare Martin, and her team—which has, since it was elected in 2001, played a key, crucial and central role in negotiations, not only between the gas companies involved in these projects but also between East Timor and Australia. This is a critical project for the Northern Territory. The Northern Territory government has known that and it has personally made the securing of what is in the best interests of the Territory its ambition and project, while never forgetting the very valuable and dear friendship and relationship we have with East Timor. This project will develop long-term economic benefits for the Territory once the projects go ahead.

We know that this parliament has been given the minimum amount of time to pass this legislation. No time has been given to effectively scrutinise this legislation which fundamentally affects our bilateral relationship with our newest neighbour in our region. This legislation will affect the future of the largest resources in this country’s recent history. Australia’s long-term strategic policy objective in East Timor must be to help it to become a viable state, free from foreign interference and internal unrest and free to pursue its economic independence. In order to do that, we need to ensure that any benefits East Timor can derive from these projects are maximised to the point where they do in fact enjoy strong economic growth. An independent and strong East Timor is in our national interest. It is also in our national interest to have good relations with East Timor.

I was going to spend the time talking about the poor way in which our Minister for Foreign Affairs, Alexander Downer, has handled relationships with East Timor and, in particular, the many reports in the media of his appalling performance at a meeting held on 27 November last year with the East Timorese government. But I think that just goes to highlight the valuable role Clare Martin has played in this and the work that she has done in ensuring that, while the federal government may not have such a good rapport with the East Timorese and has handled this quite badly in some ways, at least the Northern Territory government and Clare Martin have been there to ensure that the interests of the East Timorese are being looked after and listened to during this process.
The most effective way for Australia to ensure that East Timor is a strong and independent neighbour is to continue to develop those relationships and to provide the maximum assistance that we possibly can. The government have offered no explanation for the delay in these bills. I believe that they have tried to link the ratification of this treaty and this legislation with the unitisation agreement. I am not happy about the fact that parties in this chamber who have wanted to scrutinise this legislation have been denied the opportunity to do so. I understand that time is of the essence and that this is a piece of legislation that the people of the Northern Territory are relying on very heavily, and certainly the people of East Timor are relying on even more so.

In concluding, I do want to place on record that I am quite disappointed that Senator Scullion, my colleague from the Northern Territory, is not here to join in this debate. I would have thought that with this very crucial piece of legislation relating to the Northern Territory he may well have wanted some words in the transcript indicating his support for this kind of project. But of course that has been the case in the Northern Territory with the CLP government for many years—hands off the wheel when it comes to investing in big projects and putting in the long hard work that has been needed. At least the Clare Martin government has done that. Our relationship with the East Timorese people in the Northern Territory is strong and growing. This is a significant day, not only for them but for us, and this will be of significant assistance to the economy in the Northern Territory and to the people of the Territory.

Senator BROWN (Tasmania) (12.10 p.m.)—Last night, as the newspaper reports tell us, the Prime Minister phoned his opposite number in East Timor to deliver blackmail. What the Prime Minister effectively did was to coerce a poor and weak neighbour, through blackmail, into accepting an agreement to develop the fossil fuels—

Senator Abetz—Mr Acting Deputy President, I rise on a point of order. This is clearly casting an aspersion on the Prime Minister and ought be withdrawn.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Senator Brown, you should not accuse the Prime Minister of blackmail. I ask you to withdraw that.

Senator BROWN—I believe that that is what happened.

The ACTING DEPUTY PRESIDENT—that is my ruling.

Senator BROWN—I am not going to withdraw that. That is exactly what happened last night. It would be a breach of faith, in my own view of the matter, to withdraw that statement.

The ACTING DEPUTY PRESIDENT—for a second time, Senator Brown, I ask you to withdraw the blackmail allegation against the Prime Minister, or rephrase it.

Senator BROWN—Last night the Prime Minister made a call to his opposite number in East Timor to effectively coerce East Timor into making an agreement which was against its own interests.

Senator McGauran—Mr Acting Deputy President, I rise on a point of order.

The ACTING DEPUTY PRESIDENT—Senator Brown, there is another point of order.

Senator McGauran—Quite obviously Senator Brown, if I can garner what he was trying to say, is debating your instruction, which was to withdraw and rephrase if he wishes to. Surely he has enough grasp of the English language to find another word that is within the standing orders. I put it to you, Mr Acting Deputy President Watson, that he is challenging your ruling.
The ACTING DEPUTY PRESIDENT—Your point of order is that he is debating the issue. Senator Brown, you cannot debate my ruling. I have made a ruling; I have given you an option. It is up to you to either withdraw the term or to use some alternative phraseology.

Senator BROWN—Last night the Prime Minister used blackmail on East Timor, and I will not withdraw that. It is a matter of fact. This is such a serious matter; it is such deplorable behaviour by Australia against our poor East Timorese neighbour. We have to call a spade a spade, and that is what I am doing. I do not believe that is outside standing orders. I am prepared to further fill out the reasons for my making that statement, but it would be not proper for me to withdraw a statement which is factual in effect.

The ACTING DEPUTY PRESIDENT—Senator Brown, you are impugning a motive against the Prime Minister—accusing him of blackmail. That is unacceptable, and I ask you to withdraw it or to use some alternative language. I am sorry.

Senator BROWN—The motive of the Prime Minister last night was to coerce East Timor, in terms of resources and money, through a threat to withdraw this legislation if the East Timorese government did not agree to sign the agreement today. That is why Mr Downer has gone to Bali. That is a statement of fact. That is what the Prime Minister did. I will not withdraw.

The ACTING DEPUTY PRESIDENT—Senator Brown, you are challenging the authority of the chair. I have asked you to withdraw. You can withdraw and then use alternative language if you wish, but it is a requirement that you should respect the decision of the chair.

Senator BROWN—Chair, I believe you are wrong in your ruling. I stand by my statement. The Prime Minister and the government of Australia are involved in blackmail of the clearest order against our poor East Timorese neighbour. That is what has happened. I am not going to withdraw that. I am prepared to elaborate on it if you will give me the opportunity to do so, but I will not withdraw a statement of fact.

The ACTING DEPUTY PRESIDENT—If you are going to dissent, it is necessary to put your dissent in writing.

Senator BROWN—No, Chair, I am not dissenting; I am not accepting the ruling. I will leave that matter for you to determine.

The ACTING DEPUTY PRESIDENT—You are refusing to withdraw, and I have asked you to withdraw. If you are going to dissent from my ruling, your next stage is to put it in writing. I have been advised by the Clerk.

Senator BROWN—I will reiterate, with the greatest respect to you, Mr Acting Deputy President: this is a matter of enormous importance. As I said earlier today, I am very angry about—

Senator Abetz—Mr Acting Deputy President, I raise a point of order: I think you have been very lenient with the honourable senator. You have given him a course of action to withdraw and then, if he wishes to, to use alternative language. He has now defied your ruling on a number of occasions and repeated the word. We have all had to withdraw from time to time when we do not like to; yet 24 hours later we usually go back to our offices and say, ‘Yup, that was a fair cop and it should have been withdrawn.’ The honourable senator has been given the opportunity to withdraw. If he does not, quite frankly, Mr Acting Deputy President, he should not be given the opportunity to flagrantly violate your ruling, disregard it and, as a result, hold not only you but the standing orders and this whole place in contempt.

The ACTING DEPUTY PRESIDENT—I will read standing order 198, ‘Objection to ruling’, for the clarification of the Senate:

(1) If an objection is taken to a ruling or decision of the President, such objection must be taken at once and in writing, and a motion moved that the Senate dissent from the President’s ruling.

(2) Debate on that motion shall be adjourned to the next sitting day, unless the Senate decides on motion, without debate, that the question requires immediate determination.

Senator BROWN—Thank you, Mr Acting Deputy President. I say again, with great respect, that I am not complying with your
ruling. I do not withdraw. But I am not issuing a dissent with that. Somebody else can do that if they wish to. My position is clear: I am not withdrawing the comments I made, because they are factual. *(Quorum formed)*

**The ACTING DEPUTY PRESIDENT**—Senator Brown, under the circumstances, I have no alternative other than to name you for persistently disobeying a ruling of the Acting Deputy President. I am therefore required to report that to the Senate. Following that, you will be given an opportunity to make an explanation and then it will be up to the minister to move a motion which I presume will be debated at the next day of sitting. I report to the Senate that Senator Brown has persistently disobeyed a ruling of the Acting Deputy President, and I now call on Senator Brown to make an explanation.

**Senator Brown**—I thank you, Mr Acting Deputy President. You required me to withdraw the word ‘blackmail’ as applied to the Prime Minister. I had made the statement to the Senate that the Prime Minister had engaged in overnight blackmail by ringing his opposite number in East Timor to apply pressure to have the East Timorese sign an agreement today for the development of the Timor Gap oil and gas fields in return for having this bill go through the Senate today, as reported by today’s *Age* newspaper. The chamber should know that the East Timorese government has been put under unacceptable—

**Senator Faulkner**—Mr Acting Deputy President, I raise a point of order. I would like to be clear that you are taking this action under standing order 203(3).

**The ACTING DEPUTY PRESIDENT**—That is correct.

**Senator Faulkner**—My point of order—and this has been raised previously as a point of order in this place when in the unusual circumstance these sorts of matters have been before us—is this: you called on Senator Brown to make an explanation. I think I heard you correctly.

**The ACTING DEPUTY PRESIDENT**—Correct.

**Senator Faulkner**—Under standing order No. 203(3), it is competent for that to occur. But it is also competent when you invoke that standing order after a senator has been reported to call upon the senator concerned, in this case Senator Brown, to make an explanation or an apology.

**The ACTING DEPUTY PRESIDENT**—He is doing that.

**Senator Faulkner**—I do not believe that was done. He was called on to make an explanation. I am not suggesting that Senator Brown would necessarily—

**Senator Abetz**—He’s not big enough to apologise.

**Senator Faulkner**—This is a procedural point that has been raised before in this circumstance.

**Senator Abetz**—You’re right.

**Senator Faulkner**—I know I am right. Whether Senator Brown avails himself of such an opportunity is entirely a matter for him. My point of order is that that opportunity should be extended to a senator in this circumstance. That is my only point of order. I am not suggesting for one moment that in this instance, or in any other instance, a senator might necessarily avail themselves of that opportunity. But I like to be consistent in the way these matters are dealt with. I think that in the most recent circumstance when a senator was reported we had the then President call on the senator to make an apology. Of course the point was taken quite properly that that senator could have made an explanation or an apology. I believe the Acting Deputy President called on Senator Brown in this instance to make an explanation. I think, if we are going to conform strictly to the standing orders, either is appropriate.

**The PRESIDENT**—Senator Faulkner, I believe that what you have just said is correct. Therefore, I call upon—

**Senator Faulkner**—In that instance. Thank you for ruling that way, Mr President. This may not seem to be a major point, but it has been raised before; therefore, I think Senator Brown ought to be called upon to make an explanation or an apology, not called upon to make an explanation.

**The PRESIDENT**—That is what I intend to do. I call upon Senator Brown to make an
explanation or an apology, as it says in the standing orders.

Senator BROWN—I thank Senator Faulkner for drawing our attention to that option. I do not make an apology, but I will make an explanation. I said in the debate earlier that the Prime Minister had been engaged in overnight blackmail of his opposite number in the East Timorese government, and I stand by that. The reasons I made that statement are very clear. We are debating today a piece of legislation that will involve, according to the Minister for Foreign Affairs, Mr Downer, a $50 billion break for Australia from the development of the oil and gas fields which are wholly within East Timorese waters, according to my interpretation and the interpretations of a number of international jurists.

But the boundaries were moved to exclude part of those oilfields during the period of the Indonesian occupation of East Timor, and this treaty effectively excludes the lot and gives to Australia if not fifty-fifty then the majority of the profits that will flow to governments from those oilfields. This is Australia being involved in a grand theft of the resources of our small neighbour East Timor—the most impoverished neighbour in the neighbourhood having its one resource that is going to help it get up off the ground in the future taken by its richest neighbour.

This is Prime Minister Howard, on behalf of the oil corporations, ringing the Prime Minister of East Timor, Dr Alkatiri, and saying to Dr Alkatiri, according to the Age report, 'If you do not sign the agreement for the development of the Greater Sunrise field—which is the biggest field and which is East Timorese—'grant that resource in the major part to Australia, then we won't have this legislation go through the Senate today,' which allows for the development of the other, smaller oilfield, which the East Timorese want to see developed. That is the Prime Minister saying, 'Do as we want or we will take away a potentially lucrative contract with the Japanese for development of the Bayu-Undan oilfield.' That is blackmail—that is overnight blackmail. The Senate may ask me to withdraw that comment, but to do so would be to ask me to withdraw a factual comment which accurately describes the Prime Minister’s behaviour in this affair and I will not do so.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.31 p.m.)—Under standing order 204, I move:

That Senator Brown be suspended from the sitting of the Senate.

Question put.
The Senate divided.

[12.35 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes…………… 58
Noes…………… 8
Majority……… 50

AYES

Abetz, E.
Bishop, T.M.
Boswell, R.L.D.
Buckland, G.
Campbell, I.G.
Chapman, H.G.P.
Collins, J.M.A.
Cook, P.F.S.
Crossin, P.M.
Eggleston, A.
Evans, C.V.
Ferguson, A.B.
Forshaw, M.G.
Heffernan, W.
Hogg, J.J.
Hutchins, S.P.
Kemp, C.R.
Knowles, S.C.
Ludwig, J.W.
Macdonald, I.
Mackay, S.M.
McGauran, J.J.
Moore, C.
Payne, M.A.
Santoro, S.
Sherry, N.J.
Tchen, T.
Troeth, J.M.
Webber, R.

NOES

Allison, L.F. *
Brown, B.J.
Greig, B.
Nettle, K.

Barnett, G.
Bolkus, N.
Brandis, G.H.
Calvert, P.H.
Carr, K.J.
Colbeck, R.
Conroy, S.M.
Coonan, H.L.
Denman, K.J.
Ellison, C.M.
Faulkner, I.P.
Ferris, J.M. *
Harradine, B.
Hill, R.M.
Humphries, G.
Johnston, D.
Kirk, L.
Lees, M.H.
Lundy, K.A.
Macdonald, J.A.L.
Marshall, G.
McLucas, J.E.
O'Briens, K.W.K.
Ray, R.F.
Scullion, N.G.
Stephens, U.
Tierney, J.W.
Watson, J.O.W.
Wong, P.

Bartlett, A.J.J.
Cherry, J.C.
Murray, A.J.M.
Stott Despoja, N.
Question agreed to.

The President—Under standing order 204, Senator Brown, you are suspended from the Senate for the remainder of the sitting today.

Senator Brown then withdrew from the chamber.

Debate (on motion by Senator Ian Campbell) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Business

Consideration of Legislation

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.40 p.m.)—I move:

That consideration of government business order of the day relating to the consideration of the Petroleum (Timor Sea Treaty) Bill 2003 and two related bills continue until concluded.

Question agreed to.

PETROLEUM (TIMOR SEA TREATY)
BILL 2003

PETROLEUM (TIMOR SEA TREATY)
(CONSEQUENTIAL AMENDMENTS)
BILL 2003

PASSENGER MOVEMENT CHARGE
(TIMOR SEA TREATY) AMENDMENT
BILL 2003

Second Reading

Debate resumed.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.41 p.m.)—by leave—I seek a commitment from the Manager of Government Business in relation to the suspension of Senator Brown. In this circumstance, it would be sensible for the Senate to ensure that the will of the Senate is reflected in future votes of the Senate, which now of course might occur through a period of our routine of business that otherwise would not be the case, because of debate on the important piece of legislation the manager referred to. I indicate to the Senate, so the will of the Senate is reflected in any votes of the Senate, that the opposition would in this circumstance be willing to extend a pair to Senator Brown. I would seek the guidance of the government, if that would be their approach also.

The President—The Manager of Government Business has departed. We will follow that up.

Senator CHERRY (Queensland) (12.42 p.m.)—It is very hard to speak after those particular events. I want to put my objection on the record of debate on this Timor Sea Treaty legislation—it has already been said by Senator Stott Despoja on behalf of my party—to the way in which this treaty has been negotiated. My objection relates in particular to the fact that this is a continuation of the Australian government’s failure to follow decent process in terms of international law. Prior to the signing of this treaty, the Australian government withdrew from the compulsory jurisdiction of the International Court of Justice relating to the delimitation of maritime boundaries. This is something which the Democrats at the time took extreme offence to, and continue to, because it means that in the negotiation of this particular treaty there was simply no umpire who would determine whether it was fair or unfair. I do not particularly share the motives that Senator Brown has suggested may have been underpinning some of that. The framework within which this treaty was negotiated was not a fair one, because it was not done in the proper context of the International Court of Justice as a final potential arbiter.

In many respects, this is only the most recent incidence of the Howard government failing to follow proper form in terms of international law and protocols. A few quick examples dropped out of my computer: the dropping of the government accounts with the International Labor Organisation for the first time in many decades, as if international standards on labour were no longer important; the government’s refusal to sign the optional protocols of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination Against Women, denying Australian citizens the right to take complaints under those conventions to international tribunals; and the adverse findings
against the nation by the United Nations Human Rights Committee and the Committee for the Elimination of Racial Discrimination over this government’s 10-point plan legislation. The result has been ignored by this government. In fact, the government attacked the committee system of the United Nations and sought the support of a whole range of rather unsavoury countries for a comprehensive overhaul of the United Nations committee system.

Australia has refused to ratify the Kyoto protocol. It has failed to nominate members to the International Criminal Court. More recently, we have been a part of what former Ambassador to the United Nations Richard Woolcott has described as the ‘unconscionable pressure’ applied by the United States— with the support of Australia—on the UN Security Council to back a war on Iraq. Indeed, Mr Woolcott has warned of our growing international isolation as a result of that particular pressure on the UN. The relationship under which this treaty has been negotiated highlights our continuing pariah status as an international citizen.

It is very unfortunate that the treaty has been negotiated in this environment. It is a pity that the Australian government could not have come to this treaty with fully clean hands which would have shown that we were prepared to put our treaty, our obligations and our position before the international arbiters. I want to put that on the record because I was extremely unhappy about it. I do not propose to call people names or to engage in stunts in this place, but I want to ensure that our view is noted—that is, international law should be respected by this government—and the fact that we are disappointed at where this legislation has come from.

Senator O’BRIEN (Tasmania) (12.46 p.m.)—On behalf of Senator Stephens, I seek leave to have her contribution to this debate incorporated in Hansard.

Leave granted.

The document read as follows—

I rise to speak on the extraordinary delay in Australia’s ratification of the Timor Sea Treaty. In November last year the Joint Standing Committee on Treaties, of which I am a member, produced a report recommending that the treaty be promptly ratified. It also recommended that the unitisation agreement regarding the Greater Sunrise field be finalised by the end of December 2002. The Government failed to do either of these things.

Instead it has protracted negotiations surrounding the unitisation agreement, which decides the distribution of revenue in the Greater Sunrise field, spanning both the Joint Petroleum Development Area and Australian territorial waters.

This has further delayed the ratification of the treaty. The Government has badly mismanaged these negotiations.

Time has always been of the essence in ratifying this treaty—the industries involved in the extraction of oil and gas in the Timor Sea require significant investment and have long planning timeframes. Most at stake has been the proposed development of the Bayu-Undan field, which has been estimated to contain 400 million barrels of condensate and liquefied petroleum gas, and 3.4 trillion cubic feet of natural gas. This development will also involve piping gas to Darwin for export to Japan. The Bayu Undan participants, including Phillips Petroleum and Santos, have contracted to supply 3 million tonnes of LNG a year to Tokyo Electric Power Company and Tokyo Gas for a period of 17 years commencing in January 2006.

This development should generate an estimated $2 billion in direct revenue for Australia. Due to the planned construction of a gas pipeline from the Bayu Undan field to Darwin, it is also vitally important to the economy of the Northern Territory, in terms both of investment and employment. It has been extremely difficult for those whose jobs or businesses might benefit from this pipeline to make plans, such has been the uncertainty surrounding the ratification of the treaty. Leaving it as late as this to ratify has meant that many of these people have had to hedge their bets, largely expecting the deal not to go ahead. This has been disastrous for some Darwin businesses and individuals.

East Timor has had even more at stake in the prompt ratification of the Treaty. Revenues from oil and gas represent East Timor’s greatest opportunity to meet peoples basic needs. This revenue is vital for East Timor to fund economic development, health and education. The annual budget of East Timor, as noted by the Committee’s report, is about $US77 million, $US30 million of which is provided by foreign aid. This foreign aid has begun to decline.

From the Bayu-Undan development, East Timor is expected to receive royalties and taxation
amounting to between US$2.5 and US$3 billion. East Timor expects to receive US$70 million in revenue, that is almost their entire annual budget, in 2004, and revenue is expected to peak at US$300 million in 2013. The importance of this revenue to East Timor cannot be overstated.

East Timor is in critical need of jobs, education and training. As Mr Peter Chamberlain told the committee, ‘the skill base in East Timor is low. Attention is often drawn to the destruction of physical infrastructure in East Timor, but the loss of capacity during the colonial Portuguese period and the Indonesian period is almost of more long-term harm.’

As such it is not only the revenue stream that makes developments in the Timor Sea so important to East Timor. It is also the upstream and downstream benefits that will involve building the capacity of the East Timorese workforce, and strengthening the local economy.

The Uniting Church, in a submission to the committee, states that:

‘East Timor has only a 40% literacy rate, a GNP per capita of less than US$340, life expectancy of 48 years and an infant mortality rate of 135 per thousand live births. The maternal mortality rate is reported to be twice that of other countries in South East Asia and the Western Pacific.’

The stability of East Timor must be an aid priority not only because it is a developing country—East Timor is also one of Australia’s closest neighbours. The report notes that ‘persuasive arguments were made that the national interests of Australia and East Timor are interrelated—the Treaty does not represent a zero sum game in which one party’s gain is the other party’s loss.’

It is in Australia’s best interests to support East Timor to become self-sufficient, and to develop into a stable, and economically viable, nation. In a time when we should be doing all we can to promote stability in our region, clearly we should be dedicating resources to prevent economic and social instability in East Timor. In a time when the Australian government claims to be working hard to prevent refugee flows at their source, we should do everything we can to prevent another situation in East Timor in which people will need to flee.

Australia is in a particularly good position to help East Timor build the capacity of its workforce, and become a viable economy. As Community Aid Abroad/Oxfam submitted, ‘The alternative is to have an East Timorese neighbour that is dependent on Australian development assistance for many years into the future.’

The delay in ratification of the Timor Sea Treaty was certainly not in the best interests of East Timor, only succeeding in creating further uncertainty in this still unstable democracy regarding the future base of the country’s economy.

In the past month, East Timorese Prime Minister Mari Alkatiri has accused the Australian Government of stalling the ratification of the Treaty in order to get Australia a better deal on the unitisation agreement. He said, ‘Australia knows that these revenues are vital for us. I am very surprised by their attitude. I never thought a democratic country like Australia would play this kind of role with a poor neighbour.’

The way in which these negotiations have been undertaken do Australia no credit, damaging our relationships with East Timor and with the industries involved in the potential developments in the Timor Sea.

In failing to finalise the unitisation agreement by December last year, and in refusing to ratify the Treaty without the completion of this agreement, the Government has seriously jeopardised the proposed Bayu-Undan liquefied natural gas development.

Ratification of the treaty by March 11 is a key condition of Phillips Petroleum’s contract to supply LNG to Japan. After this week, parliament does not sit again until the 18th of March—thus the Government has left itself absolutely no leeway in getting the ratification bill through parliament. That this bill is going through the Senate today is an absolute disgrace. It shows that the Government is willing to throw aside developments that could so benefit Australia and East Timor, for the sake of getting a bigger slice of another pie.

This has obviously caused great consternation on the part of those involved in the development, and those with greatest stakes in it, particularly those in the Northern Territory and East Timor.

The Government has long known about the time constraints for the ratification of the treaty. Phillips made it abundantly clear, as did Santos. The Joint Standing Committee reported on this in no uncertain terms. It has been nothing short of irresponsible for this Government to delay the matter for so long.

The Joint Standing Committee concluded in November last year that it is in the best interests of both East Timor and Australia for this Treaty to be promptly ratified, and for the oil and gas resources in the Joint Petroleum Development Area to be developed. It also recommended that the International Unitisation Agreement be concluded by the end of last year. Prime Minister Howard
himself promised the prompt ratification of the treaty when he attended independence celebrations in East Timor last May.

The ratification of the Treaty has been anything but prompt.

The oil and gas resources in the Timor Sea present a significant opportunity to both Australia and East Timor. This is an important matter to our country and our region, and it has been handled with nothing short of carelessness by this government. By putting this treaty before parliament at the 11th hour, or more like the 11 and a halfth hour, it shows very little regard for all of those, in Australia and in East Timor, who stand to benefit from developments in the Bayu-Undan field.

Senator ABETZ (Tasmania—Special Minister of State) (12.46 p.m.)—by leave—I thank honourable senators, or most of them anyway, for their contribution to this debate. I indicate at the outset that the very effective senator for the Northern Territory, Senator Nigel Scullion, wished to take part in this debate but, given the time constraints on this matter and the importance of getting the legislation through, he has very kindly and in a most considerate way agreed not to speak. But I think it is appropriate that his support and close following of this legislation be noted and acknowledged.

I thank Senator O’Brien for his contribution on behalf of the opposition. This is an important piece of legislation. Time is of the essence so, other than the comments about the short notice, can I say that I agree with Senator O’Brien on why this legislation has been brought into the chamber now. I accept that the legislation has been brought into the chamber at very short notice. I accept that it is undesirable when that happens, but unfortunately it does happen on occasions.

As I understand it, the treaty was submitted to the Joint Standing Committee on Treaties in June, which then reported in November. As a result, complex legislation had to be drafted. As I indicated before, 12 pieces of legislation required amendment. Complex negotiations also had to take place with East Timor on a range of issues following the signature of the treaty, including the production sharing contract for the Bayu-Undan field, which needs to be issued to the contractor when the treaty comes into force.

It is a matter of regret that we do not have as much time as we would otherwise like to have to debate this measure. We will be opposing the Australian Democrats’ second reading amendment. I complete by remarks by again thanking most honourable senators for their cooperation in this debate.

Question put:

That the amendment (Senator Stott Despoja’s) be agreed to.

The Senate divided. [12.53 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes…………. 8

Noes…………. 42

Majority…….. 34

* denotes teller

Question negatived.

Original question agreed to.

Bills read a second time.
In Committee
PETROLEUM (TIMOR SEA TREATY)
BILL 2003

Bill—by leave—taken as a whole.

Senator NETTLE (New South Wales)
(12.56 p.m.)—I move Australian Greens amendment (1) on sheet 2861:

(1) Page 15 (after line 10), at the end of the bill, add:

PART 6—TREATY AMENDMENTS
26 Amendment of paragraph (a) of Annex E under Article 9(b) of Treaty

(1) The Commonwealth considers that equity with East Timor requires the first sentence of paragraph (a) of Annex E under Article 9(b) of the Treaty to be amended with the figure 20.1% replaced by 100% and the second sentence of the paragraph omitted.

(2) The Commonwealth will during 2003 seek agreement with East Timor for this amendment of the Treaty.

In speaking to this amendment, I would first like to seek leave to incorporate a statement from NGOs from East Timor. It was circulated at the beginning of this debate. The whips on duty were Senator Mackay and Senator Campbell.

Senator O’Brien—Senator Brown showed me a document which I believe he intended to incorporate. If it is the same document, we gave such leave and we will give the same leave to Senator Nettle.

Senator Abetz—To assist, we agree, but I think documents of this nature should in future be tabled as opposed to incorporated.

Leave granted.

The document read as follows—
Submission to the Australian Parliament’s Joint Standing Committee on Treaties Regarding the Timor Sea Treaty And the Related Exchange of Notes Between the Government of Australia and The Government of the Democratic Republic of East Timor Summary

1. East Timor is a sovereign nation which has no maritime boundaries, and whose claims overlap those of Australia.

2. East Timor should not be subjected to illegal historical precedents or made to negotiate under pressure.

3. The current Treaty was written too quickly and, for example, does not adequately protect the marine environment.

4. Revenues from oil and gas in the disputed territory should be held in trust until the boundaries are agreed to based on principles of international maritime law.

Dear respected members of the Australian Parliament:

East Timor is a nation whose sovereignty was formally recognized by the international community on 20 May 2002. With independence, East Timor has the fundamental right to determine its territorial boundaries—land, air and water—following national legal principles laid out in our Constitution, and following international legal principles laid out in the UN Convention on the Law of the Sea (UNCLOS).

East Timor does not yet have clear territorial boundaries with Australia and in fact, the two countries have overlapping claims in the Timor Sea.

In 1972, the governments of Australia and Indonesia agreed upon their maritime boundaries using the continental shelf argument as a basis for the negotiation. This agreement was never recognized by the Government of Portugal which at that time had administrative authority over East Timor. The 1972 line drawn by Indonesia and Australia intrudes into East Timor’s waters, even though they left a gap where they recognized that they had no claim against Portuguese Timor. This gap left a still-contested area in the Timor Sea called “the Timor Gap”.

In 1975, Indonesia unilaterally seized East Timor, and annexed it the following year. The international community represented by the United Nations, however, never recognized this annexation and continued to officially recognize East Timor as an area under the administration of Portugal. Australia was the only nation to legally accept the illegal annexation, which was condemned by eight U.N. General Assembly resolutions. In 1989, Indonesia and Australia concluded negotiations over the joint exploration and production of oil and gas in the Timor Gap. Without any resolution of maritime boundaries in the area, the two nations signed the Timor Gap Treaty, using the 1972 continental shelf boundary as the basis of the partnership agreement and agreeing to joint exploration and production of oil and gas within the Zone of Cooperation area of the Timor Gap. The treaty was challenged in the International Court of Justice by Portugal, although the court could not rule because of Indonesia’s refusal to recognize the authority of the court.
Because the annexation of East Timor was illegal, unilateral and never recognized by the United Nations, the 1989 treaty was an illegal treaty. For this reason, any agreement that uses the boundaries for the joint sharing of oil and gas which are used in the 1989 Timor Gap Treaty must also be viewed as illegal and in conflict with the principles of the international community, UNCLOS, other international laws, and the Constitution of the Democratic Republic of East Timor which came into effect on 20 May 2002.

In March of this year, Australia withdrew from UNCLOS and International Court of Justice (ICJ) processes as they relate to the resolution of maritime boundaries. Although the treaty says it does not prejudice this issue, it enacts temporary boundaries which unfairly and illegally advantage Australia. Also, based on this proposed treaty, the money from Laminaria-Corallina and other oil fields in contested areas goes to Australia, despite the fact that these areas are within East Timor’s territorial claims. It is likely that when the question of maritime boundaries between Australia and East Timor is finally resolved, these revenues will be already spent and unrecoverable by East Timor.

Australia must commit itself to resolving the maritime boundary question following the principles of international maritime law. Australia should cancel its withdrawal from UNCLOS and ICJ processes, and return to the community of law-abiding nations. This is the only way East Timor can be assured that its rights will be respected.

Under pressure by oil companies, Australia in turn pressured East Timor to sign the treaty within hours of becoming independent. This is not an appropriate way to relate to a new neighbour which is just developing governmental and democratic structures. This treaty, which has a 30-year term, will greatly affect East Timor’s ability to meet this new nation’s basic needs. More time must be taken to allow East Timorese people and their representatives to fully understand all aspects of the issue.

For example, the current treaty does not adequately protect East Timor or Australia’s marine environment. As a new nation, East Timor has not had time to develop proper environmental laws or practices. It may be appropriate for us to rely on Australian law, but as a small, underdeveloped nation, East Timor may have different needs and concerns than Australia. Providing a stable environment for oil companies must not be prioritised over protecting the future of East Timor’s sea, land, natural and human resources.

With East Timor’s independence, all the natural wealth of the nation, both in the sea and on land, must be used to benefit the East Timorese people. The East Timorese government must work with great diligence to ensure that the oil and natural gas resources in the Timor Sea are used in the interests of national reconstruction and prosperity for the people of the Democratic Republic of East Timor. At this time, East Timor is taking steps to rebuild despite limited resources, both human and economic. Given this situation, it is very unfair for a large and wealthy nation such as Australia to continue to take natural resources from East Timor. The East Timorese people have a far greater need for this wealth than Australia, which is already relatively prosperous, and has much greater oil and gas resources elsewhere.

Based on the above concerns, a group of East Timorese civil society organizations formed the Independent Information Centre for the Timor Sea (CIITT), an information centre formed by thirteen East Timorese non-governmental organizations with the goal of monitoring and analysing the process of determining legal maritime boundaries and the process of oil and natural gas exploration and production in the Timor Sea. The goal of this group is to maintain the sovereign borders of East Timor, to optimise the use of natural gas and oil resources for the prosperity of the East Timorese people, and to decrease the negative effects which sometimes accompany petroleum development. We will continue to follow the process for resolving the issue of maritime boundaries between Australia and East Timor and also the exploration and production of gas and oil in the Timor Gap. This monitoring process began while East Timor was still under UN administration.

The CIITT includes organizations representing different constituencies, but with a common goal of ensuring that the resources of the Timor Sea are used in the most safe and effective way to advance the prosperity of our people. Some of our member organizations are making separate submissions to your Joint Standing Committee, going into more detail on certain aspects of the Timor Sea Treaties. As a coalition, we support the issues raised by the submissions of each of our members.

We consider that the 1989 Treaty between Australia and Indonesia was an illegal treaty, including the agreement on how oil and natural gas reserves would be explored and exploited in the Timor Gap. This agreement will clearly have a very serious political and economic impact on East Timor and the legal determination of the maritime boundaries of East Timor.
During the transitional period, the United Nations and Australia carried out negotiations which led to the Exchange of Notes signed in February 2000 and the Draft Arrangement of July 2001 which was then signed on 20 May 2002 by the Government of Australia and the new Government of East Timor. This process will potentially impact the proper determination of maritime boundaries and territories such as the Exclusive Economic Zones of the countries which are disputed. This treaty was signed before East Timor had any maritime boundary legislation and for that reason, should not be viewed as legal.

Senator NETTLE—I thank the chamber. The amendment seeks to put the treaty in line with international law with regard to the location of the two gas fields that we are discussing in this legislation—that is, to put them 100 per cent in the ownership of East Timor. East Timor is a poor country; the UN rates it amongst the 20 poorest of the world. When Indonesia withdrew three years ago, it followed a scorched earth policy that left about 70 per cent of the modest infrastructure in ruins. But one of the most vital assets of the Timorese economy is the potentially vast reservoirs of undersea oil and gas in the Timor Gap.

Senators would be well aware that, in recent negotiations between Australia and East Timor, the so-called Joint Petroleum Development Area was divvied up 90 per cent to East Timor and 10 per cent to Australia. Under the United Nations Convention on the Law of the Sea, many believe East Timor would have sovereign rights over the whole area, but that is not the real problem here. In fact, the best evidence indicates that East Timor is being deprived of its share of much more significant resources. Vaughan Lowe is a professor in international law at Oxford University and a recognised international expert on determining maritime boundaries. Earlier this year, he showed that East Timor could potentially claim a significantly wider area than previously recognised.

To the west of the Joint Petroleum Development Area are significant oilfields, currently providing good revenue to the Australian Treasury, which appear to lie within East Timor’s potential borders. But the most important resource in the whole Gap area is on the eastern border. The Greater Sunrise gas fields straddle the border of the joint development area, and Professor Lowe’s opinion indicates that they should be largely or completely East Timor’s. Combining these areas to the east and the west, it becomes apparent that, if the Timor Sea Treaty is ratified in its current form, East Timor will receive revenues from less than 40 per cent of the resources to which they are entitled.

The maritime borders between Australia and East Timor have never been defined, so why doesn’t East Timor simply claim its boundaries and take the issue to the International Court of Justice if Australia does not agree? We will go on to that in more detail in discussion on the second amendment, but they cannot take it to the International Court of Justice because in March last year, when these issues became clearer, Australia withdrew from the jurisdiction of the International Court of Justice with respect to maritime boundary determination. By pulling out, Australia has denied East Timor the option of getting an enforceable ruling that would allow them to claim their own sovereign territory.

Finally, let us not forget the lucrative downstream developments that will probably take place on Australian soil, such as the planned pipeline and processing plant in Darwin. In the end, it looks like East Timor may get only about one-third or less of the benefit of its own resources—not so generous a deal as the much proclaimed 90-10 per cent split would suggest. The federal government’s Joint Standing Committee on Treaties ducked this issue in the conclusions of its report on the Timor Sea Treaty, released some time ago. This will happen only if the Australian public demand that their government does so. Should the Timor Sea Treaty and the arrangements of the Greater Sunrise gas fields be ratified as is, or should the process be held up, causing delays to investment in projects and thus delays in paying revenue to East Timor treasuries? Both countries would like a mutually acceptable resolution. Firstly, we could allow East Timor a much larger share of the Greater Sunrise gas fields than the 18 per cent they would receive from the treaty as it stands. Australia should also—and we will get on to
this in the next amendment—recommit to the International Court of Justice on maritime boundaries issues so that the boundaries between East Timor and Australia can be determined.

Australia is, of course, a significant and generous aid donor to East Timor, but the value of this aid is significantly less than the long-term value of the oil and gas resources which Australia is currently depriving East Timor of. Australia, as we heard Senator Brown say earlier, has also used heavy-handed tactics in insisting that the ratification of the Timor Sea Treaty be linked to a final agreement on the unitisation of the Greater Sunrise field. This linking was not necessary but was done by Australia in order to use the urgency for a finalisation of the Timor Sea Treaty as a way of pressuring the East Timorese into accepting a less than equitable outcome. Again the Australian government used its disproportionate negotiating advantages to coerce an outcome favourable to Australia and disadvantageous to East Timor. Under this deal East Timor will receive only about 18 per cent of revenues from Greater Sunrise, whilst it is entitled to a much larger share, if not the whole amount. I commend this amendment to the Senate.

Senator STOTT DESPOJA (South Australia) (1.04 p.m.)—The Australian Democrats will be supporting the amendment moved by Senator Nettle on behalf of Senator Brown. As I outlined in my contribution to the second reading debate, we are partial to this idea in relation to equitable apportioning. My understanding of this amendment is that this would put all of Greater Sunrise into the JPDA. That is something that has been argued for by the East Timorese. Also, it would act as an incentive for Australia to act expeditiously in relation to the final delimitation of boundaries.

As I acknowledged in my contribution to the second reading debate, there are competing legal arguments—sometimes equally persuasive ones—in relation to the debate about boundaries, but certainly the Democrats believe that those in favour of the East Timorese are quite persuasive. A hundred per cent may seem to some in the community or some in this chamber to be a generous apportioning, but, let us face it, if any nation requires the resources, it is certainly East Timor. The Australian Democrats support the amendment before us. I am not sure if there will be a division, but I put on record that seven Democrat senators will be voting in favour of this motion.

Senator O'BRIEN (Tasmania) (1.06 p.m.)—The opposition will not be supporting this agreement for two good reasons. Firstly, notwithstanding the argument with regard to what some people might say should be the outcome in this matter, the outcome as agreed between the government of East Timor and Australia is reflected in schedule I of the bill. That is what is sought to be amended here, so the Senate would be proposing to intervene in the agreement between Australia and East Timor. I quote a press release from the Prime Minister yesterday in which he said:

The negotiations were complex and difficult, but I am personally pleased with the outcome. The negotiated text is, I believe, truly nonprejudicial to either country’s position on permanent maritime boundaries. It should provide a satisfactory economic result for all parties. The negotiations were complex and difficult, but I am personally pleased with the outcome. The negotiated text is, I believe, truly nonprejudicial to either country’s position on permanent maritime boundaries. It should provide a satisfactory economic result for all parties.

It is clear that this is not a matter on which there is a clear-cut position, and to seek to intervene in the treaty today would be very dangerous, given the time that we have available to deal with this. I understand that the timetable is not of the making of the opposition or the minor parties in the Senate. The other reason Labor would not support this amendment is the potential for it to prevent the passage of this legislation in time to meet the necessary timetable for the Bayu-Undan field to proceed. I think that would be much more prejudicial to the East Timorese in terms of the revenue that they stand to gain from it. I note that annex E, under article 9(b) of the treaty, provides for either Australia or East Timor to request a review of the production sharing formula. One can interpret the Prime Minister of East Timor to be suggesting that that is what may happen in the future, but I do not want to presume; I would rather hear that directly from East Timor. For those two reasons, Labor will not be supporting the amendment that is before the chamber today.
Senator ABETZ (Tasmania—Special Minister of State) (1.08 p.m.)—The government opposes this amendment for the reasons outlined by Senator O’Brien. It really is patronising in the extreme, and also bizarre, to have a senator come into this place, as has a senator from my own home state—not Senator O’Brien—and suggest that somehow he is clothed with all knowledge and authority on this matter and that he knows better than the democratically elected government of Australia and—this is the important part—the democratically elected government of East Timor. This is an agreement that both countries want, and here we have an assertion by the Greens that, no, having been elected from the state of Tasmania, they know better than the democratically elected Prime Minister of East Timor. It really shows the patronising, nearly colonialist approach that is being taken to this new nation. It is quite capable of standing on its own two feet and negotiating these agreements in a mature way. To suggest that it does not have that capacity, to suggest that it cannot do that on its own behalf but needs a senator from Tasmania to assist it, I think is a slap in the face to the newly democratically elected government of East Timor.

I will not bother reading the quote from the press release—Senator O’Brien has done that—indicating the government’s support. In relation to the detail of the amendment, the apportionment of the Greater Sunrise resources was agreed with East Timor on the basis that 20.1 per cent was attributed to the Joint Petroleum Development Area which is the subject of the Timor Sea Treaty. The treaty provides for the unitisation of petroleum that extends across the boundary of the Joint Petroleum Development Area. Annex E, which is referred to in the amendment, requires a unitisation agreement for Sunrise to be agreed on the basis that 20.1 per cent is attributed to the Joint Petroleum Development Area and 79.9 per cent to Australia. This agreement has been reached between two democratically elected governments, and, quite frankly, I think it is in the interest of the East Timorese especially that this development get under way as soon as possible so that the revenue streams can start flowing into that country. Whilst you can argue slightly around the margins, I suppose, at the end of the day there is an overwhelming sense of goodwill towards East Timor from this government, the opposition and, I would have thought, all Australian people. We have shown that in numerous ways and we are showing it again by having come to an agreement which is acceptable to the East Timorese Prime Minister, his government and the Australian government.

Senator NETTLE (New South Wales) (1.11 p.m.)—I thank the minister for his comments. I believe it is patronising in the extreme for the Australian government to believe that they can determine international maritime boundaries, especially between Australia and East Timor, rather than work through the international legal processes that are in place to determine those boundaries. East Timor is a country of extreme poverty and we are a country of relative wealth within our region. For us to believe we can use our negotiating position and our disproportionate wealth to determine international maritime boundaries outside of the international law that is in place—and that we will deal with in the next amendment—I believe to be patronising in the extreme.

Question negatived.

Senator NETTLE (New South Wales) (1.13 p.m.)—I move the following amendment:

2) Page 15 (after line 10), at the end of the bill, add:

27 Reference to International Court of Justice by addition of paragraph (e) to Annex E under Article 9(b) of Treaty

(1) The Commonwealth considers that equity with East Timor requires the addition of the following paragraph to Annex E under Article 9(b) of the Treaty:

(e) The question of the permanent delimitation of the seabed between Australia and East Timor must be referred by the Commonwealth to the International Court of Justice in 2003 and the Court’s ruling shall be accepted as determining the matter.

(2) The Commonwealth will during 2003 seek agreement with East Timor for this amendment to the Treaty.
As I mentioned previously, in March 2002 Australia withdrew from the jurisdiction of the International Court of Justice over the determination of maritime boundaries. In doing so it has thwarted East Timor’s ability to determine maritime boundaries with Australia in accordance with internationally accepted principles. It has also undermined its ability to claim its maritime resources, which appear to be significantly greater than those contained within the Joint Petroleum Development Area, the area covered by the Timor Sea Treaty. The determination of maritime boundaries is regularly done by application to the United Nations Convention on the Law of the Sea. By withdrawing from the International Court of Justice, Australia has refused to be bound by the internationally accepted norms of the United Nations Convention on the Law of the Sea and has thus used bullying tactics to disadvantage East Timor. I commend this amendment to the Senate.

Senator STOTT DESPOJA (South Australia) (1.14 p.m.)—The Australian Democrats strongly support this amendment. As I said in my remarks in the second reading debate, had it not already been circulated I would have circulated a comparable amendment in my name. Senator John Cherry and I, on behalf of the Australian Democrats, have explained our opposition to the Australian government’s withdrawal from the International Court of Justice. The fact that prior notification was not given to the East Timorese is something else we find quite appalling. I think the use of the term ‘bullying’ is quite appropriate in this context. Clearly it does not have the same connotations that some language might have in this place. In fact, so strong was the response to one particular word—blackmail—someone was thrown out. It is useful to note that in the last year the word ‘blackmail’ was used at least 17 times in debates in this chamber. Most recently it was used in a comment by—and I am happy to be corrected—I think Senator Cook in a question time in the last couple of days in response to Senator Coonan. Maybe ‘bullying’ is an acceptable term; it certainly is appropriate in the case today.

The Australian Democrats put our opposition and concerns about the ICJ on the record in our submission to the Joint Standing Committee on Treaties during its examination of the treaty last year. We recorded our opposition to the declaration made by the Australian government in March last year to exclude Australia from the compulsory jurisdiction of the ICJ and UNCLOS with respect to maritime boundary disputes. We believe it is in Australia’s best interests to support the structures and the principles of the international legal system, one that has been established to promote collective security, maintain peace and help resolve disputes. In practical terms, this means submitting to the rule of law even when this is contrary to our more immediate financial interests. Our withdrawal from the compulsory jurisdiction of the ICJ with respect to maritime boundary disputes not only is contrary to our national interest but also sets a poor example to the people of East Timor.

I have given examples of other responses to this decision by Australia from the submissions to the Joint Standing Committee on Treaties. As noted in the committee’s report, we are well placed as a nation to train East Timorese workers who seek to gain employment in the resource industry or who are looking for information about infrastructure—be it education, the public sector or the creation of good governance structures—yet Australia’s decision on the ICJ provides a very poor example to the East Timorese. I think the amendment before us is a good one. I commend it to the Senate and I would hope that the opposition would support it, given that there are no defensible reasons for us to be exempt from the ICJ jurisdiction in relation to maritime boundaries. The Australian Democrats put on record our strong support for the amendment before us.

Senator ABETZ (Tasmania—Special Minister of State) (1.18 p.m.)—Can I indicate to Senator Stott Despoja and other senators in this chamber that the amendment that is being proposed takes us a lot further than just putting Australia back into—if that is what we want it to do—the jurisdiction of the International Court of Justice. I invite the Australian Democrats to have a look at the
actual wording of the amendment, which says:

The question of the permanent delimitation of the seabed between Australia and East Timor must be referred ... to the International Court of Justice ...

This amendment is so ridiculous that, even if Australia wanted to give 100 per cent to East Timor, we could not do that today because we would have to submit it to the International Court of Justice and delay a result that I am sure both sides would agree to. Why would you want to force anybody into a court when both sides can negotiate an agreement?

There is an argument, which I do not accept, that we should be part of the International Court of Justice to detail maritime boundaries; but to say that we have to go, irrespective of an agreement being reached, is absolutely ludicrous and absolutely silly. There is no good public policy reason for such an amendment whatsoever. Indeed, I think all of us are agreed, given public liability and other matters, that taking things to court usually means everybody is a loser—other than the lawyers who might earn some money along the way. It is a lot better to negotiate an outcome. The reason Australia withdrew from the jurisdiction of the International Court of Justice in relation to maritime boundaries is that the international court has made decisions which have left both countries with an unsatisfactory situation, decisions that neither side has liked and that have been impractical. It is therefore a lot better to negotiate.

I indicate that, as I understand it, 90 per cent of the resource will be going East Timor’s way. Ten per cent comes to Australia. I think it is a pretty generous agreement. Nevertheless, I am sure even the Democrats would agree that, if you can negotiate something rather than go to court, that option ought to be allowed. This amendment would make going to court absolutely mandatory. Even if we wanted to give 100 per cent to East Timor, we could not do so; we would have to go to the International Court of Justice. It is a silly amendment—a stupid amendment—that should be thrown out on that basis. But, just as a little matter of interest: I happen to note that the President of the International Court of Justice is a Chinese national. I wonder whether Senator Brown would be interested in that President ruling on the boundaries of Tibet.

Senator O’BRIEN (Tasmania) (1.21 p.m.)—The situation that we have again is a proposed amendment at one second to midnight in this process, which the opposition is concerned would become an opportunity, perhaps for those within government who are not so keen for the Petroleum (Timor Sea Treaty) Bill 2003 to proceed, for it to be held up and miss the deadlines. The arguments that have been put with regard to resolving this have merit in terms of a final resolution being determined by the court, but I do not know that that is necessarily what East Timor wants at this stage and I am pretty sure it is not what this government wants at this stage. I suspect that even if we pass the amendment, the outcome that is sought would not necessarily occur—certainly not within the time proposed. And if the matter were to be referred to the International Court of Justice, one wonders how much time would be taken in the processing of the matter, even if it were referred on the last day of 2003, as this resolution would allow.

The alternative position is the position that the East Timorese government adopts. They believe that this legislation should be passed and they will continue the process of negotiation with any items that they believe ought—not in a temporary sense but in a permanent sense—to be remedied in discussion between our two countries. I think that is the desirable outcome. It may be that the best outcome cannot be achieved in those circumstances under this government. Responding to the realities of this situation, the deadline we are facing and the fact that when this legislation leaves here, if it is amended, we have no certainty as to whether the amendment will be accepted and, if not, when it will come back and how it will be dealt with, on balance the opposition is of the view that it would be better that the legislation pass unamended. Therefore, we effectively meet the request of the East Timorese government, which is to give effect to this legislation in time to allow the Bayu-Undan project to commence without prejudice, al-
ollowing the benefits from that project to begin to flow and to assist the East Timorese economy. That will assist the East Timorese to take the steps necessary to build their fledgling nation to take its place in the region without the need that it now has for international aid. I am not saying it will not need international aid; I think all this will do will be to minimise that and allow the nation to stand on its own two feet.

I reiterate that the opposition believe that this matter should have been before the parliament some time ago. It would have given us time to more fully consider these matters. We do not have that time today. The opposition cannot change that fact. In recognising that, we will not support the amendments for the reasons I have outlined.

Senator STOTT DESPOJA (South Australia) (1.25 p.m.)—To begin at the point where Senator O’Brien concluded his remarks, this has not been an ideal process. I think Senator Abetz has noted that there is a weakness in the amendment. I acknowledge that this amendment to the Petroleum (Timor Sea Treaty) Bill 2003 is not perfect with respect to the idea that, ideally, you negotiate in good faith and if there are problems you take them to a court—in this case, the ICJ. I am not sure that anyone is suggesting this, but I would like to emphasise that these amendments do not unilaterally amend the treaty. They have obviously been worded in a way that takes into account the concerns that a number of us had earlier, and that is that this might actually seek to amend the treaty per se. What it actually does is the Commonwealth of Australia calling for or considering doing something, as opposed to unilaterally amending the treaty.

I acknowledge Senator Abetz’s point in relation to when we call for negotiation of the boundaries. One hopes that it would happen in good faith and, if there were a dispute, it would go to a court environment—specifically the ICJ in this case. I think this goes to the heart of how difficult this debate has been in relation to the process, the lack of time and the perfecting of amendments. So, while I acknowledge that there is that weakness, I think the people in this chamber who are concerned about Australia’s withdrawal from the ICJ in relation to maritime boundaries will agree that this is the best we have at the moment. Obviously it does not have the support of chamber. I think, under the circumstances, it is hardly surprising that the amendments are slightly imperfect given the nature and the time of this debate. I hope that in future—and not only in relation to this issue—our government not only negotiates in good faith but also remembers that we are not always negotiating as equal powers. There may be a democratically elected government in East Timor, but the country that is resource rich and powerful is Australia. That is why it is even more incumbent upon us to ensure that we deal in a fair and appropriate way.

Question negatived.

Bill agreed to.


Bills reported without amendment; report adopted.

Third Reading

Senator ABETZ (Tasmania—Special Minister of State) (1.31 p.m.)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Senator Nettle—I ask that it be recorded that I voted against the legislation.

Senator Stott Despoja—I seek to have it recorded that the Australian Democrats did not vote in favour of this legislation.

NEW BUSINESS TAX SYSTEM (CONSOLIDATION AND OTHER MEASURES) BILL (No. 2) 2002

NEW BUSINESS TAX SYSTEM (VENTURE CAPITAL DEFICIT TAX) BILL 2002

Second Reading

Debate resumed from 3 March, on motion by Senator Ian Campbell:

That these bills be now read a second time.
Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.31 p.m.)—I thank honourable senators for their support for the New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002 and the New Business Tax System (Venture Capital Deficit Tax) Bill 2002. Their passage will essentially complete the implementation of the consolidation regime, an important plank in the government’s business tax reform agenda. The consolidation regime will promote business efficiency and commercial flexibility, improve the integrity of the tax system and reduce ongoing income tax compliance costs for those company groups that consolidate. The New Business Tax System (Venture Capital Deficit Tax) Bill 2002 ensures that venture capital deficit tax applying to certain pooled development funds investing in venture capital continues to apply under the simplified imputation regime. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.

SNOWY HYDRO CORPORATISATION AMENDMENT BILL 2002

Second Reading

Debate resumed from 3 March, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator O'BRIEN (Tasmania) (1.33 p.m.)—The Snowy Hydro Corporatisation Amendment Bill 2002 makes an amendment to the Snowy Hydro Corporatisation Act 1997. The bill makes a change to the act that will allow certain transactions associated with the corporatisation of the Snowy Mountains Hydro Electric Authority to be exempt from the application of the GST. The original intent of the act was that certain transactions associated with corporatisation would be exempt from the imposition of Commonwealth and state taxes. This exemption was overruled in relation to the GST by the operation of section 177(5) of a New Tax System (Goods and Services Tax) Act 1999.

To allow corporatisation of the Snowy Mountains Hydro Electric Authority to proceed on 28 June 2002, the Commonwealth undertook, with the agreement of the New South Wales and Victorian governments, to introduce this bill to exempt from the GST certain transactions specified under the act. The original intent conveyed in the Snowy Hydro Corporatisation Act 1997 was that all corporatisation transactions should be exempt from tax. This intent was overruled as the act that I have referred to came into force. The amending legislation—this bill—will ensure that the original intent is restored. Corporatisation will in the end deliver greater certainty for irrigators and for the environment in terms of water flows and it is in the interests of delivering outcomes to irrigators and the environment through Commonwealth-state cooperation that the opposition supports this bill.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.34 p.m.)—The Snowy Hydro Corporatisation Amendment Bill 2002 will not have any financial impact on Commonwealth or state revenues or expenditures and I commend the bill to the Senate.

Senator STEPHENS (New South Wales) (1.35 p.m.)—I would like to make some brief remarks about the contribution of the communities to the Snowy Hydro Corporatisation Amendment Bill 2002. I want to focus my remarks on the efforts of the communities of the south east to ensure the environmental integrity of the project’s corporatisation. Local concerns about the poor state of the Snowy River led to the establishment of several local organisations, of which the Dalgety and District Community Association was one of the most active lobbying groups, to restore the environmental health of the river.

Throughout the long period of negotiations between the New South Wales, Victorian and Commonwealth governments, their concern was to ensure that the environmental factors were not traded off for economic ends. They said:
The need for the scheme to make a profit is not worth the death of the Snowy River.

As part of the planned corporatisation of the scheme, we know that an inquiry was established by the New South Wales and Victorian governments to consider the environmental issues arising from the operation of the Snowy scheme and to develop some options for addressing the issues of environmental flows, improved catchment management and river remediation works. The inquiry also included an analysis of the social and economic impacts associated with the various options. The report of that inquiry concluded in October 1998 and the commissioner recommended a preferred option of 15 per cent environmental flows, something that the communities of the Snowy region rejected as not meeting the minimum flows required to improve the health of all of the Snowy River. The communities launched a massive campaign for a more realistic outcome and, through representations and negotiations with both the New South Wales and the Queensland governments, agreement was reached on a joint recommendation to be sent to the federal resources minister for final approval.

The communities clearly articulated the place that the Snowy River has in the Australian psyche. They agitated until the New South Wales and Victorian premiers announced a joint recommendation that included an agreement to restore 28 per cent of the original flow to the Snowy and a commitment to spend $150 million each on funding the water through efficiency savings in the delivery system. There were to be no adverse effects on irrigation supplies and the time frame for the restoration of water to the Snowy was to be 10 years plus. That recommendation went to the Commonwealth government for its financial contribution. The final environmental assessment from the Commonwealth led to a tripartite agreement, announced in December last year, that committed to 21 per cent of the original flow within 10 years of the corporatisation, with 28 per cent written in as a possibility in the future.

The future of the Murray-Darling rivers is improved through that massive investment of $375 million to water efficiency programs, and the waters saved through this process will go into the Murray-Darling system. The outcomes demonstrated how much can be achieved when communities decide to take action on an issue. Their understanding of the river flow patterns and their knowledge of the social and economic impacts of the decline of the Snowy contributed to a shared decision making and problem solving process. It was an inclusive decision making model that demonstrates how governments have to engage with communities to deliver solutions on the ground. I congratulate the Dalgety and District Community Association, the Snowy River restoration planning committee and the Snowy River Alliance for their approach to the problem. It was a systemic whole of community, whole of river and whole of government approach rather than a disjointed approach based on state boundaries.

The current drought has highlighted the fragility of our rivers, and the Snowy River is a classic example. The once mighty Snowy River has now been reduced to a trickle, but together the New South Wales and Victorian governments have started to put water back into the Snowy River to ensure that it will flow again. This level of resolve and commitment to action is what is needed to restore the health of the Murray-Darling river system. Many people in this place will remember the Canberra journalist Mike Hayes, the ‘prickle farmer’, who died last month in Kempsey. One of Mike’s many environmental legacies was his work on the Murray-Darling system—a series of videos about the critical management issues of the Murray-Darling—more than a decade ago. So we have known about the problems in the Murray-Darling system for a long time.

In April 2002, the Commonwealth and state governments agreed to a 15-month consultation process to consider three options to increase the water available for the Murray. Again, the communities and stakeholders have reacted with scepticism and dismay. They have been consulted to death about this issue and now want action to restore the health of the great Murray River. The
dredging of the mouth of the Murray last year reminded everyone that the system is unsustainable. From 1985 to 1997 the water extracted for irrigation from the Murray increased by 76 per cent. The price of the delay in our action is the continued demise of our greatest river system, with all that that means for salinity, water quality and, ultimately, the drinking water of Adelaide and several river communities in New South Wales.

I urge the government to take this matter of water policy and the health of the Murray-Darling Basin system as one of great urgency. We have seen with the Snowy River that it is possible to do better and to find solutions. It is possible to apply that same sense of resolve to deal with the health of the Murray-Darling river system and to pursue a cooperative approach to a lasting solution. As we all appreciate, that is very important because the Snowy Mountains hydro scheme continues to provide massive benefits to Australia. It is a scheme that continues to operate in the best interests of Australia as a nation. Coming to terms with a modern economy and a modern Australia in the 21st century is about having to balance development and attending to our environmental requirements as a nation. I congratulate the Snowy River communities for working so hard to remind us as legislators, and the public at large, of the importance of that balance.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

MARITIME LEGISLATION AMENDMENT BILL 2002

Second Reading

Debate resumed from 6 February, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator O'BRIEN (Tasmania) (1.41 p.m.)—I am pleased to rise to speak to the Maritime Legislation Amendment Bill 2002 and, on behalf of the opposition, to indicate our support for its passage. Labor has a strong record of support, both when in government and in opposition, for improvements in maritime safety regulation. It is important in the context of a debate about maritime safety to address the Howard government’s dismal record on maritime matters. It has failed to support the Australian shipping industry and has demonstrated no leadership on maritime policy.

Under Labor, Australia was an international leader on maritime policy and an active participant in international forums such as the ILO and IMO. That leadership has dissipated under the coalition, particularly under the current Minister for Transport and Regional Services, Mr Anderson. Reforms introduced by the current government have nearly always been in response to international requirements or, worse, in response to a maritime disaster. The Australian fleet has been hung out to dry by this government. In so doing, the government has failed to defend our national interests, and it is a disgrace.

As an island nation, and a nation that relies on export income for its prosperity, Australia needs a safe and efficient Australian fleet. We need such a fleet to protect our natural environment, to protect our economic wellbeing and to support our defence forces, and for these reasons I want to note the following points. The Howard government has failed Australia’s national interests and security by failing to support an Australian shipping industry, maritime jobs and coastal communities that rely on a viable, efficient industry for jobs, security and tourism; and it has risked our marine environment by not showing international leadership to ban from our coastline single-hulled vessels like the Prestige, which caused devastation off the coast of Spain.

I now turn to the specific provisions of the bill. The bill amends four acts and repeals one other. It proposes amendments to the Protection of the Sea (Civil Liability) Act 1981 and the Protection of the Sea (Oil Pollution Compensation Fund) Act 1993. Passage of this bill will increase the amount of compensation payable in respect of damage caused by oil spills from ships. Labor supports these changes because they strengthen the role of the maritime industry and ensure
that when damage is done to our environment there is the capacity to cover the clean-up costs and punish those responsible.

Amendments to the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 expand the definition of plastics so that there is an absolute prohibition on the disposal from ships into the sea of incinerator ashes from plastic products which may contain toxic or heavy metal residues. These amendments are also designed to allow garbage disposal placards, which are required to be displayed on a ship, to be written in Spanish as an alternative to the existing requirement of English or French. They convert penalties currently expressed in monetary terms to the equivalent in penalty units. Schedule 2 of the bill will amend part 10 of the Trade Practices Act to make it clear that stevedoring operators are not permitted to collude when setting stevedoring charges. This amendment clarifies concerns expressed by the ACCC about earlier amendments to the act. Schedule 3 of the bill will repeal the Bass Strait Sea Passenger Service Agreement Act, which no longer has any application.

On behalf of the opposition, I advise the Senate of our support for the provisions of this bill. I note that a second reading amendment standing in the name of Senator Allison has been circulated in the chamber. This amendment shows us that the Democrats have come quite late to the maritime debate in this chamber and to transport matters in general. Measures which are administered by other agencies relate to the introduction of exotic species into our environment, and I think it would be proper for Senator Allison to have a good look at the appropriate pieces of legislation that deal with those matters. For example, measures which have been put in place recently require the discharge of ballast waters before vessels arrive at the Australian coastline. I understand that this second reading amendment is calling for the government to do more. I do not think that we would disagree that the government needs to do more, but perhaps this is not necessarily the most appropriate way to deal with that and, as this amendment has appeared late in the debate, I do not think we can support it on the run today.

Senator ALLISON (Victoria) (1.47 p.m.)—The Democrats support the Maritime Legislation Amendment Bill 2002, noting that, amongst other matters, it will enact changes to the International Convention on Civil Liability for Oil Pollution Damage, to which Australia is a signatory. These changes will increase the amounts for which shipping operators can be held liable in the event of damage resulting from oil slicks and other oil related pollution. The Democrats very much welcome this step. I concur with Senator O’Brien’s remarks about the fact that Australia still allows single-hulled ships carrying oil to come through Australian waters. I would add to that the fact that we allow oil-carrying vessels to go through the Great Barrier Reef and other very vulnerable areas around Australia’s coastline.

This bill deals specifically with oil pollution but we are also concerned about other forms of pollution and contamination of the marine environment, and this is the matter that I want to address today and it is the subject of our second reading amendment. Senators will be aware of incursions into Australian waters of exotic marine species which pose a threat to the Australian marine environment, and I will mention three: the Northern Pacific seastar, which has infested Tasmanian and Victorian waters—Port Phillip Bay now has probably many hundreds of thousands of these; the black-striped mussel, which has appeared in Darwin Harbour; and the Asian green mussel, which has recently infested Australia’s northern waters. These are just three of over 200 exotic aquatic organisms that have been detected in Australian waters. Not all of these species are animals: some are exotic marine plant species which compete with indigenous plants.

The common and easy means for these species to enter Australian waters is by way of ballast water in the hulls of ships, and we are very concerned that over many years governments—not just this one but state governments too—have been pretty ineffective in controlling the discharge of ballast water. I thank Senator O’Brien for his advice on the other requirements with regard to ballast water. We are aware of those. In fact,
we realise that ballast water management procedures introduced in 2001 expressly prohibit international vessels arriving in Australia discharging what is known as high-risk ballast water in Australian ports or waters. But I would argue that these procedures are not likely to be highly effective. In fact, we know that the only way to seriously tackle this problem is to have holding tanks and treatment facilities within ports, because that is the only way we can be absolutely certain that organisms are not coming into our waters. We also know that the department has acknowledged—and I quote:

A number of vessels have not complied with the mandatory requirements of true and accurate reporting under the new ballast water management regime.

We can see problems with compliance with those management procedures. It is now relatively easy to trace oil: we can type it back to the source, and there is great success in nabbing shipping operators from whose ships oil has leaked. But it is not the same with ballast water. You cannot take a sample of ballast water that has been discharged and trace it back to the ship from which it might have come. My second reading amendment therefore calls on the government to further improve the management practices and policing of the discharge of ballast water in Australian waters and strongly encourages the government to introduce a liability regime, similar to that enacted by the International Convention on Civil Liability for Oil Pollution Damage, whereby shipping operators can be held liable for the environmental damage caused by the discharge of ballast water.

The notion that you can entirely control ballast water is a bit of a nonsense. The only sensible process is to have those holding tanks in place and to do the treatment in ports. It is expensive but it is very expensive to clean up the mess after those species have come in. In fact, we barely try to do this. Not only does this cost us our species; very often it can interfere with the growth of native oysters. Even fisheries can be severely affected by these organisms, so it is serious. As I said, it is costly to put this treatment into ports and I am sure there is a jurisdictional argument going on between the Commonwealth and states about who might or should do this. Our second reading amendment simply urges the government to take stronger action before we are entirely overcome by these species. I move:

At the end of the motion add,

“but the Senate, recognising that:

(a) pollution to the marine environment can occur in forms other than oil originating from ships, and

(b) exotic species are often introduced by means of ballast water from ships,

calls on the Government to:

(a) impose a regime whereby shipping operators are held liable for damage to the marine environment by means other than the discharge of oil, including, but not limited to the discharge of ballast water; and

(b) work towards improving measures undertaken to protect Australia’s marine environment from incursions by exotic aquatic organisms”.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.52 p.m.)—The Maritime Legislation Amendment Bill 2002 is important in that it ensures that some recent decisions of the International Maritime Organisation are reflected in Australian legislation. With regard to Senator Allison’s second reading amendment, I indicate that, in the government’s view, the measures called for in that amendment go far beyond the scope of this bill. In regard to quarantine matters, Senator Allison—as the Acting Deputy President, Senator Watson, has indeed suggested—we would refer you to the report by the Joint Committee of Public Accounts and Audit which was presented in the Senate this week. That report may throw some further light on those matters. However, I thank senators for their support for the bill.

Question negatived.
Original question agreed to.
Bill read a second time.

Third Reading
Bill passed through its remaining stages without amendment or debate.
ARGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL 2002

Second Reading

Debate resumed from 3 March, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator HOGG (Queensland) (1.54 p.m.)—It is timely that the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2002 is before the Senate today. It was only last week that I had a representation from a constituent from the Sunshine Coast who has long been suffering, in his view, under the regulations contained in this piece of legislation. He claims that he has had a long and difficult time trying to survive as a small business operator. He runs a business manufacturing low risk, low toxic chemical household and pet products. The business has been going for some 20 years, and he has been operating the business himself for the last 10 years. His name is Brian Millar. He would be well known to the department and to a number of people, undoubtedly, throughout this place. He has made reasonable representations over the last nine years to seek redress regarding what he believes are unfair aspects of the existing legislation.

He put it to me that the National Registration Authority, which is responsible for regulations made under this legislation, went overboard with the regulations that were governing his business. He has made the claim to a number of people over a long period of time trying to survive as a small business operator. He runs a business manufacturing low risk, low toxic chemical household and pet products. The business has been going for some 20 years, and he has been operating the business himself for the last 10 years. His name is Brian Millar. He would be well known to the department and to a number of people, undoubtedly, throughout this place. He has made reasonable representations over the last nine years to seek redress regarding what he believes are unfair aspects of the existing legislation.

He put it to me that the National Registration Authority, which is responsible for regulations made under this legislation, went overboard with the regulations that were governing his business. He has made the claim to a number of people over a long period of time that he wanted the red tape cut to help his small business— he wanted a fair go—and that he was quite prepared to be regulated but not over-regulated, as he has been since 1994. My view is that Mr Millar deserves a medal for the tenacity and the struggle, from his own perspective, that he has maintained against enormous odds.

To show the tenacity of Mr Millar, he has been to see former Senator O’Chee, who represented his interests not only in an adjournment speech on 5 November 1996 but on a number of other occasions as well. He was very satisfied with Mr Somlyay’s representations. Unfortunately, when there was a redistribution in Queensland, the seat fell to Mr Slipper. Of course, he was not so happy with Mr Slipper’s contributions. He failed to either return his telephone calls or meet with him on the issues that concerned him. He had correspondence with Mr Hockey on 2 June 2002, and he felt that he was treated reasonably well in that instance. As well, he had correspondence with Senator Troeth on 26 September.

This man has been so burdened by his problems that he has been to the Ombudsman and to Queensland government ministers. So he has been far and wide in order to get rid of the burden that he feels has been imposed on his business for a long period. He is a sole operator and a manufacturer. He works from a small block of shops at Forest Glen on the Sunshine Coast. He has had a conditional licence. He contends that his business has been subject to the same regime as big business, even though he is producing a substantially less toxic, low risk product than the big business operators. But what is really at the heart of his problem is the audit process. He claims it is burdensome, overwhelming and costly because there are now no auditors based in Queensland. If one looks at the sheet issued by the department, one sees that the auditor mentioned as a Queensland auditor is actually resident in Melbourne. To get that auditor to the Sunshine Coast would result in an enormous fee for this particular business—far out of proportion to the returns to the business.

He also claims that under the audit process the National Registration Authority have said that they will not pass any business on the first audit. Of course, they insist on his business providing an account of staff training, a lunchroom for staff and a separate toilet for staff. These requirements are based on the facilities from where he produces the chemical products that are used. The irony of this is that he is a single operator—he has no staff—and, because the audit process claims that these things are necessary, he will not
get a full licence until he complies with all the requirements of the audit process.

Until these regulations are changed or altered to recognise the nature of the operation of Mr Millar’s business, then his business will continue to be threatened. He put it to me—and this is interesting—that there is a comparable operator, a sole person operator the same as him, with operations under a house in the same vicinity. But because it is from a house and it is a licensed premises for the production of these chemicals, no such problems exist for that sole operator. Only poor Mr Millar is confronted with these problems. So, in his view, bureaucracy has gone mad.

Debate interrupted.

QUESTIONS WITHOUT NOTICE
Trade: Free Trade Agreement

Senator O’BRIEN (2.00 p.m.)—My question is to Senator Hill representing the Minister for Trade. Is the minister aware of the statement by the Minister for Agriculture, Fisheries and Forestry on 4 March 2003 that Australia’s quarantine system and our single desk for wheat are not up for grabs as part of the free trade agreement negotiations with the United States? Is he also aware of advice from the Department of Foreign Affairs and Trade to the Senate Foreign Affairs, Defence and Trade Committee on 13 February this year, which stated:
The government’s consistent position in relation to the FTA negotiations with the United States has been that no sector or issue would be excluded from the scope of the FTA negotiations.

Given these completely contradictory statements, who is telling the truth on this matter—the Department of Foreign Affairs and Trade or the Minister for Agriculture, Fisheries and Forestry?

Senator HILL—As I understand the situation, no sector has been explicitly excluded. However, we have interests that we would obviously wish to preserve during the negotiations. In particular I refer to the quarantine issue that was alluded to in the question. Our quarantine laws are designed for genuine quarantine reasons and not as a form of trade blockage. Therefore we would want to protect them for genuine quarantine reasons. Therefore the answer is that within this negotiation Australia will seek an outcome that not only maximises our trade advantage but preserves security that has been put in place for quarantine and like matters.

Senator O’BRIEN—Mr President, I ask a supplementary question. I note the minister says that those matters are on the table for negotiations. Can the minister guarantee that no change to the single desk arrangements or our quarantine standards or systems will be forced onto Australia as a consequence of any proposed free trade agreement with the United States? That is the question that I think Australians want answered.

Senator HILL—As I said, we are not going to agree to an outcome that puts us at risk. That is why we have quarantine rules and regulations.

Senator O’Brien—What about systems?

Senator HILL—I said rules and regulations; we will say practices as well. We obviously want to preserve those because they are critically important to the wellbeing of Australian agriculture and protecting Australia’s biodiversity and for good environmental reasons—a whole range of sound reasons that are unrelated to issues of trade. For those very sound reasons, obviously our quarantine rules will be preserved.

Iraq

Senator FERRIS (2.04 p.m.)—My question is to the Minister for Family and Community Services and the Minister Assisting the Prime Minister for the Status of Women, Senator Vanstone. Will the minister inform the Senate of the circumstances of the women of Iraq under the regime of Saddam Hussein?

Senator VANSTONE—I thank Senator Ferris for the question. It is a question that I am sure all women in this place would be interested in, but I strongly believe that probably every parliamentarian will be interested in this response. I make the point that it is International Women’s Day on Saturday. Normally we might take the opportunity to remind ourselves how much more secure Australian women now are—they have more opportunities for jobs, better educational opportunities, more money in their pockets,
lower interest rates and are more secure in their housing—and I could take about 50 questions on that, but it is timely to reflect not only on the good position we are in but on the difficult position other people are in.

Women suffered terribly in the last decade when the international community and the United Nations failed to do what they should have done in Bosnia and Rwanda. Now we face a very similar choice. According to the US State Department, Iraq has one of the worst human rights records of any nation. For people who might not like to listen to the US State Department, this view is shared by Amnesty International and Human Rights Watch. There is no disagreement about this. Women are not immune from this shocking abuse. While we have people protesting about a possible war with Iraq, it pays for us to reflect on the nature of the regime that these protestors provide succour for.

The US State Department has reported that the regime has a dedicated technical operations directorate that uses rape and sexual assault in a systematic way for political purposes. This unit has videotaped the rape of female relatives of suspected opposition figures for the purpose of blackmail to ensure future cooperation. The British government says that Harvard University have identified a professional rapist by an Iraqi government personnel card showing the person as a ‘fighter in the popular army’ whose activity is ‘violation of women’s honour’. In Iraqi prisons women are routinely raped by their guards.

Amnesty International has indicated that dozens of women accused of prostitution have been beheaded in Iraq without any judicial process—that is, not without proper process but without any process. Mothers of Iraqi defectors have also been tortured to death for their children’s activities. That bears repeating: mothers of Iraqi defectors have also been tortured to death for their children’s activities. In 1990, Iraq passed a decree that allows male relatives to kill a female relative in the name of honour without any punishment.

Senator Bolkus—It has taken you 13 years to make this speech.

Senator VANSTONE—I see Senator Bolkus interjecting and smiling. I do not know what he thinks of this, but the rest of us think it is dreadful.

Senator Bolkus—Mr President, on a point of order: I am not smiling. I was making the point across the chamber that Senator Vanstone is talking about 1990. It has taken her 13 years to wake up to this, when a lot of other people have been aware of it. Senator, you are a fraud.

The PRESIDENT—I believe you should withdraw that remark.

Senator Bolkus—If you are demanding that I withdraw it, I will.

The PRESIDENT—I am. Also, you admitted to interjecting across the chamber. As you know, interjections are disorderly.

Senator Robert Ray—Mr President, on a point of order: Senator Vanstone started describing actions of and ascribing motives to Senator Bolkus which may or may not have been true. There is an increasing tendency at question time for ministers to say, ‘Look at so-and-so; he is laughing at this answer,’ when they may not be. I believe that is disorderly as well.

The PRESIDENT—I take that point.

Senator VANSTONE—The shocking pictures of Kurdish women and children who were gassed when Saddam Hussein used weapons of mass destruction against his own people should be indelibly printed on the minds of those who saw them. I cannot understand, and this government cannot understand, having waited as long as we all have and having tried appeasement and more talking from 1990 onwards, how people can still say, ‘Give it another go.’ People—some of them in this place—are still defending this regime’s right to defy the United Nations and allowing it to get away with keeping weapons of mass destruction in complete defiance of the Security Council. In the words of one Iraqi woman—(Time expired)

Senator FERRIS—Mr President, I ask a supplementary question. I would like to hear the minister conclude the quote from the Iraqi woman.
The PRESIDENT—I doubt whether that was a supplementary question.

Opposition senators—Rule it out of order!

Senator FERRIS—My question relates to the fact that Senator Vanstone had not completed that aspect of her answer. I would like her to clarify and continue.

Senator Faulkner—Mr President, I rise on a point of order. Mr President, you doubt it was a supplementary question; I am certain it was not, and I think you are quite right to rule it out of order. Can we move on to the next question?

Defence: Anthrax Vaccination

Senator MARSHALL (2.10 p.m.)—My question is to Senator Hill, the Minister for Defence. Would the minister inform the Senate exactly how many defence personnel deployed to the Persian Gulf have been returned to Australia because they refused to consent to the course of anthrax vaccines? Would the minister also confirm that the government only told crew they would be returned if they refused the inoculation after the 25 who initially refused on the HMAS Kanimbla had reduced to a number low enough to allow the ship to remain operational? Will the minister admit that the government in fact only told personnel of its changed policy to return everyone who refused inoculation on 7 February, three days after the inoculations began? Doesn’t this show that the policy of returning those who refused the vaccines was only implemented after the government could be sure that the numbers returned would not jeopardise the deployment?

Senator HILL—The Chief of the Defence Force said in the estimates committee hearing that he would prefer not to give a running commentary on numbers whilst the inoculation process was taking place. That process is still continuing, of course, as there are three injections within each inoculation. The Chief of the Defence Force undertook to give the numbers at the completion of that process, and on reflection I think that is a sound way to address this matter. In relation to the so-called change of policy, there was in fact no change of policy. The order was given by the Chief of the Defence Force, and it was not changed at any time.

Senator MARSHALL—Mr President, I ask a supplementary question. Minister, how many personnel have now submitted a formal grievance about this process? Will the ADF be conducting an investigation into the inoculation process and in particular into why what personnel were told about the consequences of refusing inoculation changed between 6 February and 7 February?

Senator HILL—I have just said that there was no change in policy on this matter. The order was given that those going to the Middle East area of operations needed to be inoculated against anthrax. That order was issued pursuant to a policy position on voluntary inoculations which was made in 2000. So there has been no change of policy in relation to this matter.

Forestry: Forest Policy

Senator HEFFERNAN (2.13 p.m.)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Will the minister outline the impact of the recently announced NSW Labor forest policy on timber communities and on the regional forest agreement in that state?

Senator IAN MACDONALD—I thank Senator Heffernan for his question. I know he has a genuine interest in the workers in the north-east forest areas that will be greatly affected by this decision of the New South Wales Labor government. For the benefit of the Senate, I recapitulate that last Sunday Premier Carr announced he would be removing some 65,000 hectares from production forests and locking them up in 15 new national parks, state conservation areas or state forest reserves. These areas are currently within the RFAs that the Commonwealth government has signed with the New South Wales government. There has been no consultation at all with the Commonwealth government, and this is in breach of at least the spirit of the regional forest agreements that Premier Carr personally signed with the Prime Minister in March 2000, less than three years ago.

Industry sources tell me that the New South Wales Labor government is already
struggling to fulfil its existing supply commitments and is currently spending something like $65,000 each week in trucking logs from the south of the state to the north of the state to try and meet its RFA commitments. Premier Carr has said, in trying to appease the workers in the north-east, that he will be offsetting the impact of locking up these areas by opening up buffer zones for logging. Unfortunately those buffer zones are already included in the calculations of the timber required. Industry have told me and have publicly said that, as a result of this decision, some 1,400 jobs will be lost in the north-east of New South Wales. These are jobs of workers from smaller regional and rural communities in the north-east of New South Wales.

Obviously on the eve of an election Mr Carr is desperate to get preferences from anyone, even from a group of people who would boil the brains of our young people by giving away free hard drugs like ecstasy. Mr Carr is determined to try and get preferences from people like that by giving away the jobs of workers in country towns in New South Wales. And where is Country Labor at this time? Have we heard any objection from Country Labor to these sorts of proposals? The worst part of this is that it shows that Mr Carr cannot be believed—his word cannot be taken. It was not three years ago that he signed a solemn agreement with the Prime Minister to honour these RFAs. On the eve of an election he has broken his agreement without any compunction whatsoever.

We have heard rumours about these national parks being put into production areas for some time and I have written to the New South Wales government on many occasions demanding an assurance that they would not breach the RFAs. I have had assurances in writing—which I have here, Mr President—from Mr Refshauge and the New South Wales government saying, ‘We will not be doing this; we will not be breaching the RFAs.’ They are not worth the paper they are written on. That is the trouble and the real tragedy of this: Premier Carr’s word cannot be believed. If you cannot believe him in relation to regional forest agreements, what can you believe him on? Any promise he might make in this election should be subject to the same sort of scrutiny. You cannot believe him here, why would you believe him on anything? I feel sorry for the Labor Party opposite because they support regional forest agreements, and they voted with us on that. Yet your state Premier is breaching these agreements—

The PRESIDENT—Minister, I remind you—

Senator IAN MACDONALD—and putting at risk the jobs of workers that you guys are supposed to be looking after.

The PRESIDENT—Order! Senator Macdonald, I remind you that your answers are to be directed through the chair and not across the chamber.

Banking: Credit Card Schemes

Senator CONROY (2.18 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Does the minister recall her response to a question asked in the Senate yesterday about Qantas’s plans to surcharge customers who use credit cards when she said:

... the government would certainly not be sympathetic to the airline, particularly when there are routes on which there is little competition.

Qantas have not introduced this, and I do not think they will.

Is the minister aware that Qantas have since confirmed that they will introduce a surcharge on credit card customers from 1 July 2003? What action will the government take in response to Qantas’s defiance? Is this just another case of the Assistant Treasurer misleading the Senate or was her answer yesterday just sheer incompetence?

Senator COONAN—Thank you for the question, Senator Conroy. The issue to do with credit card interchange fees has been the subject of a couple of questions this week. Yesterday, in respect of Qantas, I said that I was sure that Qantas were mindful of the consumer reactions they had already had to media suggestions that they intended to introduce a credit card surcharge. Yesterday, too, I said that Qantas had not introduced surcharging of credit card customers. That is correct. If Qantas do decide to go ahead with
surcharging customers on 1 July 2003, that is clearly a commercial matter for them and not something the government would either be vetting or approving.

The Treasurer has already made some public statements on this matter in relation to credit card reforms and expressed his view that it would be preferable if the elements of the RBA's reforms were implemented simultaneously. The RBA is independent of course in its decision making—and the Labor Party supported the RBA’s reforms. Nevertheless, the government is entitled to place its views on the public record and to communicate those views to interested parties. I understand that Qantas was a recipient of this advice and that it subsequently determined that its credit card surcharging would be delayed until at least 1 July, when the RBA’s reforms to interchange fees commenced operation.

At the end of the day, what is really clear about this matter is that these reforms are simply designed to ensure that customers are provided with much clearer market signals about credit cards being a more expensive means of payment—and they clearly are. This might come as a surprise to those opposite, but we do of course live in a market economy and the government is not in the business, with either credit cards or other fees and charges, of setting a level of charges that companies can impose on customers for different payment methods. Ultimately it is increased competition that will reduce the cost to merchants of making these services available to their customers. Increased competition should also put downward pressure on credit card fees and interest rates for consumers. We should remember that making isolated changes to pricing structures before the RBA reforms have commenced is hardly evidence that the reforms are not flowing through to consumers. Consumer preferences for differing payment methods do not change overnight, but over time competitive pressures will of course deliver significant benefits to consumers. The point about credit card charges is that these reforms are just in their first stage. It is clear under the circumstances that it is preferable, if a surcharge is to be introduced by any company, that it be done as a response and done all at the same time.

Senator CONROY—Mr President, I ask a supplementary question. The minister very selectively quoted her statement. She said, ‘Qantas have not introduced it,’ and then stopped. She went on to say, ‘I don’t think they will. The government would certainly not be sympathetic to Qantas.’ Now you are washing your hands of this. In light of the government’s continued inaction to ensure that savings from credit card reforms reach consumers, will the minister explain exactly which agency is responsible for ensuring they do? Is the minister aware that the RBA has stated that it does not have responsibility for monitoring prices charged to customers, ASIC has no power to take action over surcharging and the Treasurer has failed to grant the ACCC surveillance powers over credit card reforms? Minister, exactly who is going to protect consumers from this monopoly rip-off?

Senator Faulkner—And why did you misleading the Senate?

Senator Abetz—Mr President, I rise on a point of order. An allegation was made against the minister that she had misled the Senate and I believe that it ought to be withdrawn.

Senator Faulkner—Mr President, on the point of order: in my interjection to Senator Coonan I did not say, ‘Why did you deliberately mislead the Senate?’—which would have been disorderly and could have been called to order, just like all the other interjections—I said, ‘Why did you mislead the Senate?’ That was not out of order. Senator Abetz should know that but, of course, he does not really understand what happens in this place. Why she has misled the Senate is still a very good question.

The PRESIDENT—There is no point of order, but I will listen carefully to any future interjections along that line.

Senator COONAN—There is certainly nothing to suggest that I have misled the Senate. What is in fact misleading is that the Labor Party do not understand credit card reform. They supported it and now they do not understand the implementation stages
that are required to actually get these reforms in place. They do not understand the orderly way in which it is proceeding and they do not understand the surveillance powers of ASIC or the ACCC.

It is interesting that Senator Conroy stands up and talks about invoking the ACCC’s powers because we know, of course, that at least four Labor governments in this country are now opposing the appointment of a chairman to the ACCC. They are opposing an outstanding candidate being appointed as chairman of the ACCC. *(Time expired)*

**Health: Allied Health Professionals**

Senator ALLISON (2.26 p.m.)—My question is to the Minister for Health and Ageing. Is the minister aware that the Executive Director of the Society of Hospital Pharmacists of Australia has said, ‘The shortage of hospital pharmacists will soon reach crisis point’? Is the minister aware that the New South Wales health department has said, ‘There is a serious shortage of physiotherapists, podiatrists and radiographers in public hospitals around the country’? What is the minister doing to address the serious shortages in the availability of health workers in this country and in our public health system?

*Honourable senators interjecting—*

The PRESIDENT—Order! Senator Kemp and Senator Ray, it is difficult enough to hear Senator Allison at the other end of the chamber without interjections from across the chamber.

Senator PATTERSON—Senator Allison has asked me a quite complex question about work force issues, some of which pertain to the portfolio of the minister for education, some to the responsibilities of the states and some—not a whole lot—to my area of responsibility. One of the things we have to consider is that young people who undertake allied health professional training are highly mobile. They are very much in demand overseas and they are also in demand outside their originally dedicated work force area because of their particular knowledge in health. Despite the fact that you might train X number of physiotherapists, podiatrists, orthoptists or whatever, you cannot always guarantee that they are going to end up working in the allied health professional area.

Having worked in allied health professional training for 11 years before becoming a member of this place, I can tell you that work force issue predictions are very difficult—particularly in the health area, because of the high mobility around the world and across other professions. During the life of the current health care agreements, we increased funding to the states for public hospitals by six per cent in real terms. The states increased their contributions by less than the CPI.

Senator Vanstone—They went down in fact.

Senator PATTERSON—They went down in real terms. One of the things that keeps people in the profession is salaries. I am not responsible for allied health professionals’ salaries. It is important to understand that the very difficult issue of the allied health work force is, as I said, a combination of the responsibility of the states and the universities in providing sufficient places in universities. Another factor is that the states have to produce a sufficient number of clinical placements for those students. There is no point in the universities increasing their number of physiotherapists, for example, if the states do not offer clinical placements for them. The states therefore have to offer sufficient clinical placements to enable those students to undertake their training, all of which requires clinical years or at least clinical rotations. The states are required to do that. There have been some problems in getting those numbers up. It is basically a responsibility of the states to attract them with salaries.

One of our areas of responsibility, and where we can do something, is education. In terms of the shortage of medical physicists and radiologists, we have increased funding for radiologists to enable an extra intake—I cannot remember the exact number so I will not quote it—this year and next year to increase the work force. In some cases we have stepped in, but it is up to the universities to determine the number of places. I was talking to someone today from one of the uni-
versity medical and health science schools. They have taken some of their HECS places and turned them into nursing HECS places. There are a lot of flexibilities. But the states also have a responsibility; it is a combined responsibility. It is very difficult to keep and maintain those people because of their high mobility.

Senator ALLISON—Mr President, I ask a supplementary question. Is it not a fundamental national issue to understand the work force for our public hospitals, in particular? Is it not the responsibility of your department to do this work? The minister says that allied health professionals have high mobility, but what analysis has the minister done of the government’s private health insurance rebate in terms of the likelihood that this is the mechanism that is robbing public hospitals of their work force?

Senator PATTERSON—Senator Allison makes an assumption, and I do not believe she is right. I reiterate that it is a combined responsibility, but the responsibility lies more heavily with the states. If the states had actually increased their funding during the life of the last agreement rather than not even keeping up with the CPI, they may have been in a position to attract more allied health professionals into their public hospitals.

Banking: Credit Card Schemes

Senator MOORE (2.31 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. I refer to the Reserve Bank’s stated intention to impose an access regime to open up the credit card market to new players as a way of putting downward pressure on interest rates on credit cards. What priority does the government put on this initiative to improve competition and protect consumers? What action has the minister undertaken to put this regime into practice?

Senator COONAN—Thank you for the question. I should say at the outset that it is actually not my portfolio, so it is not my place to be putting forward anything in relation to credit card fees. However, I do answer questions in this place about credit card fees and credit card reforms and I am very happy to answer Senator Moore’s question— that is, if anyone over there wants to listen. Senator Moore has asked a question and presumably she is entitled to have an answer.

The RBA’s reform of credit cards released on 27 August last year, which Senator Moore’s party supported, aims to ensure that the cost of credit cards will no longer be borne disproportionately by credit card holders who use the revolving line of credit, merchants that accept credit cards for payment and the community as a whole, including consumers who do not use credit cards. So the introduction of a transparent and cost based system for setting interchange fees is expected to reduce the average level of these fees by nearly 40 per cent. The reforms are expected to reduce the total cost of providing the credit card payments system by around $1 billion per annum within the next five years.

Consumers should benefit from these reforms through a reduction in the general level of prices for goods and services. Increased competition between financial institutions in processing credit card transactions should also reduce the cost to merchants of making these services available to their customers. Increased competition should also put downward pressure on credit card fees and interest rates for consumers. The Australian Prudential Regulation Authority will oversee the approval and supervision of new credit card providers to ensure that the reforms do not actually threaten the stability of the payments system.

Allowing merchants to surcharge provides customers with clearer market signals—and, certainly, that was what I said in my previous answer as well—that credit cards are a more expensive means of payment. The option to surcharge will give merchants greater leverage to negotiate the merchant service fee with the banks that process their transactions. The majority of businesses have chosen not to surcharge. Customers are aware of new arrangements and they are preparing to consider alternative payment options or shop around between different providers, which is the purpose.

The RBA’s decision to delay the imposition of the reduced interchange fee until after
the introduction of the new surcharge rules was intended to provide an incentive for banks to reduce the interchange fees. The government would like businesses that choose to surcharge to provide consumers with time to prepare for such changes. This is in line with discussions held with banks about ensuring that their customers are given advance notice of changes in account conditions. So, in answer to Senator Moore, it is a most comprehensive reform process for the whole credit card regime.

Senator Conroy—Mr President, I raise a point of order on relevance. The question referred to the access regime to open up the credit card market. The minister has just read the wrong brief for the second day running. I was just wondering if you could ask her to come back to the question that was asked about the access regime.

The PRESIDENT—I think the minister has concluded her answer and I am sure that she is going to get a supplementary question.

Senator MOORE—Mr President, I ask a supplementary question. Given that the actual access regime was an important part of the government’s so-called suite of credit card reforms, can the minister inform the Senate why, more than six months after the RBA’s announcement, this new regime—and I could not quite get the answer—has not yet commenced? When will the government take all the necessary steps to implement this suite of reforms?

Senator Kemp interjecting—

The PRESIDENT—Senator Kemp, I have to call you to order again. Your colleague is trying to answer a question.

Senator COONAN—As I have explained over the past two days, this access regime and all of the credit card reforms are part of a staged process. This is the very first part of the reform process. It is a reform that has been put forward by the RBA and supported by the Labor Party.

Information Technology: Internet Content

Senator HARRADINE (2.37 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts. Has the minister seen the latest Australia Institute survey, issued yesterday, which showed that 93 per cent of parents would support automatic filtering of Internet pornography to help protect their teenagers from porn merchant predators? Would the minister consider requiring Telstra, as the largest importer of data, to filter out Internet pornography, much of which contains images of sexual degradation and even rape? How much extra money does Telstra earn each year from selling bandwidth to import pornography?

Senator ALSTON—I am aware that that was one of the findings of that report—that 93 per cent of parents would welcome the opportunity to have offensive or illegal material excluded by way of filtering technologies. I have to say, once again, that it was a sample of only 200; it is not entirely out of line with other research, particularly in the US. So I do not think we should dismiss it for that reason, but one just has to be a bit careful. A response of that nature does not of course involve any assessment of the technical implications of how you might limit access. That is why I think it is very important that we do properly explore these issues and see what is technologically possible and not take the sort of lazy, Senator Lundy approach that it is all too hard, that education is the only answer—the classic sort of approach that does not even bother to look at how technology operates, how it has improved or what sorts of new techniques are available. Senator Lundy was out there a few years ago happy to support the proposition that we were global village idiots. Do you remember that one? Global village idiots we were because we introduced an Internet content regulation regime.

Senator Conroy—How big is it—this big or that big?

Senator ALSTON—No need to boast, Senator Conroy. In fact, we now have the Internet Industry Association saying that we are world’s best practice. You cannot have it both ways.

Senator Lundy—They did not give you much credit.

Senator ALSTON—If you have a problem, you talk to Senator Conroy. We certainly want to give proper consideration to
all of the possibilities and certainly not just take an industry sympathetic line on these things. You have to have regard to what the consequences of that approach might be. I did indicate yesterday that an approach that involved software filters being required to be made available in the first instance on an opt-out basis rather than an opt-in basis may well be a more effective way of ensuring that these matters are brought to the attention of Internet users.

Senator Lundy interjecting—

Senator ALSTON—You are a bit worried, are you? It is not good enough to simply say, ‘We’ll tell parents about it.’ Parents often have no idea how to go about doing something to fix the problem. They might be aware of it—

Senator Lundy interjecting—

Senator ALSTON—If you want any help from me to protect you from Senator Conroy, I am happy to do it. I thought it was an appalling attack the other day. I can understand his frustration but, then again, he did get rolled so one has to be tolerant.

It is also a bit unfair to be Telstra focused. Senator Harradine’s proposition was essentially: should Telstra bear the burden of filtering out offensive or illegal material? It is much better to have a solution that focuses on the obligations of both carriers and carriage service providers. That then imposes obligations across the industry and that is the approach we will be taking. Carriers, in many instances, are not even aware of the material they do carry because they are common carriers; therefore, one cannot quantify the value of any material that might be transmitted. It is fair to say that they are commercial beneficiaries and to that extent they have a vested interest, and we have to take that into account as well. I simply say to Senator Harradine that I think his concerns are very well placed and we do have an obligation to take them seriously. The tragedy of course is that only half the parliament is interested in the issues. (Time expired)

Health: General Practitioners

Senator McLUCAS (2.42 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister confirm that one of the first actions in health policy by the incoming Howard government in 1996 was to introduce mandatory postgraduate training requirements for GPs, for which there was a limit of only 400 training places every year? Can the minister recall that the effect of this decision was to directly restrict the number of GPs entering into practice? Isn’t it the case that the government’s own policies have contributed to work force shortages which are making it harder and harder for Australians to find a doctor, let alone a bulk-billing doctor?

Senator PATTERSON—When we came into government we had far too few doctors in rural and outer metropolitan areas and far too many in the city areas; they were maldistributed. AMWAC, the Australian Medical Workforce Advisory Committee, had been advising governments of both persuasions—the Labor Party when they were in government and us—that we had sufficient doctors, that it was an issue of distribution. The Australian Medical Workforce Advisory Committee has indicated recently that we need an increase in the number of trainee doctors. Of course, I have been listening carefully to what they have to say, and one of the areas where there has been the most immediate strain is the public hospitals.

In response to that—and, as I have said a number of times, you cannot make doctors overnight; they take a long while to train—I did suggest to the department that we might look at using young people from overseas who pay to do their medical course in Australia. When the health ministers and I talked about this work force issue, I responded—I had enormous cooperation from Mr Ruddock—and in a matter of only a few weeks we changed the regulations so that those students were able to stay when they graduated and work in our first-class public teaching hospitals. I have forgotten the number that we now have, but there was a significant number of young doctors—more than some whole medical school outputs—which has affected the number of doctors available and reduced the strain on those young people.

Senator McLucas went on to ask whether restricting the number of GP trainees contributed to the problem with the number of
general practitioners. One of the major issues about the GP work force is that they are maldistributed. We have incentives in place and requirements that when those people undertake their specialist training programs they go into rural areas and, if they are doing their training in a city area, spend a period of time—I think it is six months—out in a rural area to try to correct this maldistribution. We have put all of those programs in place and are now finding we have an estimated 11 per cent—I think it is 11.7 per cent—increase in full-time doctors in rural areas, which amounts to a 4.7 per cent increase in rural areas in the last year alone.

When Labor was in government, we had a training program which was basically located in the cities. Young people who wanted to train and upskill in general practice had to get their fellowship of the Royal Australian College of General Practitioners and mainly, but not always, had to come into the city or have some contact or be near a provider. We now have a program through GPET—a company set up to deliver that program—that delivers that training, to standards set by the RACGP, right around Australia. I had the absolute privilege of being in Bendigo on Friday to meet with a group of people who are running those programs—dedicated doctors who are giving enormous amounts of voluntary time to train and develop young doctors in their practices on the spot. They are not having to travel miles but able to go to a training program in Mildura or Bendigo or Ballarat. Rather than do what they used to have to do, which was go to Trawalla, down in town, in the middle of Melbourne—that has now been sold— they are now able to train on location. I do not think Senator McLucas has a leg to stand on in terms of the maldistribution of doctors, which is one of the factors which affects bulk-billing.

World Conference on Doping in Sport

Senator JOHNSON (2.49 p.m.)—My question is to the Minister for the Arts and Sport, Senator Kemp.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator JOHNSON—Will the minister update the Senate on developments concerning the government’s tough stand on drugs in sport?

Opposition senators interjecting—

Senator KEMP—I thank Senator Johnston. I might say, Mr President, that it was very hard to hear the question, because of the noise coming from the other side. Senator Johnston, if I do not cover all of the issues you have raised, come back with a supplementary question.

I can report to the Senate that a historic conference to tackle the issue of drugs in sport has just concluded in Copenhagen. Over 1,000 representatives from more than
80 countries and the major sporting bodies went to the conference. The conference was a very important and significant event. Its aim was twofold: first, to consider the adoption of an antidoping code and, second, to consider a declaration to be signed by governments and public authorities that formally recognises and supports the code. So it was a very important conference.

I am pleased to announce that last night at the final session of the conference all major sporting federations and nearly 80 governments gave their approval to the world antiblocking regime by backing a resolution. In addition, 50 countries—and this will be of particular interest to Senator Lundy—including Australia, signed the declaration on doping in sport, which commits governments to supporting the code. Another 23 governments present at the conference said that they would sign at a later date.

As I have said, this is a historic moment and a noteworthy event for sport in Australia. For the first time, we are establishing an effective international antiblocking regime in sport. That has been achieved through cooperation between governments and the international sporting community. Of course, global endorsement of the code is in itself not enough to stamp out drugs. Yesterday, the President of the IOC, Jacques Rogge, said of the code:

This is a means to an end. We cannot bask in the glory of this conference. What I am interested in is how to diminish doping. This code is a major tool in that process.

Senator Forshaw—This is another one of these international conventions you used to campaign against.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left, there is too much noise across the chamber, and you know that is disorderly.

Senator Abetz—Too many dopes.

Senator Kemp—There are a few dopers there, Mr President, I can assure you of that.

The PRESIDENT—Minister, I would appreciate it if you would make your remarks through the chair.

Senator Kemp—Mr President, Jacques Rogge is quite correct. To ensure that Australia remains at the leading edge of the fight against drugs in sport and is consistent with the code, I announced a review of the government’s Tough on Drugs in sport strategy last September. At that time, I also announced that a review would include an evaluation of the merits of establishing an independent tribunal to conduct hearings into doping violations.

At present, the handling of positive test results is in the hands of individual sports. One of the lessons we have learned is that this can result in a degree of inconsistency in outcomes. We must ensure fairness and natural justice for athletes through appropriate hearing and appeal processes. I think Australia can take great pride in the leading role it has played in the development of the antiblocking code. Not only were we one of the first nations to take a strong domestic stand on drugs in sport; we were one of the first to urge an international approach to this issue. This government is strongly committed to the fight against drug use in sport. It wants to achieve a sporting environment free from drug cheats, one in which our sportsmen and sportswomen are able to compete fairly. (Time expired)

Senator Johnston—Mr President, I ask a supplementary question. Would the minister further elaborate on Australia’s participation in the World Anti-Doping Code and on Australia’s antiblocking regime.

Senator Kemp—I thank Senator Johnston again for that important question. The point I was making is that Australia has taken a very strong lead in this process. I think even Senator Lundy in her wiser moments would concede that. Of course, before the Sydney Olympics, it was Australia that was very effective at bringing to the attention of the international sporting community the need to take firm and tough action on drugs in sport. In our view, the public expect no less, and we must do everything possible to keep sport free of drugs. I described this as an historic moment because the international community now has an antiblocking code that all countries will eventually sign up to. This will be applied and will ensure that we can
have a good chance of ridding sport of the scourge of drugs, and that is why Australia is very strongly supportive of this code.

Health: General Practice

Senator STEPHENS (2.55 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Can the minister confirm that, despite population growth, Australians visited their GPs 1.75 million fewer times in 2002 than in the previous year and that for the first time since 1995 the number of GP visits in a calendar year has dropped below 100 million? Is the minister concerned that people are now choosing not to go to the doctor rather than pay a hefty copayment?

Government senators interjecting—

The PRESIDENT—Order! Senators on my right! I would like to hear the minister’s answer in silence.

Senator PATTERSON—I think I am really going to enjoy answering this question, because last year somebody on the other side—and I cannot remember who it was—came in with a document that said, ‘If you spend more money on pharmaceutical benefits, people won’t need to go to the doctor as often.’ And guess what we did last year? We spent a lot more on pharmaceutical benefits. That is what those on the other side were arguing, despite the fact that the paper was written and commissioned by a drug company—which they did not know at the time—and when I told them they backpeddled at 100 miles an hour. The opposition came in here, used a bit of evidence and said, ‘Look at this: if we spend more money on pharmaceuticals we will have people going to the doctor less often.’ We have spent more money on pharmaceuticals, and maybe they should look at who publishes papers before they bring them in. But that was one of the examples.

The other thing is that we have two sorts of funding: for short consultations and for long consultations. When somebody goes for a short consultation they get a higher rebate than they did under Labor. We have increased the rebate for standard consultations, short consultations, by 20 per cent over the time we have been in government. Labor increased it by nine per cent over the last six years they were in. So we pay doctors more for a short consultation. We have increased the rebate for long consultations by 23 per cent, and Labor increased it by only five per cent. Remember that when Labor were in government we were in a period of high inflation. We are now in a period of low inflation, so the increase is greater because of low inflation.

People now go and spend longer with a doctor. We all know that when you go into the doctor you are quite nervous, and if you feel that you are under pressure of time you might not tell the doctor about all the things you need to speak to them about. But if you have a long consultation—for which we now pay doctors significantly more than the Labor Party ever did—you would expect people to go to the doctor less often. In addition, because we are interested in health outcomes and because we are interested in people managing their asthma, managing their diabetes and managing mental illness and depression, we have funded practice incentive programs by giving doctors increased payments. That works out to about $18,000 per year per doctor to spend more time to work through a management program for people with diabetes and people with asthma to ensure that they do not have to go to the doctor as often and so they get better health outcomes.

The assumption on the other side is that people are not going to the doctor because they have to pay. They do not look at all the other factors that are in place to increase the length of time people spend with doctors, both in a long consultation and under the practice incentive program where people are assisted to manage their illness and we hope have to go to the doctor less often. I would hope that we would see people going less and less often and being healthier. They say on the other side that, if you increase spending on pharmaceutical benefits, visits to doctors will go down. We have increased spending on pharmaceutical benefits by a significant amount of 10 per cent last year.

Senator STEPHENS—Mr President, I ask a supplementary question. Bearing in mind how the minister has just answered the previous question, perhaps she can tell us if
she is aware of a study published yesterday in the journal of the Australasian College for Emergency Medicine that found that half the children taken to hospital emergency departments had non-urgent complaints like colds and flu that in most cases would have been treated by a GP. When will the minister admit that the unavailability of bulk-billing for Australian families, not just pensioners and the disadvantaged, is placing increasing pressure on the emergency departments of our public hospitals and is likely to have long-term public health consequences?

Senator PATTERSON—With regard to visits to emergency departments, I remind the honourable senator on the other side that we have had an increased number of children with meningococcus, both the B and C strains. Parents who are very concerned especially want to go to the emergency room because they know how serious it is that the child receive antibiotics quickly. In my opinion, this has actually increased the possibility of parents taking children to emergency departments.

I want to remind my colleagues on the other side that we are now vaccinating children across all cohorts, one to five—the states are vaccinating school-age children in those two cohorts, and then in the following years we hope to catch up on the group in between. Do you know which state is the slowest in rolling out the meningococcal vaccine amongst school-age children? New South Wales.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Health: Staff Shortages

Senator PATTERSON (Victoria—Minister for Health and Ageing) (3.01 p.m.)—In my answer to a question from Senator Allison I talked about the number of radiotherapy students. The number was 57. It was 57 last year and 57 this year. I just wanted to clarify that.
that if you had longer consultations with a GP you would have less need to go to one. That is the question I asked the minister and the department during the recent estimates hearings. I asked the minister about it along the lines of, ‘What evidence do we have that would say that the practice incentive schemes—the PIP payments—are in fact delivering greater health outcomes?’ The department was clear. It cannot answer that question. It is too hard, you cannot collect the data; so you cannot answer that question. For the minister to stand up here today and make some convoluted argument that that is the reason that we have improved health outcomes is not supported by data, and it is not supported by the data from her own department—and she in fact reported that to the Senate estimates committee last year.

The other point that she made, which I think was quite extraordinary, was that higher expenditure on pharmaceuticals in the year 2002 resulted in lower visitations to GPs. I would like to see the evidence that supports that statement. There is no evidence that supports that statement, and the minister knows it. It is completely misleading and it will be interesting to see what the medical profession will make of such an extraordinary statement.

Finally, I want to make some comments about bulk-billing rates in the seat of Herbert, which have completely plummeted to a rate under 56 per cent. The minister has done nothing about bulk-billing rates in regional areas like the seat of Herbert—nothing at all. For the member for Herbert, Mr Lindsay, to be proclaiming a victory in receiving some overseas trained doctors to work in after-hours clinics is completely ridiculous, because they will only be able to work as after-hours doctors and not during the daytime.

Senator KNOWLES (Western Australia) (3.07 p.m.)—If I had a few copies of Hansard here, I would be so bold as to move the incorporation of the last 10 speeches I have made on this subject, but unfortunately I do not, so I suppose we will just have to go through the motion again of setting the record straight on the subject of bulk-billing. I want to start by talking again about where the Labor Party were on this particular issue. The Labor Party brought in Medicare. Let us not forget that; that is point No. 1. Dr Blewett was the Minister for Health in 1987, and he said:

What we have mostly in this country is not doctors exploiting bulk billing but compassionate doctors using the bulk billing facility to treat pensioners, the disadvantaged and others who are not well off or who are in great need of medical services, which was always the intention.

Senator Eggleston—Was he a health minister under Labor?

Senator KNOWLES—That is right, Senator Eggleston; he was a health minister under Labor. That is the principle under which Medicare was put in place by the Labor Party. Now, because Mr Crean’s leadership is at an all-time rock-bottom low and he does not know what to do about health, we start getting this furphy that bulk-billing for some reason has to be for everybody. It has never been for everybody, even under a Labor government. It is only because Mr Crean’s leadership is at huge risk and Mr Smith comes up with these harebrained ideas every Sunday—Mr Smith is pushing for the abolition of the 30 per cent rebate; Mr Crean is saying, ‘Not too sure about that, sport. Don’t talk about that just yet. We are going to keep that as a little surprise,’ and Mr Smith is saying, ‘No, we are going to abolish the 30 per cent rebate because it is unfair’—that we have now got this other little line running that somehow Medicare bulk-billing has to be for everybody. Goodness gracious me! It has never been for everybody. Under the Labor Party it was never for everybody and under us it has never been for everybody.

Senator Ludwig—What about the word universal? Don’t you understand that?

Senator KNOWLES—How interesting: a member of the Labor opposition interjects to say that it is meant to be universal. What is universal is the facility for people to go to the doctor and everyone get the same rebate. That is the system that the Labor government put in place.

Senator Ludwig—Why isn’t it available?

Senator KNOWLES—It is available. It is interesting to note that at no stage have the
Labor opposition ever said that there is not a service available. At least they have not hit that bottom of the pit yet. The interesting thing is that they still do not understand. Dr Blewett, as health minister and an architect of this scheme for the Labor government, said that universal bulk-billing for everyone was not the intention. Why is it now suddenly the intention of the Labor Party? Because Mr Crean’s leadership is absolutely at rock bottom. Mr Smith has no idea what he is talking about. Clearly, every Sunday he thinks to himself, ‘Gosh, it is Sunday. I have to do a media interview today. I have to think of something to say.’ Now we have this line running.

Unfortunately, the Labor Party record on health is absolutely appalling. This is the opposition which, when in government, ran down private health insurance from somewhere around 60 to 70 per cent to between 20 and 25 per cent. That is their record. The Labor government also ran down the Medicare rebate for a standard consultation. Since we have been in government, we have increased it 20 per cent; in the last six years of the Labor government, they increased it by nine per cent. That is hardly a record about which I would be proud if I were a Labor senator today. Do we hear them talk about that? No, we do not. Under the Labor government the Medicare rebate for longer consultations—which Senator McLucas referred to a little while ago as not being important, for some reason; I cannot think why longer consultations would not be important—was increased by five per cent. We have increased it by 23 per cent. (Time expired)

Senator MOORE (Queensland) (3.12 p.m.)—I also rise to speak on the answers provided by Senator Patterson. I deeply thank Senator Knowles for reminding us that it was in fact Labor which introduced Medicare—it had slipped my mind. It is very useful to have that information. In the first range of answers that Minister Patterson gave today she talked about the maldistribution of doctors across the country. She implied that that meant that in city centre areas there would be high numbers of doctors bulk-billing. She implied that people would have no difficulty accessing bulk-billing if they lived in non-regional or non-rural areas. The basis of her argument was that maldistribution of doctors—and I dislike that term intensely but it was the one used by the minister—meant that bulk-billing would only be a problem in regional or country areas. In fact that is not true.

In the seat of Ryan, which is the second most central seat in the city of Brisbane, bulk-billing has actually fallen—I will not use the word plummeted; I think it has been overused—by over 20 per cent in the last two years. In the seat of Ryan, in the centre of Brisbane, with the alleged maldistribution of doctors you are unable to find a doctor who bulk-bills. This is an area which has a very large student population, a very large group of people who are living in the centre of the city to access services. In this area you cannot find a bulk-billing doctor. I am concerned about the fact that bulk-billing is a problem across the rest of the state. I am also concerned by the answers given by the minister that spending more money on health care and pharmaceutical benefits and also raising the funding for long-term consultations would aid patients.

Senator Hill—Antitobacco programs help.

Senator MOORE—The tobacco programs do help. However, the people who come to see us or write to us are having difficulty accessing medical services now, and it does not seem to matter how much other funding is going in. For example, I have received a letter from a pensioner who said:

My wife and I are pensioners, and unfortunately she is a regular visitor to a doctor. We are $210 out of pocket for medical treatment just for the last fortnight. I’ve had cancer for two years, and I’m meant to get yearly check-ups. I haven’t had one for the last three years because I just can’t afford it.’

On a daily basis people are making decisions about whether they can, for example, take the follow-up cancer treatments and visits they require for their condition based on the amount of money they have. Also, people on fixed incomes are finding it difficult to pay their doctors, because doctors have ceased bulk-billing. People used to be able to go and see their doctor when they needed to and
they would not need to make any copayment. However, when they have to find the money—the actual cash—every time they visit the doctor, they have to make financial decisions at every visit. This puts pressure on individuals and on families.

Regardless of what is being done about maldistributions and about other forms of medical care, the minister has said previously in this place that you cannot divide her program into silos; you have to look at all the programs. I am looking at all the programs. My constituents are looking at all the programs, and the programs are not providing the services they need. The whole area needs to be reconsidered. You cannot close off one area and expect health to be funded effectively.

It is not right that our people, particularly the elderly and those who are on limited income, are not able to have the confidence to seek out effective medical care. We need to face up to this problem and stop trying to run away from it. We need to understand that the medical system needs to be overhauled. It is simply not working as it is now, but there is a chance to make a change—it is just likely that there is no willingness to make the change that is required.

Senator COLBECK (Tasmania) (3.17 p.m.)—It is interesting to note some of the arguments that are being put across the chamber in relation to bulk-billing and to note particularly that bulk-billing rates were worse under the last Labor government. It is important to remember that. Those on the other side seem to claim credit for all sorts of things, but they should also claim responsibility for the fact that bulk-billing rates were lower when they were in government.

Labor seem to say that the answer to this problem is to just throw more money at it. As we have heard from colleagues earlier, it is not just about money. Just a moment ago Senator Moore talked about maldistribution. The issue is more one of doctor density rather than maldistribution. If you have a high density of doctors—it does not really matter where they are, be they in the city or in rural areas—you are going to have a higher rate of bulk-billing. One of the things this government has considered is how to correct the higher density issue, particularly within some of the metropolitan areas. A couple of programs look to do that not just on a short-term basis but on a longer term basis, and one of those is the More Doctors for Outer Metropolitan Areas program.

I would like to speak this afternoon about the rural clinical schools program, which is a measure that the government has put in place to provide doctors who have trained in rural areas to stay longer in those areas. Research shows that, if a doctor comes from or has trained in a rural area, they are more likely to remain in that area for the longer term. I had the privilege of attending a community board meeting of one of the rural clinical schools on the north-west coast of Tasmania last week. Even at this very early stage, there is a real demonstration of the likelihood of very positive outcomes from the rural clinical schools program. It provides training in a rural setting not just for doctors but for pharmacists, dentists and optometrists. At this point there are some real positives being demonstrated from that particular program.

During this meeting one of the students from the school came to brief the board. To hear her describe the opportunities that she has had in a very short period, as part of the rural clinical school that is being conducted at the Burnie campus of the University of Tasmania on the north-west coast, was extremely heartening. The small number of students are being provided with access to patients which they would not normally have in a major metropolitan training hospital. The experiences they are gaining are, in her terms, ‘quite exciting’. They have had the opportunity to talk to patients and to experience procedures on a first-hand basis. One of the things that really excites them—and not just at this particular campus but also, according to some of the literature that I have been reading, at other campuses—is the opportunity to deliver babies. One student said that she had delivered seven or eight babies. This seems to be a significant element of the program.

These students were made to feel that they were wanted. They were a part of the system; they belonged. They were not just an appendage to the system, which was how they
were made to feel in another circumstance. They had a feeling of real worth, and this was after a period of only months in a particular program. It was bringing people back to where they came from to study. It was bringing them back close to where they had lived. Also, it was bringing people who had not experienced life in a regional area into a regional hospital, and they were learning what the benefits could be of training in a program such as this and experiencing life in a regional area. It is a really positive program. (Time expired)

Senator STEPHENS (New South Wales) (3.22 p.m.)—I too rise to take note of Senator Patterson’s answer to my question this afternoon and to take umbrage at the comments that she made about visits by patients with non-urgent conditions to the outpatients departments of hospitals. Her explanation was that there was a rise in concerns about meningococcal disease. I think that is a pretty spurious reason for a situation that I know exists all over rural and regional Australia and, as Senator Moore suggested, in some city areas. The one she mentioned was Brisbane, where the lack of bulk-billing prevents people from making the effort and seeking the necessary health care because they have to pay and they cannot afford the bills.

Senator Knowles made the suggestion again today that, when Dr Blewett was the health minister under the Hawke government, bulk-billing was not necessarily for everyone. The selective quoting that has been going on during the last few days in this debate has been interesting. The actual statement that Dr Blewett made was:

This universality of cover is obviously desirable from an equity point of view. In a society as wealthy as ours there should not be people putting off treatment because they cannot afford the bills. Basic health care should be the right of every Australian.

We are seeing that there are people putting off treatment because they cannot afford the bills. I hear about them every week in my electorate office. I hear about people who have been unable to access bulk-billing so they have left it longer and longer to attend to what has then become a fairly serious medical condition. Senator Patterson suggested that the reason for the reduction in GP visits was our preventive health measures. I think that in one respect that is a good point, in the sense that there have been very effective public health campaigns on the management of diabetes and asthma—they were the two programs that she suggested; Senator Hill also suggested the issue of smoking and tobacco education—but the fact is that people are not going to their GPs because they cannot afford the copayment that is required in order to receive basic health care.

If we are quoting what people have said previously about health care, the previous minister, in the previous government, responding to a question about the universality of bulk-billing, said:

This is something we have grappled with for over a decade and the party now is really unanimous on that. Medicare stays, universal bulk-billing stays. These are the things the Australian public demands and we accept that.

The Prime Minister obviously does not accept that. His recent comments certainly fly in the face of that principle. Medicare ensures access by Australians to quality health care, both by way of primary health care that the GP can deliver and in a public hospital, irrespective and independent of wealth and income. It leaves open to Australians the option of using disposable income if they opt for private health care, either with primary care or in a private hospital. Labor has been committed to this and will remain so. I am not too sure where Senator Colbeck got his figures but I am quite sure that he is incorrect when he says that, under Labor, the bulk-billing rate dropped to below the current situation under this government. It peaked at 80 per cent when Labor left office. Under John Howard, bulk-billing rates have fallen every year. At the moment it is at a rate of about 69.6 per cent, the lowest that bulk-billing has been since 1989. Over this government’s seven-year period, we have seen an 11 per cent decline in bulk-billing. Over half of that has come in the last 12 months. On top of that, we have seen the cost of copayments rising. (Time expired)

Question agreed to.
COMMITEES
Treaties Committee
Report: Government Response
Senator HILL (South Australia—Minister for Defence) (3.27 p.m.)—I present the government’s response to the 17th report of the Joint Standing Committee on Treaties on its inquiry into the United Nations Convention on the Rights of the Child, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

Government Response to the Joint Standing Committee on Treaties’ Inquiry into the Convention on the Rights of the Child March 2003—This response takes into account matters and events up to September 2002

The Commonwealth Government welcomes the opportunity to respond to the Inquiry of the Joint Standing Committee on Treaties (JSCOT) into the Convention on the Rights of the Child. The responses to JSCOT’s recommendations contained in the Government Response reflect the Commonwealth Government’s strong commitment to the needs of children, which is implemented through a wide range of initiatives and programs.

The Government recognises that families have the primary responsibility for the growth and development of the nation’s children. The Government believes strong families are crucial to maintaining a cohesive and compassionate society. Strong family and community networks that nurture children, and that provide the most effective social support, are the vital building blocks of society. While the Commonwealth Constitution places primary responsibility for children’s matters with the State Governments, the Commonwealth has responsibility for:

• the development of integrated policy and programs to strengthen families, enhance the quality of parenting and prevent child abuse and neglect;
• income support and policy for those whose primary role is caring for children; and
• national child care policy.

The creation of the Department of Family and Community Services and the recent creation of the position of Minister for Children and Youth Affairs have ensured an integrated approach across the spectrum of Commonwealth policies and programs for children.

Best interests principle

Recommendation 1
The Joint Standing Committee on Treaties (JSCOT) recommends that the Government request the Standing Committee of Community Services and Income Security Administrators investigate the need to clarify the interpretation and application of the ‘best interests’ principle.

Response
Agreed in part.

Comment
The Government agrees that in some jurisdictions the ‘best interests’ principle requires clarification. However, this is not a matter that should be referred to the Standing Committee of Community Services and Income Security Administrators (SCCSISA) because it is not the appropriate ministerial forum.

The Government agrees that, at the State and Territory level, there are no provisions specifying the individual criteria that guide the interpretation of ‘best interests’ of the child. Although State and Territory legislation regarding children, for example, in relation to adoption, states that the best interests of the child is a paramount consideration, it does not define what is to be included in, or what are the elements which make up, the ‘best interests’ of the child. This situation is one that should be addressed and remedied.

While SCCSISA has considered the ‘best interest’ principle in the past in the context of child protection matters, Community Services Ministers should consider the recommendation in its totality. The recommendation was drawn to the attention of the Community Services Ministers’ Advisory Council at a meeting held in March 2001.

In relation to family law, the Government does not accept the recommendation. The federal Family Law Act 1975 (FLA) provides that the ‘best interests’ of the child must be considered in any decision involving the parenting of children. The elements to be considered in the definition of ‘best interests’ are listed in detail in the FLA. The Government does not accept that the ‘best interests’ principle requires clarification in relation to cases or matters arising in relation to the FLA.

In addition, the Commonwealth Attorney-General’s Department is currently working in conjunction with State and Territory Departments of Community Services to develop criteria for application in consideration of the definition of the ‘best interests’ of the child, in relation to the inter-country adoption of children under the Hague Convention on Protection and In-

Inconsistencies between State, Territory and Federal legislation

Recommendation 2

The JSCOT recommends that the Government request the Standing Committee of Attorneys-General investigate and remedy the inconsistencies between legislation in different jurisdictions that may adversely impact on children.

Response

Noted. Advice on this issue has been sought from the Family Law Council.

Comment

This recommendation concerns issues for which individual States and Territories are primarily responsible. The Report has been referred to the States and Territories for their consideration.

In the area of family law, the Family Law Council is examining the interaction between Commonwealth and State and Territory child and family legislation. The Council has produced a discussion paper entitled The Best Interests of Children? The Interaction of Public and Private Law in Australia addressing the care, support and protection of children, and the interaction between the Family Law Act 1975 (FLA) and State and Territory Child and Family Services legislation. The Family Law Council is a statutory authority which was established by section 115 of the FLA. The functions of the Council are set out in subsection 115(3) of the Act, which states:

It is the function of the Council to advise and make recommendations to the Attorney-General, either of its own motion or upon request made to it by the Attorney-General, concerning:

(a) the working of this Act and other legislation relating to family law;
(b) the working of legal aid in relation to family law; and
(c) any other matters relating to family law.

The closing date for submissions and comments in relation to the discussion paper was 30 June 2001. The Council’s final report has been received and is being considered by the Government.

Issues relating to the media

Recommendation 3

The JSCOT recommends that the Government request the Standing Committee of Attorneys-General address jurisdictional inconsistencies in relation to the publication of children’s names in circumstances that would be detrimental to the child’s best interest.

Response

Noted.

Comment

This recommendation concerns issues for which the individual States and Territories are primarily responsible. The Report has been referred to the States and Territories for their consideration.

The Government considers that it is important that the circumstances in which children’s names are published should be limited in the child’s best interests. This is covered federally in family law matters by section 121 of the Family Law Act 1975, which applies restrictions to the publication of proceedings.

Recommendation 4

The JSCOT recommends that the appropriate industry organisations monitor and encourage responsible reporting in the preparation of news stories in relation to the potential impact on children.

Response

Agreed.

Comment

The Government considers that this recommendation has been implemented.

The Government agrees that it is important that industry organisations monitor and encourage responsible reporting and preparation of news stories which may potentially impact on children. The Government is of the view that the current system successfully fulfils this obligation.

The Broadcasting Services Act 1992 (BSA) provides clear objects in relation to the broadcasting of material potentially harmful to children. The objects are:

• to encourage the providers of broadcasting services to respect community standards in the provision of program material;
• to encourage the provision of means for addressing complaints about broadcasting services; and
• to ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them.

The Government is committed to ensuring that these objects are met and continues to monitor community concerns. The Government works closely with the Australian Broadcasting Authority (the ABA) which was established under the BSA as an independent statutory authority with
responsible for regulating broadcasting services.

Under the BSA, each industry sector must develop codes of practice relevant to the broadcasting operations of that section of the industry. The BSA identifies a number of matters to which codes of practice may relate. Methods of ensuring that children are protected from exposure to program material which may be harmful to them is a high priority.

A revised commercial television industry code of practice was registered by the ABA in April 1999. The ABA must register a code if it is satisfied of the following:

- the code of practice provides appropriate community safeguards for the matters covered by the code;
- the code is endorsed by a majority of the providers of broadcasting services in that section of the industry; and
- members of the public have been given an adequate opportunity to comment on the code.

The commercial television industry code of practice is due for review in 2003.

Under the Commercial Television Industry Code of Practice, the broadcasting day is broken up into different classification zones which are based on the majority audience normally viewing at that time and particularly whether children are viewing in significant numbers. All programs must be appropriately classified and only material suitable for a particular classification zone can be broadcast in that zone.

News and current affairs programs do not require classification, but it is a requirement of the code that when broadcasting in a ‘G’ classification period, extra care must be exercised in the selection and broadcast of all material. News material broadcast outside regular bulletins in ‘G’ classification periods must be compiled with special care, particularly when many children may be watching.

News and current affairs programs which include images of dead or seriously wounded people which may distress or seriously offend a substantial number of viewers should only be displayed when there is an identifiable public interest to do so. Commercial television stations must display sensitivity in broadcasting images of, or interviews with, bereaved relatives and survivors or witnesses of traumatic incidents.

Further, commercial television stations must provide adequate prior warning to viewers about material which, in the opinion of the licensee, is likely to distress or offend a substantial number of viewers. The warning must be spoken and provide an adequate indication of the nature of the material, while avoiding detail which may itself seriously distress or offend viewers.

The revised code also sets out clearer limits on the reporting and depiction of suicide. The code requires that reports of suicide or attempted suicide should only be broadcast where there is an identifiable public interest to do so and should exclude any description of the method used. The report must be straightforward and must not include graphic details or images, or glamorise suicide in any way.

If a viewer wishes to make a complaint about a program, they must first make their complaint to the station concerned. If they do not receive a response within 60 days, or if they believe the response to be inadequate, they may make a complaint to the ABA about the matter.

Through the investigation of unresolved complaints the ABA is able to monitor stations’ compliance with the requirements of the code of practice.

Codes of practice developed by the national broadcasting services (ABC and SBS) have similar requirements to those of the commercial television industry.

The Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) support responsible reporting and preparation of news stories in relation to the potential impact on children. Both broadcasters are independent in editorial and programming matters under their respective legislation.

The current edition of the ABC Editorial Policies was published in April 1998. They state that ‘special care should be taken to ensure that programs that children are likely to watch unsupervised should not cause alarm or distress, or incite aggressive behaviour’. The policies include special provisions for news programs that might be shown during children’s viewing time:

9.7.3 News Flashes—Because the timing and content of news flashes are completely unpredictable, particular care should be exercised in the selection of sounds and images and consideration given to the likely composition of the audience. This should be done, notwithstanding the need to get a news flash to air as quickly as possible.

9.7.4 News Updates and News Promotions—News updates and news promotions should not appear during obviously in-
appropriate programs, especially programs directed at young children. Due to the repetitive nature of news updates and news promotions, there should be very little violent material included in them, and none at all in the late afternoon and early evening.

These policies are also included in the ABC’s Code of Practice, which is notified to the ABA. Section 2.4.4 of the SBS’s Code of Practice also includes similar provisions for the presentation of news flashes and news updates and promotions. The ABC’s Editorial Policies are currently being reviewed.

Recommendation 5

The JSCOT recommends that the Government monitor, assess the adequacy of and enforce existing guidelines to provide greater protection for children viewing television.

Response

Agreed.

Comment

The Government considers that this recommendation has been implemented.

Australian broadcasting regulation, as it relates to children, has two primary objectives. The first is to provide high quality television programs made specifically for children through program standards; the second (as noted above) is to protect children from exposure to potentially harmful material.

In relation to the first objective, the Government supports the Australian Broadcasting Authority (ABA) continuing its current role of monitoring and reviewing from time to time its existing Children’s Television Standards (CTS).

Section 158 of the Broadcasting Services Act 1992 (BSA) sets out the primary functions of the ABA. Paragraphs 158(j) and (k) require the ABA to ‘develop program standards relating to broadcasting in Australia’ and ‘to monitor compliance with those standards...’. Under Part 9 of the BSA, section 122 requires the ABA to determine standards to be observed by commercial broadcasting licensees in relation to programs for children. Clause 7(1)(b) of Part 3 of Schedule 2 of the BSA makes it a condition of a commercial broadcasting licence that a licensee comply with program standards applicable to the licence under Part 9 of the BSA.

The CTS place mandatory requirements on all free-to-air commercial television stations to broadcast a minimum annual quota of 390 hours of children’s programs. This is broken up into 130 hours of preschool (P) programs and 260 hours of programs for primary school children (C). The 260 hours of C programs includes 32 hours of Australian children’s drama programs.

These programs are broadcast in special time bands, which are set out in the CTS and are classified by the ABA against criteria set out in the CTS. Only programs meeting the criteria be broadcast by commercial television stations to meet their quota requirements. The requirements for C and P programs are designed to ensure children have available programs which are not only suitable for them, but are specifically targeted to them. They are designed to provide a positive viewing experience for children by ensuring the broadcast of a certain number of age specific, ‘quality’ programs on commercial television.

Programs classified by the ABA must satisfy a special set of criteria set out in the CTS which says a program must be made specifically for children in the preschool or primary school age range, be entertaining, be well produced, enhance a child’s understanding and experience and be appropriate for Australian children. Programs that do not meet these requirements cannot be classified as C or P programs by the ABA.

In relation to the second objective, the CTS include requirements that unsuitable material, both in programs and commercials, must not be broadcast in programs pre-classified by the ABA as C or P programs. Programs must not: demean individuals or groups of people on the basis of race, nationality, ethnicity, gender, sexual preference, religion or mental or physical disability; present images or events in a way which is unduly frightening or distressing to children; depict unsafe uses of a product or unsafe situations which may encourage children to engage in activities dangerous to them; or advertise products officially declared unsafe by a Commonwealth authority or an authority having jurisdiction within a licensee’s service area. Programs which do not meet these requirements cannot be classified by the ABA as C or P programs.

Other programs directed to children, broadcast by free-to-air commercial broadcasters, are classified by the broadcaster concerned and broadcast in the relevant time band in accordance with the Commercial Television Industry Code of Practice. Program classifications—G, PG, M and MA—specify limits for the amount of violence, sex, nudity, language, drugs, and for depictions of suicide, dangerous behaviour and images aimed at creating an atmosphere of tension or fear.

One of the major changes made to the revised code was the inclusion of a new classification category—AV—for those programs at the MA level due to violence. AV classified programs are
Complaints about possible breaches of the CTS can be made direct to the ABA for investigation. Complaints about other programs covered by a code of practice must be made to the station in the first instance. If the person does not receive a response, or believes the response to be inadequate, they can refer the matter to the ABA for investigation. The ABA must investigate such complaints.

If the ABA finds a breach of the CTS, it may refer the matter to the Director of Public Prosecutions (DPP) for possible legal proceedings. If the ABA finds a breach of a code of practice it may make compliance with the Code a condition of licence. Breaches of licence conditions may carry substantial penalties.

In April 2000, an additional licence condition was imposed on the licensee of commercial television station QTQ9 Brisbane. The licence condition requires the licensee to comply with clauses 3.6, 3.7 and 3.8 of the Commercial Television Industry Code of Practice concerning the broadcasting of promotions in G viewing periods. Generally the ABA has worked with broadcasters concerned to ensure that they put in place appropriate mechanisms so that future breaches of the same or similar kind do not occur.

Under the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Service Act 1991, responsibility for programming and editorial policies is a matter for the respective ABC and SBS Boards and management. The ABC and SBS Boards are required by their respective statutes to develop codes of practice relating to programming matters and to notify those codes to the ABA. ABC and SBS programming must comply with the codes.

The ABC Code of Practice contains a section on Children’s Programming. Both the ABC’s and the SBS’s systems of television program classifications apply the Guidelines for the Classification of Films and Videotapes issued by the Office of Film and Literature Classification.

The Government believes that the current arrangements in place for the ABC and SBS are operating successfully and provide adequate protection for children viewing television.

The BSA now makes provision with respect to Internet content.

While the Australian community recognises the enormous potential of the Internet, many people also believe that there are risks involved in using Internet services. Risks include the distribution of illegal content, for example child pornography and material providing detailed instruction in crime or violence, as well as the exposure of children to content that is unsuitable for them.

The BSA establishes a co-regulatory scheme for Internet content, which is based on the investigation of complaints by the ABA and the development of codes of practice by the industry.

The Government’s approach does not rely on regulation alone. Educating and advising the public about means to manage their, and their children’s, use of the Internet is an important component of the framework. To this end, the Government established NetAlert in November 1999. NetAlert is an independent community advisory body, responsible for running national awareness campaigns to promote a safer Internet experience and for researching new access management technologies.

In order to assist all Australians and particularly families in their use of the Internet, the ABA has developed and designed the cybersmart kids Internet website at: http://www.cybersmart.com.au. The website provides people with information they need about safe Internet access for children, plus links to many useful and fun sites for children.

Recommendation 6
The JSCOT recommends that the Government monitor and control the content of advertisements designed to appeal to children.

Response
Agreed.

Comment
The Government believes that the existing mechanisms achieve these objectives.

As indicated above in relation to Recommendation 5, under Part 9 of the Broadcasting Services Act 1992 (BSA), section 122 requires the ABA to determine standards to be observed by commercial broadcasting licensees in relation to programs for children. Clause 7(1)(b) of Part 3 of Schedule 2 of the BSA makes it a condition of a commercial broadcasting licence that a licensee comply with program standards applicable to the licence under Part 9 of the BSA.

Included in the Children’s Television Standards (CTS) is a recognition that children, due to their developmental levels, require special consideration in areas such as advertising and the presentation of material that ‘may be harmful to them’. The CTS must be complied with by all commercial television broadcasting licensees.

The CTS do not allow advertising in preschool (P) classified programs broadcast in P periods. Limitations are placed on the broadcast of com-
commercials in C programs. Five minutes of G classified commercials and one minute of G classified program promotions are permitted in every 30 minutes of C program material.

All advertising directed specifically at children must meet the requirements set out in the CTS. This applies to advertising specifically directed at children which is broadcast in C programs and higher classified programs, such as G and PG classified programs.

The CTS include requirements for presentation of advertising and other material to children, such as the presentation of prizes, competitions, a prohibition on host selling of products, a prohibition on advertising alcoholic drinks, restrictions on the number of times a commercial can be broadcast in C programs, misleading advertising and factual and clear presentation.

The underlying premise for these restrictions is to ensure advertising material directed to children is presented clearly and in a way which children can understand. The requirements mentioned above in regard to recommendation 5 concerning unsuitable material also apply to commercials broadcast during C programs.

Complaints about advertising directed at children can be made directly to the ABA for investigation. The ABA has also supported the Australian Association of National Advertisers in developing principles and advisory notes for advertising to children. These principles and advisory notes, which were introduced in August 1999, complement the CTS and provide a point of reference for advertisers and agencies making advertisements directed at children.

Section 6.23 of the Commercial Television Industry Code of Practice prohibits promotion on a program of products or services that have names or packaging featuring the program host and requires any material which promotes a product or service to be presented as a discrete segment. References to prizes for competitions must also be brief.

Section 1.16 of the Commercial Television Industry Code of Practice includes additional provisions relating to premium charge telephone services, particularly those directed at children. Information about the cost of the call must be in a form children can understand and children must be invited orally to seek parental permission before calling.

The ABA also monitors new research being conducted in this area to assess its implications for advertising to children.

The ABC does not broadcast advertisements. Section 4 of the SBS Codes of Practice requires that SBS takes account of the “Classification and Placement of Commercials and Community Service Announcements” contained in Section 6 of the Commercial Television Industry Code of Practice 1999. Section 6.4.3 of the Commercial Television Code requires that a commercial or community service announcement must comply with “any relevant requirements of the Australian Broadcasting Authority’s Children’s Television Standards”. Sections 6.20-6.22 include further requirements regarding content and scheduling of commercials or community service announcements directed to children in accordance with the CTS.

**Recommendation 7**

The JSCOT recommends that the Government establish an effective and timely complaints mechanism in relation to television programs and advertisements.

**Response**

Agreed.

**Comment**

Under the BSA if a person wishes to make a complaint about program content or compliance with a code of practice, they must make that complaint to the broadcaster concerned in the first instance. If either the person does not receive a response within 60 days, or receives a response but believes it to be inadequate, the person may make a complaint to the ABA about the matter. The ABA must investigate such complaints unless it is satisfied that the complaint is frivolous, vexatious or not made in good faith.

Complaints about possible breaches of licence conditions or breaches of the BSA can be made directly to the ABA. Licence conditions cover program standards including Australian content and programs made specifically for children, tobacco advertising, advertisements relating to medicines and political advertising.

In 1999 the ABA conducted a national survey into community attitudes relating to television programs. The research results are used to monitor the effectiveness of television codes of practices by ensuring they reflect community standards. Among other issues, the study explored the extent of community awareness about the process of making a complaint. The results provide a benchmark for the assessment of changes made to the Commercial Television Industry Code of Practice, including the requirement that broadcasters provide regular on-air information about the codes of practice and complaints procedures.

The ABA completed 137 investigations into program matters in the financial year 1999-2000.
This was 25% more than the 109 completed in 1998-99. The average time taken by the ABA to complete an investigation was approximately 13 weeks, 2 weeks less than in 1998-99. Over 85% of investigations were completed within 4 months of receipt of the complaint or the receipt of additional information.

Breaches of codes of practice are not breaches of the BSA. However, the ABA can make compliance with a code of practice a condition of licence. There are substantial penalties (up to $220,000 for commercial television) for breaches of licence conditions. As discussed above in the response to Recommendation 5, in April 2000, an additional licence condition was imposed on the licensee of commercial television station QTQ9 Brisbane.

The licence condition requires the licensee to comply with clauses 3.6, 3.7 and 3.8 of the Commercial Television Industry Code of Practice concerning the broadcasting of promotions in G viewing periods. Generally, the ABA has worked with broadcasters concerned to ensure that they put in place appropriate mechanisms so that future breaches of the same or similar kind do not occur. The ABA has been generally satisfied with this approach.

Complaints about the classification and placement of commercials are covered under codes of practice. Complaints about advertising in programs classified C are covered in the CTS and can be made direct to the ABA. Under the CTS no advertising is allowed in preschool (P) classified programs broadcast in P periods.

Complaints about other issues to do with advertising such as taste and decency, health and safety, and alarm and distress to children are not covered by codes of practice or the BSA. However, complaints about such matters may be directed to the Advertising Standards Board (ASB). The ASB is funded by the advertising industry and comprises members of the public who are appointed from a broad cross-section of the community so that a range of current community attitudes are fairly represented.

The ABC receives very few complaints concerning children’s programs, and already has in place effective and timely mechanisms for all programming complaints. Complaints handling procedures are the subject of regular review within the organisation.

Under the BSA, complaints relating to compliance with the Code of Practice on the part of the ABC should be made in the first instance to the ABC. The ABC has in place detailed procedures for handling complaints. If the ABC does not respond in a specified time period or complainants remain dissatisfied with the ABC’s response, complainants have recourse to:

- the Independent Complaints Review Panel, if the complaint alleges a serious case of bias, lack of balance or unfair treatment arising from an ABC broadcast or broadcasts; or
- the ABA, if the complaint is covered by the ABC Code of Practice.

The ABC believes that these procedures provide an effective and timely complaints mechanism in relation to television programs.

Similarly, the SBS has in place effective and timely mechanisms for all programming complaints. Complaints handling procedures are the subject of regular review within the organisation.

Under the BSA, complaints relating to compliance with the Code of Practice on the part of the SBS should be made in the first instance to the SBS. The SBS has in place detailed procedures for handling complaints. If the complaint is covered by the SBS’s Code of Practice and the SBS does not respond in a specified time period or complainants remain dissatisfied with the SBS’s response, complainants have recourse to the ABA.

The SBS believes that these procedures provide an effective and timely complaints mechanism in relation to television programs.

The right to know the parents

Recommendation 8

The JSCOT recommends that the Government request that information identifying gamete donors be registered in all jurisdictions.

Response

Agreed in part.

Comment

The Government considers that mandatory record keeping, including donor identification, and the setting up of a central register by all clinics involved in gamete transfer is important for medical reasons. In cases where it is possible that disease/abnormality may have been inherited in the offspring, there may be a need to confirm the genetic nature of a disorder and where it is sought, to give adequate genetic information to the recipient/recipient family and/or the donor so that future informed reproductive choices can be made.

The Government is of the view that any collection of gamete donor information should only proceed with appropriate privacy safeguards in place, as the information that would be collected and stored in this context is highly sensitive. Privacy
safeguards in relation to any such collection should be consistent across all jurisdictions.

The Government, therefore, agrees with the recommendation that identifying information should be recorded, provided that adequate privacy safeguards are in place in all jurisdictions.

Guidelines for Genetic Registers and Associated Genetic Material were developed by the Australian Health Ethics Committee, after wide consultation. The Guidelines were accepted by the National Health and Medical Research Council in November 1999 and became effective from 1 January 2000. A major issue in those guidelines is that of record keeping and disclosure of information.

The view of the Australian Health Ethics Committee is that information held on a genetic register may only be provided to the registrant’s blood relatives or spouse with the registrant’s consent. Care should be taken not to inadvertently disclose registrants’ confidential information to other family members, even if they are also registrants. With regard to deceased registrants, such information may be provided without consent to a spouse or relative who is the registrant’s senior available next-of-kin.

Non-discrimination
Recommendation 9
The JSCOT recommends that the Government request the Standing Committee of Attorneys-General to review legislation to ensure that there is no exploitation of children on the basis of age.

Response
Noted.

Comment
This recommendation concerns issues for which the individual States and Territories are primarily responsible. The Report has been referred to the States and Territories for their consideration.

The Federal Government is committed to ensuring that children are not exploited. The Federal Parliament enacted child sex tourism provisions in the Crimes Act 1914. The legislation was enacted in part, in response to Articles 19 and 34 of the Convention on the Rights of the Child (CROC) which place obligations on States Parties to take action, at both a national and international level, to protect children from exploitation.


Australia also supported the development of an Optional Protocol to CROC on the Involvement of Children in Armed Conflict. That Protocol was also adopted by the UN General Assembly in May 2000. The possible signature of this Protocol is currently being considered in accordance with normal treaty procedures.

In addition, the Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 came into force on 21 September 1999. The Act creates offences in relation to slavery, sexual servitude and deceptive recruiting for sexual services. The penalties imposed in respect of these offences are higher where the victim is aged under the age of 18 years. The range of offences addresses the disturbing increase in the international trade in people for the purposes of sexual exploitation, to which children are increasingly falling victim.

The Act also gives effect to Australia’s obligations under a wide range of international instruments to prohibit servitude and the trafficking in persons for the purposes of sexual exploitation, including the Convention on the Elimination of all Forms of Discrimination Against Women, CROC and the Universal Declaration of Human Rights.

The Government is also committed to ensuring that children do not suffer discrimination. Children are protected against discrimination under all federal anti-discrimination legislation in the same way as adults. Furthermore, the Government has made a commitment to develop new legislation to prohibit discrimination on the basis of age. The legislation will protect Australians of all ages, including children and young people, from age discrimination in a range of areas of public life.

The legislation will balance the need to eliminate unfair discrimination on the basis of age with the need to ensure sufficient flexibility to allow for situations where age requirements have particular policy significance (for example in relation to youth wages, job training and social security). To achieve this balance, the Government is consulting a wide range of business and community organisations, including those representing children.

The Human Rights and Equal Opportunity Commission (the Commission) has the power to inquire into complaints in relation to Commonwealth practices which are allegedly inconsistent
with CROC and to take action to promote CROC. Violations of such human rights are not made unlawful under the Human Rights and Equal Opportunity Commission Act 1986 (the HREOC Act), but a complaints process is established and if the act is inconsistent with or contrary to any human right and conciliation is either inappropriate or unsuccessful, a report to the Attorney-General must be made. In addition, paragraph 11(1)(k) of the HREOC Act empowers the Commission to report to the Minister on steps that need to be taken by Australia to comply with the provisions of certain international instruments. Those instruments include the CROC.

Recommendation 10
The JSCOT recommends that the Government request the Standing Committee of Attorneys-General to review legislation, policies and practices to ensure that children in all jurisdictions are adequately protected.

Response
Noted.

Comment
This recommendation concerns issues for which the individual States and Territories are primarily responsible. The Report has been referred to the States and Territories for their consideration.

In areas of Commonwealth responsibility, the Federal Government is already committed to ensuring that children are adequately protected. For example, a consultative group has been convened by the Attorney-General to assist with a review being conducted on the adequacy of protection for children’s personal information under Commonwealth privacy legislation. The group is assisting with the preparation of a discussion paper which will form the basis for wider public consultation on the issue.

At the Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSI) meeting on 28 July 2001, members agreed to target local area priorities in implementing a national strategy on Indigenous family violence. The strategy seeks to achieve outcomes that reflect measurable improvement in seven areas, the first being child safety and well-being. This means protection of children from all forms of child abuse.

In April 2002, the Council of Australian Governments (COAG) agreed that the Commonwealth and States and Territories would work together in partnership with Indigenous communities in a ‘whole of government’ approach in up to ten communities or regions. The first of these regions, Cape York in Queensland, was announced on 25 September 2002. Through this initiative, governments will explore more cooperative and integrated responses to the needs identified by Indigenous communities, including issues of child protection.

In addition, the Commonwealth has initiated the consideration of child abuse and protection by COAG on 29 November 2002. The Council’s interest in the protection of children across all jurisdictions is likely to involve considering the scope of current protection arrangements.

Recommendation 11
The JSCOT recommends that the Government investigate educative initiatives apart from the formal complaints mechanisms which can address racial discrimination against children evident in the community.

Response
Agreed.

Comment
The Government is of the view that a range of current initiatives is already effectively working towards this outcome.

The Government is aware of the need to educate the community about racial discrimination against children and has implemented a range of ongoing initiatives which attempts to address this problem.

Living in Harmony Initiative
The Living in Harmony initiative was launched in 1998. It comprises three linked elements—a community grants program, a partnership program and a public information strategy. Children and youth are a major target group of the initiative.

The community grants program is the centrepiece of the initiative, and relies on local groups to identify relevant issues of racism at the “grass roots” level and propose suitable projects that address their own community needs. Over 50% of the 137 community grants awarded since the inception of the Living in Harmony initiative have a youth focus.

The projects resulting from these grants have operated in a variety of settings including schools, sporting and youth clubs. They have covered a wide range of issues such as enhancing respect for marginalised Indigenous youth, identifying and addressing elements of discrimination and vilification that are causal links to juvenile offending and programs that enhance increased participation and acceptance of young people from all backgrounds within sporting clubs and teams.

As well, through the partnerships program of the initiative, the government is working with a num-
ber of key Australian businesses and community organisations to develop demonstration projects aimed at improving social cohesion and tackling racism, or generating better understanding, respect and cooperation among people from different cultural backgrounds. In addition, under the partnerships element of the Living in Harmony initiative, a number of programs has been implemented with organisations operating at a national level to address issues of racism which affect Australia’s young people.

An example of such a partnership was that with the Conference of Education Systems’ Chief Executive Officers (a body composed of representatives from the Commonwealth, the States and Territories, the Catholic system and independent schools) which created a comprehensive web-site of a variety of educational resources through which schools and students can be made aware of and address racism in schools (www.racismnoway.com.au).

The third element of the Living in Harmony initiative is the public information strategy. The strategy promotes and reinforces the concepts and practice of acceptance and fairness in our community. The main feature of the public information strategy is Harmony Day, which coincides with the United Nations International Day for the Elimination of Racial Discrimination (21 March). For Harmony Day 2002, a specific resource kit with activities to address racism for primary schools was developed and distributed.

The Living in Harmony initiative will continue to have a focus on the prevention of racial discrimination experienced by children and young people through the ongoing promotion of the Living in Harmony messages and by practically addressing these issues at both the local and national levels.

The Human Rights and Equal Opportunity Commission (the Commission)

The functions of the Commission under the Racial Discrimination Act 1975 include the development of educational programs that aim to combat racial discrimination and prejudices that lead to racial discrimination, and the promotion of understanding, tolerance and friendship among racial and ethnic groups. The Government supports the Commission’s work in these areas.

The Commission has sought to respond to the issue of racial discrimination against young people, through the Racial Hatred Act Community Education Program. As part of this program a comic was developed to educate young people about actions they may take to complain about racial harassment. This resource has been evaluated and found to be useful in addressing racist attitudes in school settings.

The Commission has also funded the development of Tracking Your Rights, a holistic human rights education program for Indigenous communities. Indigenous young people were involved in the development of this package designed to assist young people to resolve the range of human rights issues they face including instances of racial discrimination.

Recommendation 12

The JSCOT recommends that the Government formally seek input into policy formulation from Non-English Speaking Background and Indigenous sections of the community in the development of mainstream programs which may be accessed by those groups.

Response

Agreed.

Comment

The Government considers that this recommendation has been implemented.

The Government is aware of the need to consult with target communities in the development of programs which affect them and has implemented a number of strategies to ensure this consultation is achieved.

The Charter of Public Service in a Culturally Diverse Society

In June 1998, the Minister for Immigration and Multicultural and Indigenous Affairs released the Commonwealth’s Charter of Public Service in a Culturally Diverse Society. The Charter fulfils the Government’s access and equity strategy and aims to ensure that government services meet the needs of people from diverse linguistic and cultural backgrounds so that they can participate fully in economic, social and cultural life. The Charter summarises a set of service principles central to the design, delivery, monitoring, evaluation and reporting of quality Government services in a culturally diverse society. The Charter covers all groups in Australian society who are eligible to access government services including Indigenous people. The Charter is based on seven principles: access, equity, communication, responsiveness, effectiveness, efficiency and accountability.

As Government policy, the Charter applies across Commonwealth departments and agencies and is aimed at ensuring that the diverse needs of all Australians are addressed in the development of policies and programs.

For instance, the Government, through the Department of Immigration and Multicultural and
Indigenous Australians

A unique mechanism for obtaining input into the formulation and implementation of government policy exists in the form of the Aboriginal and Torres Strait Islander Commission (ATSIC) which is a government body not controlled by a Minister, but by a popularly elected Indigenous board. ATSIC has an annual expenditure of $1.1 billion on Indigenous programs and is routinely consulted in relation to mainstream and Indigenous specific programs managed by other agencies. An elected ATSIC Commissioner has specific portfolio responsibility for children’s issues.

In addition, numerous Indigenous people have decision-making roles within mainstream agencies, and advise governments through a range of formal, statutory and non-statutory bodies. A large number of Indigenous-controlled organisations are involved in the planning and delivery of government-funded services in areas such as health, housing, legal services and employment. Specifically in relation to children, a network of Aboriginal and Islander Child Care Agencies, and their national umbrella organisation the Secretariat of National Aboriginal and Islander Child Care, receive government funding and make their views known to government and others on a regular basis.

The Department of Health and Ageing has a strong commitment to a partnership between Indigenous communities, mainstream health providers and Aboriginal community-controlled health services as the way to achieve better health outcomes. The partnership approach is embedded in the Agreements on Aboriginal and Torres Strait Islander Health (Framework Agreements) signed by the Commonwealth government, the State and Territory governments, the Aboriginal and Torres Strait Islander Commission and the Aboriginal community-controlled health sector in each jurisdiction. Under the Framework Agreements, Health Forums (comprising the four partners) are responsible for developing regional plans to identify Indigenous health needs and priorities, and identify gaps in current service provision within the context of a comprehensive primary health care model.

In relation to mainstream public health strategies, it is of note that the National Public Health Partnership Group (NPHPG), a Commonwealth-State forum to strengthen public health infrastructure and response capacity, agreed in September 2000 to create a sub-committee called the Aboriginal and Torres Strait Islander Working Group (ATSIWG). The purpose of ATSIWG is to provide advice on Aboriginal and Torres Strait Islander health issues to the NPHPG Representa-
tives from the National Aboriginal Community Controlled Health Organisation (NACCHO), Standing Committee on Aboriginal and Torres Strait Islander Health (SCATSIIH), ATSIC and the NPHPG comprise the membership of ATSIWG.

In relation to the development of individual public health strategies, there is a range of mechanisms to address input from Aboriginal and Torres Strait Islander people. These include a number of Aboriginal and Torres Strait Islander specific groups (such as the Aboriginal and Torres Strait Islander Women’s Forum which advises the National Advisory Committee for the National Cervical Cancer Screening Program); groups which have Aboriginal and Torres Strait Islander representation (such as the national environmental health forum: the eHealth Council); and mechanisms to consult with Indigenous stakeholders on the implementation of programs (such as input from NACCHO and SCATSIIH from all jurisdictions on the national Sharing Health Care Program, which supports community based self-management demonstration projects for people with chronic conditions).

From 1996 to 1998, as part of the National Breastfeeding Strategy, the Office for Aboriginal and Torres Strait Islander Health (OATSIH) conducted an audit of training and breastfeeding support and infant nutrition programs available to health professionals who provide health care to Aboriginal and Torres Strait Islander women. OATSIH also conducted a review of current interventions and identification of best practice currently used by community-based Aboriginal health service providers in promoting and supporting breastfeeding and appropriate infant nutrition. This review led to the publication of a resource booklet: Stories and ideas from around Australia—Giving Aboriginal and Torres Strait Islander babies the best start to life: supporting breastfeeding and good food choices for infants. Indigenous Women’s Advisory Group

In March 2002, a new advisory group was established to further enhance the Commonwealth Government’s work with Indigenous women. The 13-member Indigenous Women’s Advisory Group will provide advice to the Government to ensure that programmes and policies consider the needs of Indigenous women.

The formation of the Advisory Group resulted from a meeting early in 2001 of Women’s Ministers from Australia and New Zealand when it was agreed that they would work directly with Indigenous women to develop an action plan that reflects the priorities under the Council of Australian Governments reconciliation process.

The Advisory Group consists of Indigenous women who have been selected from around Australia for their skills, expertise, knowledge of Indigenous issues and participation in their local community. It will meet face-to-face twice a year, hold regular teleconferences, and will work closely with the Commonwealth Office of the Status of Women to ensure Indigenous women’s issues are considered in policy and programme development.

The Australian Government is committed to consulting migrant and refugee women about government programmes. The Commonwealth Office of the Status of Women (with assistance from the Department of Immigration and Multicultural and Indigenous Affairs) conducted consultations with migrant and refugee women around Australia from May to July 2001. A series of forums were held in every State and Territory to seek the views of migrant and refugee women on a number of areas including economic security, violence, health and leadership. These women contributed ideas and proposed solutions to a range of issues that are important to their lives. A report (entitled State and Territory Consultations with Migrant and Refugee Women) has been produced outlining the individual and collective priorities of women during the forums. The report provides a useful resource for developing and shaping future policy.

Recommendation 13

The JSCOT recommends that the Government formally seek input into the preparation of Australia’s reports on compliance with international treaties from Non-English Speaking Backgrounds and Indigenous sections of the community.

Response

Agreed in part, in principle.

Comment

Consultations with a wide range of community groups, including Indigenous groups and people from culturally and linguistically diverse backgrounds are already part of Australia’s procedure for reporting on compliance with international treaties.

For instance, in compiling Australia’s first comprehensive report under the International Covenant on Economic, Social and Cultural Rights, the Government through the Department of Foreign Affairs and Trade (DFAT) organised formal consultations with representatives of organisations such as the National Aboriginal Community Controlled Health Organisation, the Federation of Ethnic Communities’ Councils of Australia, the Human Rights and Equal Opportunity Commis-
programs and services are accessible to children from culturally and linguistically diverse backgrounds.

The Government, through the Attorney-General’s Department, will consult on future reports under CROC with Indigenous Australians and people of culturally and linguistically diverse backgrounds. Such input will be sought through a Task Force of interested non-government organisations organised by UNICEF Australia. The Attorney-General’s NGO Forum on Domestic Human Rights will also be consulted. Participants in the NGO Forum are non-profit, non-governmental organisations that: have a demonstrated commitment to the United Nations’ human rights treaties; work primarily to enhance the protection of human rights in Australia; have a ‘peak’ or national status; and have a constitution or equivalent document, clear membership and publicly available records.

Organisations invited to attend the NGO Forum include: Association of Non-English Speaking Background Women of Australia; Federation of Ethnic Communities’ Councils of Australia; National Aboriginal and Islander Legal Services Secretariat; Secretariat of the National Aboriginal and Islander Child Care; National Aboriginal Community Controlled Health Organisations; and the Aboriginal and Torres Strait Islander Commission.

The Commonwealth Office of the Status of Women is consulting with interested parties on Australia’s combined fourth and fifth report to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW). While every effort is made to consult with interested NGOs and community groups, formal input into Australian Government reports by these organisations is more difficult. Reports to international committees, by definition, represent the Government’s approach to implementing relevant international treaties. These reports often express policy positions which are the culmination of domestic policy processes entailing consultation. It is neither appropriate nor pertinent to include some comments made during the consultation with NGOs on draft reports.

Recommendation 14

The JSCOT recommends that the Government review its policies and practices to ensure that programs and services are accessible to children from Non-English Speaking and Indigenous backgrounds.

Response

Agreed in part.

Comment

The Government agrees that programs and services should be accessible to children from culturally and linguistically diverse and Indigenous backgrounds. The Government has implemented a number of initiatives to address this issue and does not agree that further review is necessary.

For example, where mainstream child care services are either unavailable or inappropriate, the FACS Children’s Services Program (CSP) funds special service programs to meet the needs of Indigenous children in ways which are culturally appropriate. Some of these programs include playgroups, outside school hours care, enrichment programs, vacation care, Aboriginal resource and advisory services and children’s services workers. Mobile children’s services, which assist in meeting child care needs in rural and remote areas, also include provision for Indigenous children.

In those communities where Indigenous child care services are located, access to the service is highly valued, not only for the care and cultural development provided for children, but also as a source of employment and of support in the form of health monitoring and nutrition, welfare and parent counselling.

The Commonwealth also provides support for child care services caring for children with additional needs. The Supplementary Services Program helps child care services care for children with a range of additional needs, including children from diverse cultural and linguistic backgrounds, Aboriginal and Torres Strait Islander children and children with a disability. Help may include training carers, additional or relief staff, assistance with planning programs and specialised resources and equipment.

The Charter of Public Service in a Culturally Diverse Society

As discussed above in response to Recommendation 12, the Charter aims to ensure that Government services meet the needs of people from diverse linguistic and cultural backgrounds so that they can participate fully in economic, social and cultural life.

The Charter recognises that Government clients can experience double disadvantage if they are from culturally and linguistically diverse backgrounds and are, for example, young people or children. The Charter requires Government de-
The Government has established a range of Indigenous programs designed to supplement the delivery of mainstream social policy services. This is in recognition of the additional disadvantage many Indigenous children experience in comparison with the wider community. Examples of these programs include:

- The National Indigenous English Literacy and Numeracy Strategy 2000-2004, launched by the Prime Minister in March 2000, is a key strategy in achieving levels of English literacy and numeracy among Indigenous students that are comparable to those achieved by other young Australians;

- The Indigenous Education Strategic Initiatives Programme (IESIP) includes payments per Indigenous student to all education providers, designed to assist education providers improve educational outcomes for Indigenous students; and

- The Commonwealth provides around $400 million each year in targeted assistance to Indigenous people for public and community housing and related infrastructure, much of which assists children in families.

All such services either support or run alongside mainstream social policy service delivery programs. Furthermore, their operation does not exclude Indigenous people from accessing mainstream programs.

In relation to public health strategies, the mechanisms outlined under Recommendation 12 were established to advise on facilitating access for people from Aboriginal and Torres Strait Islander backgrounds to programs and services. Examples of such programs are the National Child Nutrition Program and the National Aboriginal and Torres Strait Islander Nutrition Strategy and Action Plan (NATSINSAP).

The Commonwealth’s funding for Indigenous specific health services and related activities will have increased by 89 per cent in real terms between 1996 and 2003-04, ensuring that Indigenous people, including children, have appropriate and increasing access to health services.

The National Child Nutrition Program is a community-based grants program. It aims to improve the diets of young children in priority communities through projects developed and delivered by community groups or organisations. Funding priorities include communities with high needs such as Aboriginal and Torres Strait Islander communities, rural and remote Australians, and communities with social and economic disadvantage. Priority projects will include those that stimulate community partnerships, build on existing infrastructure and programs that improve access to nutritious food and are sustainable.
The NATSINSAP aims to improve the nutrition of Aboriginal and Torres Strait Islander peoples, with one of its priorities being the improvement of child health. The Strategy was developed under the auspices of the National Public Health Partnership, and is a principal component of the national public health nutrition strategy for all Australians “Eat Well Australia”. The NATSINSAP provides a framework for action to improve Aboriginal and Torres Strait Islander health and well-being through better nutrition and was developed through a consultative and participatory process with Aboriginal and Torres Strait Islander people.

As one of the strategies for monitoring the effectiveness of health programs for Australian children and young people, the Commonwealth funds the Australian Institute of Health and Welfare (AIHW) to produce biennial national surveillance and monitoring reports on health and well-being of Australia’s children and young people. The child health report, Australia’s Children: their health and wellbeing, was released in May 2002 and included separate information on Aboriginal and Torres Strait Islander children and children in rural and remote areas of Australia. The report is based on recently developed core health and well-being indicators, which draw on data from a number of national databases. Indicators of health and well-being of Australia’s young people are currently under consideration, with the last youth health report published in 2000.

**Participation in policy and program development**

**Recommendation 15**
The JSCOT recommends that the Government encourage children and young people to have input into the development of policies and programs that affect them.

**Response**
Agreed.

**Comment**
The Government considers that consulting with and listening to the views of young people and organisations working with young people is crucial to making effective policy decisions.

The Voices of Youth package

The ‘Voices of Youth’ package announced in June 1998 improves the Government’s consultation processes with young people and provides the opportunity for direct communication between Government and young people to take place about issues of concern to Australian youth.

**Features of the ‘Voices of Youth’ package include:**

- National Youth Roundtable

The National Youth Roundtable is the centrepiece of the Voices of Youth initiative. The Roundtable brings together 50 young Australians, aged from 15 to 24, in an environment that encourages open discussion. Members are urged to share and exchange with the Government their views on issues that have an impact on young Australians. Members attend a preparatory workshop and two formal Roundtable meetings.

During the year Roundtable members work in topic teams to develop Community Projects around issues of interest. Key Government and community resource groups are encouraged to support these projects. The Department of Family and Community Services (FACS) provides facilitators and nominates specialist support personnel to provide assistance where required.

- The YMCA’s National Youth Parliament

The YMCA currently convenes State-based Youth Parliaments and a National Youth Parliament. These forums provide the opportunity for young people to learn about our parliamentary system and to develop skills in debating, teamwork, leadership and research. The Government provides financial support for the National Youth Parliament to assist with travel and other costs to encourage a broad range of young people to participate.

- The Source

The Source is an Internet site designed for young people and the wider community to have better access to information about the programs and services that the Commonwealth Government provides for young people. A key feature of the Internet site is the opportunity it provides for young people to comment, or ask questions of the Government, on issues of concern to them. The Have Your Say section also seeks feedback on the Internet site and incorporates Youth View where comments are sought on particular topics. The Internet site is a crucial mechanism in enabling easy access for young people, organisations working with young people and the Federal Government to exchange ideas.

- The Youth Officer Network

A national network of Youth Officers has been established. These Officers are responsible for a range of youth focused activities including:

- consulting with organisations working with young people; and
- raising the profile of youth affairs.

Specific to the ‘Voices of Youth’ package, these officers promote the initiatives in the community and provide information to key stakeholders for
distribution. Youth Officers also provide local support to Roundtable members.

- Boards and Committees
Young people are making a significant contribution in all walks of life, however often their contribution is often overlooked. FACS has developed a database where young people aged 18-27 years can nominate themselves for consideration by organisations for participation on their boards and committees. Application forms can be accessed through The Source on the Internet. FACS encourages organisations to include young people on public boards, taskforces and committees. Nominations on the database are matched with requests from organisations.

- Youth.Comm
Youth.Comm is an e-mail discussion list that encourages subscribers to engage in discussion of youth issues, provides feedback to the Government and enables the Government to provide information about youth issues directly and promptly to interested subscribers.

- The Australian Forum of Youth Organisations
This forum provides youth organisations with the opportunity for direct input to the Government to progress key policy objectives and to raise issues based on their experience with young Australians. Established in 1999, the forum meets twice a year and investigates ways that youth organisations and the Government can work more closely in partnership and maintain regular communication.

In addition to the Voices of Youth Package, the Government has also initiated the National Indigenous Youth Leadership Group (NIYLG). NIYLG involves Indigenous Australians aged 15-24 years meeting in an environment of open and honest discussion about areas of interest, their experiences and views, and the experiences and views of other young people in their communities.

The aim of the Leadership Group is to provide additional opportunities for young Indigenous Australians to:
- discuss with the relevant Minister their experiences and perspectives about issues important to them;
- advise the relevant Minister on the most effective ways to empower Indigenous young people in their communities;
- promote positive images of young Indigenous people; and
- develop leadership skills.

Australian Women Speak
The Commonwealth Office of the Status of Women convened its first National Women’s Conference, Australian Women Speak, in August 2001. The Conference brought women, community organisations, women in government and commerce, and academics together from all over Australia to share knowledge and experience and celebrate diversity through plenaries and workshops. Young women were one of the target audiences for the Conference. The Conference sessions covered a wide range of issues that were relevant to young women. The second Australian Women Speak conference will be held at the end of March 2003. Young women and diversity is the proposed theme for the conference.

Young women are a key priority area of the Australian Government’s National Women’s Leadership Initiative. The Initiative involves consultation with individual women and women’s groups and provides funding to projects designed to increase women’s leadership opportunities.

Support for women contemplating abortions
Recommendation 16
The JSCOT recommends that the Government investigate the adequacy of support services to enable women to contemplate alternatives to abortions.
Response
Noted.
Comment
The Australian Government recognises the need to provide safe, affordable and easily accessible family planning services to minimise abortion rates. The legal status of abortion and the provision of related support services in Australia is governed by State and Territory laws.

The Australian aid policy on family planning assistance explicitly excludes projects that involve abortion training and services.

Teenage pregnancy
Recommendation 17
The JSCOT recommends that the Government investigate how abortions can be avoided through appropriate sex education in schools.
Response
Noted.
Comment
Abortion and the curricula of State and Territory schools are matters which fall within the responsibility of States and Territories. The Report has been referred to the States and Territories for their consideration.
As outlined in the response above, Australian efforts focus on the provision of safe, affordable and easily accessible family planning services so that, where possible, women will not need to rely on abortion to help prevent unwanted teenage pregnancies.

*Decision making responsibilities of government agencies*

**Recommendation 18**
The JSCOT recommends that the Government request that the relevant departments and agencies identify their decision-making responsibilities in relation to the Convention on the Rights of the Child and make this information readily available to the community.

**Response**
Agreed in part.

**Comment**
The Government supports this recommendation insofar as it calls for relevant departments and agencies to be aware of all provisions of CROC that may be of relevance to their decision-making responsibilities. To this end, the Attorney-General’s Department will continue to provide advice to relevant departments and agencies on the interpretation and application of those provisions as required. The Department is also able to provide training and advice on CROC to other departments upon request.

*Jurisdictional inconsistencies*

**Recommendation 19**
The JSCOT recommends that the Government request that all relevant bodies address the inconsistencies within Australia in relation to matters that impact on children’s rights, responsibilities and services.

**Response**
Agreed in part.

**Comment**
The Attorney-General’s Department has requested that the Community Services Ministers’ Advisory Council consider the matter of inter- and intra-jurisdictional consistency.

**Recommendation 20**
The JSCOT recommends that the Government review its policies and practices to reduce inconsistencies between portfolios in relation to the provision of programs and services for children and young people.

**Response**
Agreed.

**Comment**
The Minister for Family and Community Services is working to increase coordination and consistency between Commonwealth programs and services for children. A number of formal and informal bodies provide opportunities for increased cooperation across Government. The Ministerial Councils are examples of bodies which facilitate consultation and cooperation between governments.

A Joint Taskforce for the Development, Health and Wellbeing of Australian Children has been established with cross-portfolio membership. Its aims are to work collaboratively across portfolios to improve child outcomes.

**Recommendation 21**
The JSCOT recommends that the Government request the Standing Committee of Attorneys-General to review the existing legislation, policies and practices at Federal, State and Territory levels for compliance with the Convention on the Rights of the Child.

**Response**
Disagree.

**Comment**
The Government does not consider this an appropriate matter for the Standing Committee of Attorneys-General as it covers matters that go well beyond the responsibilities of the Attorneys-General. The Report, however, has been referred to the States and Territories for their consideration.

*Status of non-legislated international treaties in Australia*

**Recommendation 22**
The JSCOT recommends that the Government request the Standing Committee of Attorneys-General to review the Administrative Decisions (Effect of International Instruments) Bill 1997 in 1997 as a matter of priority.

**Response**
Noted.

**Comment**
The Government introduced the Administrative Decisions (Effect of International Instruments) Bill in 1997. The Government introduced this legislation into Parliament to displace the finding in Minister of State for Immigration and Multicultural Affairs v Teoh (1995) 183 CLR 273 that an international treaty to which Australia is a party may raise a legitimate expectation and thus may affect procedural domestic law. This was a clear expression by the Executive Government of a statutory indication to the contrary referred to by the majority of the High Court in Teoh.
The Bill lapsed upon the prorogation of the Parliament in August 1998. The Government re-introduced the Bill into the Parliament on 13 October 1999 (the 1999 Bill is in identical terms to the 1997 Bill). The Bill was passed by the House of Representatives on 11 May 2000 and introduced into the Senate on 5 June 2000. Debate on the Bill in the Senate commenced on 2 April 2001. However the Bill lapsed upon the prorogation of Parliament on 8 October 2001. No decision has yet been taken on its reintroduction.

**Recommendation 23**
The JSCOT recommends that the Government take the necessary steps to ensure relevant officials are aware of pertinent international treaties in making decisions.

**Response**
Noted.

**Comment**
The Government is sympathetic to the thrust of this recommendation as good decision making is dependent upon decision-makers being aware of all relevant material prior to making a decision.

Upon request, the Attorney-General’s Department is available to provide advice and training on the treaties pertinent to the making of administrative decisions.

**Office for Children**

**Recommendation 24**
The JSCOT recommends that the Government establish an Office for Children as an independent statutory authority attached to the Prime Minister’s portfolio to promote the vitality and importance of the family as the basic unit in society, which is responsible for the growth and development of our nation’s children, while recognising the need for government support for families and those children whose well being may be under pressure due to problems confronting the family.

**Response**
Disagree.

**Comment**
The Government is of the view that, with the creation of the Department of Family and Community Services (FACS) and the recent creation of the position of Minister for Children and Youth Affairs, the Government has ensured an integrated approach across the spectrum of Commonwealth policies and programs for children. The Government notes that the Commonwealth Constitution places primary responsibility for children’s matters with State Governments.

The Government is committed to supporting families as the basic unit in society. The Government recognises that families have primary responsibility for the growth and development of the nation’s children. To ensure that families, especially those confronting pressures and problems, are well assisted in their responsibilities, FACS has been building a continuum of services and simplified delivery for families. The Government is committed to improving the coordination and reducing the gaps between the range of children’s services and programs and a philosophy of prevention of child abuse and early intervention as far as possible. Initiatives to combat family violence, such as Partnerships Against Domestic Violence coordinated by the Commonwealth Office of the Status of Women, and initiatives undertaken by FACS such as the Youth Homelessness Pilot Program, child abuse prevention and family relationship programs, focus on the early intervention/prevention end of the continuum. There is also a range of programs to foster good health outcomes for children and youth including a Breastfeeding Strategy, immunisation, mental health programs in schools, and programs addressing alcohol and drug misuse.

**Recommendation 25**
The JSCOT recommends that the role and functions of the Office for Children should:

- ensure that all legislation, policies and practices support the family as the natural environment for the development and well being of children with parents having the primary role and responsibility in raising children;
- develop a national strategy and work with the States and Territories on improving coordination of policies affecting children and their families;
- encourage Federal departments to incorporate the principles of the Convention on the Rights of the Child into their policies, programs and practices and act as a voice for children to government;
- consider the potential impact of Government policies, programs and proposed legislation on children and their families;
- develop mechanisms to assist the coordination of Federal Government policies, programs and practices;
- identify and encourage research on children’s issues;
- provide leadership and coordination in the development of national standards in consultation with the States and Territories;
• consult with community organisations, children and young people in relation to issues affecting them;
• monitor programs and initiatives for compliance with the Convention;
• coordinate the development of models of best practice for services and/or programs relevant to children;
• liaise with the Federal, State and Territory complaints handling agencies and to facilitate cooperation in respect to matters extending beyond the limits of individual State or Territory jurisdictions;
• report to Parliament on the status of children in Australia;
• encourage and facilitate public debate and community awareness on matters relating to children;
• monitor performance of Australia’s international obligations to children;
• establish a mechanism for public reporting on breaches and compliance with the Convention on the Rights of the Child;
• prepare Australia’s reports to the United Nations Committee on the Rights of the Child; and
• investigate appropriate processes to enhance the opportunities for contribution by non-governmental organisations and young people to Australia’s reports to the United Nations Committee on the Rights of the Child.

Response
Noted.

Comment
See response to Recommendation 24.

Complaints mechanisms
Recommendation 26
The JSCOT recommends that the Government review the role and functions of the Human Rights and Equal Opportunity Commission and the Commonwealth Ombudsman to ensure that there are adequate opportunities and resources available to address potential complaints concerning children under the Convention on the Rights of the Child.

Response
Agreed in part.

Comment
The Government is of the view that the resources provided to both the Human Rights and Equal Opportunity Commission (the Commission) and the Commonwealth Ombudsman are adequate. The internal allocation of the available resources is a matter for the respective management of those organisations to consider.

The Human Rights Legislation Amendment Act (No 1) 1999, provides, among other things, that responsibility for the administration of the Commission rests with the President as Chief Executive Officer.

Further, changes were proposed in the Human Rights Legislation Amendment Bill (No 2) 1999. The Bill provided for the replacement of ‘portfolio-specific’ Commissioners with Deputy Presidents. Under that proposed restructure, the President, all Deputy Presidents and the Commission as a whole would have responsibility to protect and promote the human rights of all Australians. The Bill lapsed when the Federal Election was called in late 2001.

The Government remains committed to pursuing reform to the structure of the Commission. Reforms to the Commission’s structure will give it the flexibility to make the most efficient use of its resources in the manner in which it sees fit. Reforms to the Commission’s structure also will be directed at addressing the perception which has existed in the past that the Commission is too focused on protecting those sections of the community for whom a specific Commissioner exists, to the detriment of other disadvantaged or vulnerable sections of the community.

As stated above in the response to Recommendation 9, the Commission is empowered to inquire into any act or practice that may constitute a breach of CROC.

The Government does not accept that the Commonwealth Ombudsman is an appropriate body to deal with complaints concerning the human rights of children. The Ombudsman has jurisdiction to handle only those complaints which deal with maladministration by Commonwealth Departments.

Monitoring the implementation of the Convention in Australia
Recommendation 27
The JSCOT recommends that the Government develop a coordinated mechanism for ongoing monitoring of the implementation of the Convention.

Response
Already undertaken.

Comment
The Government is of the view that the current regime satisfactorily ensures ongoing monitoring of the Convention.
The implementation of CROC is monitored in a variety of ways. The CROC itself establishes an obligation on States Parties to report on the implementation of the Convention. In addition, the United Nations Committee on the Rights of the Child recognises a monitoring role for national human rights institutions, non-government organisations, interested community groups and members of the public. In particular, the United Nations Committee encourages dialogue between national governments and domestic NGOs. It also recognises that interested non-government parties are entitled to submit their own reports to it should they wish.

In Australia, Federal, State and Territory Governments and the Human Rights and Equal Opportunity Commission, monitor issues relevant to CROC. The continuing work of the Australian Bureau of Statistics and the Australian Institute of Family Studies to develop indicators of the well-being of children, and similar work by other agencies, together with the periodic social reports on children produced by the Australian Bureau of Statistics and the Australian Institute of Health and Welfare, provide an important reference both in the reporting process and in the development of national policies and strategies to meet Australia’s obligations under the CROC.

Support for families

Recommendation 28

The JSCOT recommends that the Government consider the adequacy of resources and the mechanisms in place to provide early intervention programs to support families and thereby to reduce the need to remove children from families.

Response

Agreed.

Comment

These matters fall within the responsibilities of the States and Territories. The Report has been referred to the States and Territories for their consideration.

The Department of Family and Community Services (FACS) manages a range of programs to assist families to build their capacity and their resilience, including through supporting and strengthening relationships, and facilitating families in selecting and receiving the help they need at times of transition or crisis. Many of the programs managed by FACS have a strong focus on early intervention and capacity building.

The Stronger Families and Communities Strategy was developed during 1999/2000 and is currently being implemented. The Strategy is establishing new partnerships to strengthen families and communities and to develop and deliver solutions at a local level. The Strategy focuses on three priority areas that are important to families: early childhood and the needs of families with young children; strengthening marriage and relationships; and balancing work and family.

The Family Relationships Branch of FACS administers the Family Relationships Services Program (FRSP). Community based organisations are contracted to provide services that include: family relationships education, family relationships skills training, family relationships counselling, family relationships mediation, adolescent mediation and family therapy, and children’s contact services. A series of forums with providers was held in 2000 to further develop child inclusive practices. FACS also manages parenting services including Playgroups, Good Beginnings and Aboriginal and Islander Child Care Agencies.

A range of other programs and pilots with an early intervention and capacity building focus is being managed and developed by FACS.

The Commonwealth has initiated the consideration of child abuse and protection by the Council Of Australian Governments on 29 November 2002.

Recommendation 29

The JSCOT recommends that the Government assess the adequacy and accessibility of counselling and mediation services provided for families.

Response

Already undertaken.

Comment

The Government is of the view that these issues are already being adequately addressed.

The Family Relationship Services Program (FRSP), mentioned in the response to recommendation 28, contracts 41 organisations to provide family and child counselling services. Such services support families to resolve their relationship and child-related problems in the most appropriate and helpful way, and are available at various stages of family life: pre-marriage, marriage, separation, divorce and re-marriage. An evaluation, conducted in 1996, found that organisations were effectively meeting the needs of most of their clients. As more resources become available to expand counselling services, access to services will be determined through equitable resource allocation.

The FRSP contracts 17 organisations to provide family and child mediation services. Family and child mediation is provided as a specialist service
for separating and divorcing couples and their children, as an alternative to litigation through the Family Court. Two evaluations of mediation services in Melbourne and Sydney found high levels of satisfaction with the process and outcomes of mediation. Three recently released research reports will assist the FRSP to promote community awareness of the availability of mediation services and tailor counselling and mediation services to the needs of families, especially children.

The Government is providing funding of $60m over 1999-2003, with ongoing funding of $20m, for the Reconnect program (formerly the Youth Homelessness Early Intervention Program) in response to a principal recommendation of the final report of the Prime Ministerial Youth Homeless Taskforce, Putting Families in the Picture. Reconnect will provide early intervention support for young people aged between 12 and 18 years at risk of homelessness, and their families, through counselling, adolescent mediation and practical support. The program is being established through a staged process, which first identifies and funds projects in communities with the highest need before expanding to other high need communities. When fully operational the program will consist of approximately 100 services which will enable assistance to be provided to approximately 12,000 cases per annum, involving around 7,000 young people and 5,000 families.

Recommendation 30
The JSCOT recommends that the Government consider the adequacy of and accessibility of parenting courses.

Response
Already undertaken.

Comment
Raising the quality of parenting has been a main thrust of the Government’s initiatives in preventing child abuse and neglect. Over the past three years the Government has funded a number of parenting initiatives that explore new approaches and develop appropriate user-friendly and culturally appropriate parenting resources. Some examples are new approaches to men’s parenting, programs for parents with special needs and those of Indigenous and culturally diverse backgrounds, and a program that helps parents in prison sustain relationships with their children. Reports of the outcomes of these projects have been very encouraging and will be collected and published so that they can be replicated in the future.

As part of the 1997 Commonwealth Government’s response to the Bringing Them Home report, specific funding was provided for Indigenous parenting programs. This funding was made ongoing for a further four years in the 2001 Federal Budget.

The Government has also funded a national pilot parenting program, the Good Beginnings project. The project commenced with four volunteer home visiting programs operating in Sydney, Hobart, Katherine and Moe (Victoria). It has now expanded to some thirteen different projects covering home visiting, new baby groups, fathers’ support groups and a parenting program for prison inmates. Good Beginnings draws funding from corporate and philanthropic organisations as well as Governments, both State and Commonwealth. It has also established its own fund raising strategy, the CLUB 200.

The evaluation of Good Beginnings conducted after two years of operation has shown that the program has been effective for parents in providing emotional support (someone to talk to and offer reassurance and companionship) and practical support with their babies and small children. Major research projects on men’s role in parenting, entitled “Fitting Fathers into Families” and the parenting of adolescents “Growing up in Australia” have been completed. These areas were chosen for research as existing parenting education was not seen as particularly relevant and men were not accessing it. The outcomes from the research will provide valuable information that will help guide the development of initiatives that will make parenting education more relevant and accessible in these areas.

The Government has responded to a Family Law Council report, which examined issues and possible solutions to problems being experienced by parents where Family Court ordered contact with children was being withheld or obstructed, by establishing a Contact Orders Pilot Program in three states. The target group of the Pilot is families where a contact order has been applied for, issued by or registered with a court. The Pilot is trialling a methodology for this group which uses education, counselling, mediation and child contact centres for families undergoing difficulties in the enforcement of child contact orders. The Pilot aims to gain information about how to more effectively and flexibly respond to the needs and concerns of families, ensure compliance with contact orders, and how to deliver services which enable children to enjoy a relationship with their non-resident parent. Funding for the Pilot commenced on 1 April 1999, and has been augmented
so that the Pilot will now run for an additional two years, ending in mid-2003.

The Family Relationship Services Program, referred to in the response to recommendations 28 and 29, is also relevant in this context.

Support services for parents will be considerably enhanced by the Stronger Families and Communities Strategy. Local communities will be able to develop and provide services that support parents and that are appropriate to that community. They will be able to build on existing services and community resources, adopt or adapt existing programs or approaches or develop their own approach. Of this strategy, $20 million over four years is specifically for Indigenous families.

The Partnerships Against Domestic Violence initiative strengthens community efforts to address domestic violence, and a number of the over 100 projects under its first phase worked directly with children and families, thereby strengthening parenting skills. One of the key priority areas of the second phase focuses on addressing and preventing the negative effects on children who experience domestic violence in their home. Of the $50 million allocated to this strategy, over $10 million has been allocated to Indigenous matters. In particular $6 million has been allocated to a Grants Programme to assist Indigenous communities to find their own solutions to family violence.

Together with the parenting and family support programs that are being funded by State and Territory Governments and the non-government sector, it is considered that much is being accomplished in raising the quality and improving the accessibility of parenting education. However, this will continue to be monitored.

Recommendation 31
The JSCOT recommends that the Government research possible indicators of families at risk in Australia and the opportunities to provide early intervention support to reduce the need to remove children from families.
Response
Agreed.
Comment
The Government recognises that the physical and mental health needs of children ‘in care’ are significant public health issues. There is evidence that outcomes for these children compare poorly with the rest of the Australian population.

There is strong evidence from both overseas and Australia that programs which support families in the early years of parenting result in improved health and well-being for children. The improvements include: a reduction in the amount of hospital admissions for all causes; less occurrence of either accidental or deliberate injuries; improved school performance; and a reduction in the amount of behaviour disorders. There is also evidence that a healthy start in life reduces the likelihood of chronic disease in adulthood.

Parenting and family support programs, such as those referred to in response to the preceding three recommendations, provide early intervention support to families. FACS funded a collaborative research project to identify the factors critical to the measurement of family functioning. The findings of the project are contained in a report, “Indicators of Social and Family Functioning”. The report will improve information collection and sharing across government and non-government sectors and enable better collaboration on matters of mutual concern.

A centrepiece of the Government’s 2001-02 Budget is Australians Working Together—Helping people to move forward, where the Government aims to ensure that the welfare system for people of working age provides as much encouragement as possible for people to get a job, to gain new skills and to be involved in their communities. This package pays particular attention to the needs of Indigenous people by providing $82.7 million over four years for measures specifically targeted to them.

The Department of Health and Ageing funds the production of comprehensive reports on the health and wellbeing of Australian children and youth. These reports provide on-going and detailed information on trends and are used to identify areas of need.

Recommendation 32
The JSCOT recommends that the Government investigate the extent to which Aboriginal representatives are consulted during decisions on the placement of Indigenous children in care.
Response
Noted. This is a matter primarily for State and Territory Governments.
Comment
The Government considers consultation with Aboriginal representatives during decisions on the placement of Indigenous children in care to be an issue for States and Territories as they are responsible for decisions on the placement of children in care. The Report has also been referred to the States and Territories for their consideration. Although the issue is a State and Territory responsibility, consultation with Indigenous representatives when placing an Indigenous child in
care has previously arisen in a number of contexts in the Commonwealth arena.

In 1986, the Social Welfare Ministers’ Conference adopted the Aboriginal and Islander Child Care Placement Principle, which outlined a preference for the placement of Aboriginal children with Aboriginal people when placed outside their families. All jurisdictions have adopted this approach either in legislation or policy.

This principle was endorsed, and expanded upon, by the Royal Commission into Aboriginal Deaths in Custody. Recommendation 51 of the Human Rights and Equal Opportunity Commission’s report Bringing Them Home encouraged States and Territories to adopt the above principle and also to recognise the essential role of Aboriginal Child Care Agencies in decisions affecting Indigenous children. All jurisdictions have adopted this principle in either legislation or policy.

*Involvement of extended families*

**Recommendation 33**
The JSCOT recommends that where appropriate the Government review mechanisms for greater involvement of extended families for children in care.

and

**Recommendation 34**
The JSCOT recommends that the Government investigate the feasibility of establishing a voluntary register for grandparents.

**Response**
Noted. This is a matter primarily for State and Territory Governments.

**Comment**
The treatment of children in care is essentially a State and Territory issue.

As previously mentioned, the Report has been referred to the State and Territories for their consideration.

In relation to the role of extended family members in the care and raising of children, section 60B(2)(b) of the Family Law Act 1975 (the FLA) states that an object of the FLA is that “children have a right of contact, on a regular basis, with both their parents and with other people significant to their care, welfare and development.”

Sections 69C(2)(c) and (d) of the FLA provide that proceedings under the FLA may, unless the contrary intention appears, be instituted by a grandparent of the child or any other person concerned with the care, welfare or development of the child. The Family Law Amendment Act 2000 clarified the rights of grandparents to initiate proceedings in respect of their grandchildren to allow applications for a parenting order, a maintenance order, a location order and a recovery order.

In a related matter, the FLA takes into account the needs of Indigenous children. Specifically, it provides that the judge has to take into account the child’s ‘need to maintain a connection with the lifestyle, culture and traditions of Aboriginal people or Torres Strait Islanders’ when determining what is in the best interests of the child. Due to this provision, the judge will hear evidence supporting the view that placing Indigenous children in non-Indigenous families can fail to address the needs of the child. A judge has also given orders that a child be in the custody of ‘his extended maternal and paternal family’, thus recognising the extended family lifestyle of Indigenous people.

Whilst in custody, children are wards of the state. The Royal Commission into Aboriginal Deaths in Custody recommended that juveniles (and adults) when incarcerated be placed in an institution where contact with family members is possible, be they immediate or extended. The States and Territories, which manage the prison system, have adopted this recommendation.

The Government also recognises that recommendations 33 and 34 may assist to locate family members to provide support and care in some cases, but will not be an appropriate solution for all. Properly funded government support services will always be necessary, as there will always be cases in which there are no grandparents or other family members who are capable of providing appropriate care.

*Support for disadvantaged and disabled children*

**Recommendation 35**
The JSCOT recommends that the Government should consider the adequacy of facilities and accessibility of child care and assistance to families with disadvantaged and disabled children.

**Response**
Agreed.

**Comment**
The Government has already implemented this recommendation.

The Commonwealth provides funding for Child Care Benefit payments made to assist families to gain access to quality child care to enable them to participate in the workforce and the broader community. This assistance is targeted to low and middle income families who might otherwise be disadvantaged in accessing appropriate care for their children.
The Commonwealth also provides support for child care services caring for children with additional needs. The Supplementary Services Program helps child care services care for children with a range of additional needs, including children from diverse cultural and linguistic backgrounds, Aboriginal and Torres Strait Islander children and children with a disability. It is complemented by the Special Needs Subsidy Scheme which helps child care services care for children with ongoing high support needs, particularly children with disabilities. In home-based Family Day Care, extra assistance is available through the Disabled Supplementary Services Program.

Under each of these three programs, assistance is provided in recognition of the additional care and attention that such children require. Help may include training carers, additional or relief staff, assistance with planning programs and specialised resources and equipment.

**Children and young people in care**

**Recommendation 36**

The JSCOT recommends that the Government investigate the adequacy of, and accessibility to, support services for young people leaving care.

**Response**

Noted.

**Comment**

These matters fall within the responsibilities of the States and Territories. The Report has been referred to the States and Territories for their consideration.

Although support services for young people leaving care are primarily the responsibility of State/Territory Governments, in recognition of the difficulties young people leaving care face when establishing independent living, the Commonwealth introduced the Transition to Independent Living Allowance (TILA) in the 2001-2002 Budget. TILA is a targeted measure that provides support and assistance of up to $1000 to young people moving from care, to help them establish a separate household or with up-front costs of participation in education or employment. TILA is not subject to repayment. TILA will be implemented from March 2003.

**Recommendation 37**

The JSCOT recommends that the Government investigate the adequacy of complaints mechanisms for reporting abuse when the child is in care and develop a best practice model.

**Sterilisation of disabled children**

**Recommendation 39**

The JSCOT recommends that the Government investigate the adequacy of support programs providing alternatives for parents contemplating the sterilisation of children with disabilities.

**Response**

Already undertaken.

**Comment**

Since the release of the JSCOT's recommendations in August 1998 there have been a number of developments relating to the sterilisation of children with disabilities. In November 1998, the Federal Government amended the Medicare Benefits Schedule to draw medical practitioners' attention to the illegality of performing procedures resulting in the sterilisation of a minor without the consent of the Family Court of Australia, or a court or tribunal with the appropriate jurisdiction, unless the sterilisation occurs as an unavoidable consequence of surgery carried out to treat some malfunction or disease.

The Commonwealth Attorney-General has approved revised Commonwealth Priorities and
Guidelines for Legal Assistance in Respect of Matters Arising Under Commonwealth Law, which came into effect on 1 July 2000. The Guidelines reflect the Government’s policy of encouraging parents to act lawfully by seeking a court order for special medical procedures, such as sterilisation, by making legal aid more accessible and clarifying who is eligible. The Guidelines also provide that legal assistance should be granted for the separate representation of a child in any court case relating to special medical procedures such as sterilisation.

The means test is not applied in such cases, and a Legal Aid Commission must not try to recover any of the costs for the child’s representative from the child’s parents, whether they are legally assisted or not. In addition, legal aid must be provided to the parents of a child in any court case relating to special medical procedures (including sterilisation), where the parents meet the means test.

The Attorney-General has also written to Australian medical colleges and associations to inform them of the law and procedure surrounding the non-therapeutic sterilisation of minors with an intellectual disability. An open version of this letter was provided to selected Australian medical journals for publication and has been posted on the Internet.

On 15 March 2000, a motion was passed in the Senate that called on the Government to:

(i) conduct a review of the legal, ethical and human rights mechanisms in place, or needed, to protect the rights and interests of the reproductive health of women with intellectual and other disabilities; and

(ii) commission research on the practice, effect and implications of the sterilisation of women with intellectual and other disabilities.

The then Minister for Family and Community Services, Senator the Hon Jocelyn Newman, undertook to report to the Senate on the issues raised in this motion. The final report entitled “Sterilisation of Women and Young Girls with an Intellectual Disability” was tabled in the Senate by Minister Newman on 6 December 2000. The Report covers the background to the issue of sterilisation of women with disabilities, provides recent statistics on sterilisation procedures, and details a cross-Departmental response to the Senate’s calls for a review of relevant legal, ethical and human rights mechanisms and the commissioning of research.

Senator Newman’s Report was compiled as a result of collaboration between the Departments of Family and Community Services and Health and Aged Care, the Attorney-General’s Department and the Office of the Status of Women in the Department of the Prime Minister and Cabinet.


The authors of this report analysed Court and tribunal files and provided information concerning the services and support programs provided to children and families who applied for sterilisation procedures. The report found that, since 1997, ‘there appears to have been marked progress in the area of disability service providers’ education and skills development relating to menstrual management programs and parent education’.

As the report noted, Special Medical Procedure Protocols have been developed for the Family Court in Queensland and Victoria, and are currently being negotiated in both NSW and South Australia. These protocols seek to ensure collaboration between the court and other key agencies in order that sterilisation applications proceed to court only after less invasive alternatives have been considered.

The Attorney-General is currently considering the recommendations of the Human Rights and Equal Opportunity Commission arising from this report.

In 2001, as part of its National Women’s Non-Government Organisation Funding Programme, The Commonwealth Office of the Status of Women funded a non-government organisation Women With Disabilities Australia (WWDA) to write the Moving Forward: Sterilisation and Reproductive Health of Women and Girls with Disabilities report. This report identified many of the issues that were raised in the Human Rights and Equal Opportunity Commission report The Sterilisation of Girls and Young Women: Issues and Progress.

The Attorney-General’s Department has consulted the Family Court and Federal Magistrates Service about the issue of whether procedures relating to sterilisation applications could be simplified.

Family Planning Organisations in most States and Territories offer sex education tailored for the special needs of children with disabilities. These include, for example, one-on-one consultations; workshops for people with an intellectual disability, their parents or guardians, doctors, nurses, other health professionals, teachers, or disability workers; and information/fact sheets.
The issues covered are menstrual management advice; alternative contraception options; the necessity for safe sex practices (regardless of sterilisation); legal processes (for example in regard to obtaining consent to or seeking authorisation for sterilisations); and referrals. Health professionals, parents and guardians contemplating sterilisation of young people with disabilities are welcome to use the services provided by the Family Planning Organisations.

As the Commonwealth shares responsibility with the States and Territories for a range of support services to people with disabilities, their parents and carers, the Report has also been referred to the States and Territories for their consideration.

In October 2001, the Attorney-General’s Department convened a Forum which focussed on the recommendations made in the latest HREOC commissioned report to identify options for action on the issue of non-therapeutic sterilisation of minors with an intellectual disability. Forum participants included representatives from State and Territory government departments, the Family Court, the Federal Magistrates Service, the Office of the Status of Women, the Office of Disability in the Department of Family and Community Services, the Department of Health and Aged Care, and the co-author of the report.

Topics covered at the Forum were education and information strategies, jurisdictional issues and options, review of the Medicare Benefits Schedule note and methods of data collection.

The Attorney-General’s Department and the Department of Health and Ageing have already worked together to recommend further changes to the Medicare Benefits Schedule, in order to make the strict legal requirements applying to the sterilisation of minors with disabilities more explicit.

The Human Rights and Equal Opportunity Commission will be working with WWDA in order to establish whether there are like recommendations made in the Human Rights and Equal Opportunity Commission and Women With Disabilities Australia reports, that may be taken forward.

The Commonwealth Office of the Status of Women will continue to take a close interest in the outcomes of this work.

**Access to support for young Indigenous people**

**Recommendation 40**

The JSCOT recommends that the Minister for Social Security review the eligibility criteria for the Common Youth Allowance to ensure that Indigenous young people have access to appropriate support.

**Response**

Noted.

**Comment**

The eligibility criteria for Youth Allowance were developed in consultation with community groups to ensure equitable access for all young Australians. The criteria are broadly based on the previous primary income support payments available to young people, ie AUSTUDY, Youth Training Allowance and Newstart Allowance.

There are some benefits under Youth Allowance for Indigenous young people living in remote areas. They have access to Remote Area Allowance if they live in a remote community and rent assistance is available to young people who live away from home to study, undertake training or look for work. These provisions are of particular benefit to Indigenous Youth Allowance recipients in remote areas.

Some recognition has been afforded to Indigenous peoples’ tribal customs under Youth Allowance. Young people under 18 years of age who have been tribally initiated as an independent member of their community are paid their Youth Allowance payments directly, unlike other young people under 18 years whose payments are directed to the parent/s.

Indigenous students may receive either the Youth Allowance or AUSTUDY. Following a review of AUSTUDY in 1998, the Government introduced changes on 1 January 2000 which aligned living allowance rates with comparable benefits in the mainstream income support system (Youth Allowance and Newstart Allowance). This change, which provides a core assistance which is equal for all Australians, increased the upper limits of some AUSTUDY rates and decreased the upper limits of other rates. Following this principle of alignment, AUSTUDY students gained access to mainstream-related benefits such as Rent Assistance, Remote Area Allowance and Pharmaceutical Allowance. Other AUSTUDY allowances were retained to address disadvantages unique to, or disproportionately concentrated in, Indigenous students.

**Training for professionals working with children**

**Recommendation 41**

The JSCOT recommends that the Government encourage the inclusion of the Convention on the Rights of the Child in training programs for teachers and other professionals working with children with an emphasis on the mutuality of rights and responsibilities including the rights of parents.
Response
Noted.

Comment
State and Territory Governments and non-government education authorities have primary responsibility for school education, including staffing, teacher training and curriculum development. Therefore, advising teachers of their responsibilities in this area would be consistent with the State, Territory and non-government education authorities’ role as teacher employers.

State and Territory Governments also have responsibility for the training of child health nurses and community health workers.

The Commonwealth Government works in partnership with those bodies so it will alert State and Territory Education Ministers to this recommendation at a future meeting of the Ministerial Council of Education, Employment, Training and Youth Affairs.

In addition, the Government notes that the Human Rights and Equal Opportunity Commission has a web site with a specific schools page intended to provide both children and teachers with information about their human rights and responsibilities. The site has a section on CROC and feedback from schools has shown that this is a useful tool for teachers and students.

In addition, the Commission has visited a number of schools and held workshops on issues including rights and responsibilities under CROC.

Teaching of the Convention in schools
Recommendation 42
The JSCOT recommends the Federal Minister for Education encourage State and Territory authorities to develop appropriate and balanced curricula and supporting material which properly explain the rights and commensurate responsibilities of children and their parents as members of our Australian society.

Response
Agreed in part.

Comment
The development of school curricula is the responsibility of the States and Territories as they determine the content of the curriculum taught in schools. However, the importance of civics education was reaffirmed in April 1999 when all Australian Ministers for Education endorsed Goal 1.4 of the National Goals for Schooling in the Twenty-First Century. It states that when students leave school they should “be active and informed citizens with an understanding and appreciation of Australia’s system of government and civic life”.

The Commonwealth has implemented a number of initiatives to assist States and Territories in educating children and their parents about their rights and responsibilities. For example, the Government promotes civics and citizenship education through the Discovering Democracy program. Under this program, a range of resources have been distributed to all schools in Australia. To date, they have principally focused on students from early-primary to Year 10. The resources include topics such as law, rights and responsibilities and help students to understand the principles that support Australian democracy and the values and attitudes that enable citizens to participate in the political process and contribute to civic life.

Also, the Curriculum Corporation, an independent education support organisation owned by all Australian State, Territory and Commonwealth Ministers for Education, has developed Making Choices. This resource, available in a version for primary school and secondary school, is designed to develop economic literacy. It addresses the role various groups play in the economy as producers and consumers and is designed to assist in making choices and decisions and understanding the significance and impact of those decisions.

Performance indicators on students’ civic knowledge and understanding, citizenship participation skills and civic values are being developed through MCEETYA (the Ministerial Council on Education, Employment, Training and Youth Affairs), which consists of all Australian Education Ministers. In the future, a national sample of students will be assessed against these performance indicators and the results reported.

Discipline in schools
Recommendation 43
The JSCOT recommends the introduction of an information program for teachers on alternative discipline options available.

Response
Noted.

Comment
This is a matter that falls within the responsibility of the States and Territories. The Report has been referred to the States and Territories for their consideration.

State, Territory and non-government education authorities have responsibility for discipline in schools.

These authorities already have in place their own individual policies in relation to school discipline.
and any changes would need to be initiated by them.

Corporal punishment is banned in government schools and is no longer used in the majority of non-government schools. The vast majority of schools have already developed alternative discipline measures. However, some Christian schools retain corporal punishment as a last resort on the basis that parents have requested it and there is a Biblical mandate for its use.

This is not a matter in which it is appropriate for the Commonwealth to intervene.

**Juveniles in detention**

**Recommendation 44**

The JSCOT recommends that the Government request the Standing Committee of Attorneys-General to investigate the alternative options to mandatory sentencing.

**Response**

Noted.

**Comment**

The importance of alternative options to mandatory sentencing for juveniles is well recognised by the Commonwealth Government. The Government believes that dealing with juvenile crime requires a variety of programs to support, rehabilitate and educate young offenders, as well as to deter and punish.

Since the release of the JSCOT report in 1998, the Commonwealth Government has demonstrated its ongoing commitment to working with the States and Territories to prevent juveniles from entering the criminal justice system by an Agreement signed by the Commonwealth and the Northern Territory Government on 27 July 2000. The Agreement, which came into effect on 1 September 2000, is designed to divert juveniles from the criminal justice system and jointly fund an Aboriginal interpreter service in the Northern Territory.

The Agreement gives young people the opportunity to learn from their mistakes rather than immediately entering the criminal justice system. Under the Agreement, minor offenders are able to access appropriate programs which assist in diverting them from the criminal path.

The Commonwealth has committed $5 million per year under the Agreement for four years. This enables funding for:

- the establishment of a Juvenile Diversion Unit in the Northern Territory Police Service to administer the diversion process and to conduct family conferencing and other programs;
- a jointly funded Aboriginal Interpreter Service, including recurrent funding for training of interpreters; and
- $250,000 extra in the first year for training of interpreters (in addition to the recurrent funding for training).

The Commonwealth Government notes that the Northern Territory Parliament repealed its mandatory sentencing laws, effective 22 October 2001. The Juvenile Justice Amendment Act (No.2) 2001 (NT) repealed mandatory sentencing for juvenile offenders and the Sentencing Amendment Act (No. 3) 2001 (NT) repealed mandatory sentencing for adult offenders in relation to property offences.

Mandatory sentencing legislation was discussed at the March 2000 meeting of the Standing Committee of Attorneys-General. While the Commonwealth Government does not propose to place mandatory sentencing on the agenda, State and Territory Attorneys-General are able to place any matter on the agenda of the Committee with the support of their colleagues.

**Recommendation 45**

The JSCOT recommends that the Government request the Standing Committee of Attorneys-General review existing juvenile justice legislation to ensure that children and young people cannot receive longer sentences than adults for any particular offence.

**Response**

Disagree.

**Comment**

The States and Territories have the jurisdiction and the responsibility to enact laws relating to criminal and juvenile justice as they deem appropriate. The Report has been referred to the States and Territories for their consideration. The Commonwealth Government has no express power to legislate in relation to criminal law, except to the extent that it may be connected to other federal powers.

**Recommendation 46**

The JSCOT recommends that the Government request the cooperation of the State and Territory Governments in establishing the frequency with which juveniles are held in custody with adults and to develop measures to address this problem.
Response
Noted.

Comment
Under section 120 of the Constitution, the States are required to make provision for federal offenders within their prisons. Thus, the Commonwealth Government does not have any prisons of its own, and the States are responsible for the imprisonment of both State and federal offenders. This means in effect that each State Government is responsible for the administration of its own prisons and for determining the conditions for the custody of juveniles.

The Report has been referred to the States and Territories for their consideration.

Recommendation 47
The JSCOT recommends that the Government withdraw the reservation to Article 37(c) of the Convention on the Rights of the Child.

Response
Disagree.

Comment
Article 37(c) of CROC provides: “Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.” Australia has made a declaration to Article 37(c) which states that it accepts the general principles of the Article.

However, Australia has made a reservation that the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is consistent with the obligation that children be able to maintain contact with their families. The reservation on Article 37(c) is considered necessary because of the demographics of Australia. The small centres of population in remote areas and the distance of some of these centres from larger towns and cities necessitate this reservation.

Prosecution of child sex offences committed internationally

Recommendation 48
The JSCOT recommends that the Government review existing procedures used in prosecutions under the Crimes (Child Sex Tourism) Amendment Act 1994 to ensure all requirements of procedural fairness and the interests of justice are met.

Response
Agreed.

Comment
The Government considers that this recommendation has already been implemented.

The Attorney-General’s Department currently monitors and will continue to monitor the operation of the child sex tourism provisions of the Crimes Act 1914 (Part IIIA) to ensure that they strike the right balance between ensuring that child sex offenders are prosecuted and providing a fair trial for the defendant.

The Committee has expressed the view that improvements can be made in relation to matters including the gathering of evidence; court procedures; and the protection of child witnesses and their families. The Government is aware of these issues, and is in the process of improving the effectiveness of the provisions in Part IIIA.

For example, legislation was recently enacted to provide protection for child witnesses in proceedings for child sex tourism offences and other Commonwealth sex offences. The protections, which are contained in Schedule 3 to the Measures to Combat Serious and Organised Crime Act 2001, apply to persons under the age of 18 and are designed to ensure that child witnesses are able to give evidence as effectively and unreservedly as possible.

The legislation places limitations on the admissibility of evidence of the sexual reputation and sexual experiences of child complainants and child witnesses. Defendants are precluded from personally conducting the cross examination of a child witness and the court has a discretion to disallow unnecessarily aggressive or inappropriate questions. The new measures also enable child witnesses to use facilities such as closed circuit television and screens while giving evidence and to be accompanied by an adult of their choosing. A video recording of an interview with a child witness may be admitted as the child’s evidence in chief. The court is able to exclude members of the public from the courtroom during the child witness’ testimony and the publication of details which could identify the child witness or child victim is prohibited.

However, the Government is of the view that, since its introduction in 1994, Part IIIA has been relatively successful. There have been a number of prosecutions under the Act, most of which have resulted in convictions.
The Australian Federal Police has taken a leading role in the investigation of child sex tourism. The AFP gives priority to the investigation of persons travelling overseas for the purpose of undertaking paedophile activity. This is done by monitoring travel movements of suspected and convicted paedophiles and placing them on the Customs PACE (Passenger Analysis Clearance Evaluation) system. Identified travel movements are then relayed to AFP Liaison Officers for the purpose of advising host countries so that they may take proactive investigative action.

The AFP has developed strong law enforcement links with a number of countries, and actively cooperates with a number of countries, where, historically, reports of child sex tourism on the part of Australians have been more prevalent.

Declarations on the importance of families
Recommendation 49
The JSCOT recommends that the Government lodge declarations in relation to the controversial Articles of the Convention on the Rights of the Child to ensure appropriate recognition of the rights and responsibilities of parents in raising their children.

Response
Disagree.

Comment
The Government does not consider that making declarations to CROC with regard to certain Articles specified in the Report (in particular articles 12-16) would be the most appropriate means to further inform and reassure the Australian community about the aim and purpose of the Convention.

The Government is of the view that the proposed declarations, as described by the Committee, could fall within the definition of reservations set out in Article 2 of the Vienna Convention on the Law of Treaties. In this case they would be caught by the general principle referred to in Article 19 (and reflected in Article 51 of CROC) that limits the making of reservations to the time when a State signs, ratifies, accedes, accepts, or approves the treaty in question.

1 The Report makes extensive use of the acronym ‘NESB’ in the phrase NESB children. In May 1996 the Council of Ministers for Immigration and Multicultural Affairs determined that the term and especially the acronym ‘NESB’ should be dropped where possible from all official communications. The term ‘Australians from culturally and linguistically diverse backgrounds’, or a variation of it, should be used, although it is suggested that it not be used in acronym form.


Senator MURRAY (Western Australia) (3.28 p.m.)—by leave—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

DELEGATION REPORTS
Parliamentary Delegation to the Islamic Republic of Iran and the Hashemite Kingdom of Jordan

Senator FERRIS (South Australia) (3.28 p.m.)—by leave—On behalf of Senator Lightfoot, I present the report of the Australian parliamentary delegation to the Islamic Republic of Iran and the Hashemite Kingdom of Jordan, which took place during October and November 2002. I seek leave to move a motion in relation to the report.

Leave granted.

Senator FERRIS—I move:
That the Senate take note of the document.
I seek leave to have Senator Lightfoot’s tabling statement incorporated in Hansard.
Leave granted.

The statement read as follows—

OPENING REMARKS
Mr President, It is my pleasure to present the report of the Australian Parliamentary Delegation to the Islamic Republic of Iran and the Hashemite Kingdom of Jordan.

This Delegation, led by the The Hon David Jull, and in which I was honoured to be included, travelled to Iran on the 27th October, on to Jordan on the 3rd November and returned to Australia on the 9th November 2003.

The main objective of the delegation was to renew and strengthen Australia’s ties with the Iranian and Jordanian Governments.

Allied to this was the delegation’s determination to gain an understanding of these countries’ key domestic, political, social and economic issues.
A further objective was the delegation’s aim to gain an understanding of regional issues including, in this difficult period of international instability, inter-country relationships in the middle-east—and in particular the effect of the Israeli-Palestinian, Iraqi and Afghanistani conflicts.

Of particular interest though was the opportunity to canvas and review trade, investment and commercial relations and directions that could prove mutually beneficial our respective countries.

The delegation aimed to promote dialogue that would strengthen cultural relationships and promote opportunities for the exchange of educational and scientific cooperation.

The realisation of these objectives and aims was assisted greatly by the extensive publicity, in both countries, that accompanied the many and varied activities of the delegation and their visits and meetings with elected, business and community leaders. The most significant factor that contributed to the success of the delegation was the high level of access that was afforded us which included an audience with King Abdullah II of Jordan and access to members of his Cabinet.

Thanks in this respect should also go to the Mr Hojatoleslam Medhi Karrubi—Speaker of the Islamic Consultative Assembly of Iran and Mr Zaid Rifai—President of the Senate of Jordan for their unstinting support for the delegation’s visit and for their hospitality.

Members of the delegation have also expressed their appreciation for the continued support, assistance and contribution of the Charge d’Affair of the Islamic Republic of Iran in Australia, Mr Eshaoh Al Habib, and the delegation also thanks the Ambassador of the Hashemite Kingdom of Jordan to Australia, His Excellency Dr Khaldoun Tharwat Talhouni.

Our delegation was admirably supported by the efforts of our Ambassadors in Iran His Excellency Mr Jeremy Newman and, his counterpart in Jordan, His Excellency Mr John Tilemann and their respective members of staff.

- Thoughts of the Middle East and Iran seldom reach our Australian consciousness except when conflict and natural disasters bring to our television screens images of destruction and distress—yet in stark contrast to these images, the mention of “Persia” as Iran was formerly known, conjures images of desert fortresses, beautiful veiled women, exotic foods and a land of mysterious beliefs and unknown culture.

- Today, even the name “Iran” conspires to raise suspicion. The similarity in names between Iraq and Iran imply a similarity that does not exist. For all its social and political differences, Iran by comparison is a democratic country, whose people welcome foreign travellers with some words of English and a ready smile and although the women are still veiled, they are not required to wear the chador and are treated with respect and equality.

- Jordan’s stability and progressive policies in areas ranging from Health to Taxation contrast sharply with the popular expectations of a country sandwiched between Iraq and Israel/Palestine.

Regional Security.

All interlocutors from both Iran and Jordan expressed grave concern about the effects that a war against Iraq would have on the stability and security of the region as a whole and their concerns are of course echoed here at home.

Speaker Karrubi, on reflecting on the history of Iraq, stated emphatically that Iraq should accept all UN Security Council Resolutions. Australians’ fears of the new global terrorism are also the fears of Iranians as demonstrated by the Speaker’s reference to the Washington sniper, the attack on an oil tanker of Yemen and other acts of terrorism perpetrated against women and children and opined that only a general decisiveness from all nations would achieve the goal of security for all mankind.

His Royal Majesty King Abdullah al-Hussein of Jordan expressed concern about the changing dynamics within the Palestinian population as the proportion of Christians diminish, squeezed, as they are between the growing numbers of the Jewish and Moslem communities.

Bilateral Links with Australia.

Australian involvement in the opening of the Persian—tourist market is significant, even though the numbers of individuals travelling as tourists between the two countries is disappointingly small. I have no doubt that a resolution of international concerns regarding Iraq will see a dramatic increase in the number of tourists wanting to explore the geographical, historical and cultural attractions of this ancient but beautiful country.

Significant numbers of Iranian students—over 1,000—have come to Australia to com-
complete their postgraduate education. Their success is evident in the number of individuals who met with the Delegation and who had completed their studies in Australia, such as Doctor Emadi, Deputy Minister for Agricultural Jihad.

Jordan’s Aqaba Special Economic Zone is a very good example of the combination of location, intelligent taxation arrangements, and international trade agreements to achieve significant growth and development. It is hoped that the examples set by the Aqaba Special Economic Zone Authority (ASEZA) can lead to similar development in both the rest of the country, as well as elsewhere in the immediate region.

CLOSING COMMENTS
This report, an accurate reflection of the work of the delegation—whose members included Senator Allison, the member for Gilmore, Joanna Gash; the member for Lyons, Dick Adams and was led by the Hon David Jull with Mr Martin Evans as his deputy,—includes background material, details meetings and engagements undertaken by the delegation, canvases relevant issues and most importantly, makes recommendations in regard to each country.

These recommendations aim to cement the work of the delegation in strengthening Australia’s ties with Iran and Jordan and will enable those opportunities, identified or recognised by the delegation, to become mutually beneficial.

In commending this report to the Senate, I would also like to recognise the work and assistance of the secretary to the delegation, the staff of the Parliamentary Liaison Office and Library research officers who provided the comprehensive background and briefing material that was essential to ensure that Australia was represented in the professional and statesman-like manner that it so richly deserves.

Senator FERRIS—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders seeking variations to the membership of various committees.

Senator HILL (South Australia—Minister for Defence) (3.30 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation Committee—

Appointed—Participating member: Senator Ludwig

Community Affairs References Committee—

Appointed—

Participating member: Senator Ludwig

Substitute member: Senator Murray to replace Senator Lees for the committee’s inquiry into children in institutional care

Economics Legislation Committee—

Appointed—

Participating member: Senator Marshall

Substitute members:

Senator Allison to replace Senator Murray for the committee’s inquiry into the provisions of the Energy Grants (Credits) Scheme Bill 2003 and a related bill

Senator Ridgeway to replace Senator Murray for the committee’s inquiry into the provisions of the Designs Bill 2002 and a related bill

Finance and Public Administration References Committee—

Appointed—Substitute member: Senator Murray to replace Senator Ridgeway for the committee’s inquiry into recruitment and training in the Australian Public Service

Discharged—Substitute member: Senator Allison

Legal and Constitutional Legislation Committee—

Appointed—Substitute member: Senator Ridgeway to replace Senator Greig for the committee’s inquiry into the Customs Legislation Amendment Bill (No. 2) 2002.

Question agreed to.
GREAT BARRIER REEF MARINE PARK (PROTECTING THE GREAT BARRIER REEF FROM OIL DRILLING AND EXPLORATION) AMENDMENT BILL 2003 [No. 2]

Second Reading

Debate resumed from 5 March, on motion by Senator McLucas:

That this bill be now read a second time.

Senator McLucas (Queensland) (3.32 p.m.)—It is with an enormous amount of pleasure that we are bringing the Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2] into the chamber this afternoon. This is legislation that has been introduced into the House of Representatives by Mr Kelvin Thomson, Labor’s shadow minister for the environment and heritage. In my view, it is a very sensible and practical bill. It will extend the boundary of the Great Barrier Reef Marine Park region—not the Great Barrier Reef Marine Park area—to the exclusive economic zone. The purpose of it is very clear. Under the Great Barrier Reef Marine Park Act 1975, any oil drilling or prospecting in the Great Barrier Reef region is prohibited. The purpose of this piece of legislation is to extend the region so that oil drilling and prospecting in the Great Barrier Reef region—that region east of the boundary of the current marine park to the exclusive economic zone—will therefore be prohibited.

When it became evident that a company called TGS-NOPEC was considering oil drilling in that area, the Labor Party, along with other opposition parties in this place, expressed concern. We called on the government and the Minister for the Environment and Heritage at that time, Senator Hill, to rule out once and for all oil drilling east of the Great Barrier Reef Marine Park area. Senator Hill and his successor, Dr Kemp, have not taken the opportunity to do something sensible on behalf of the residents of Queensland and all Australians to ensure the protection of the Great Barrier Reef from any potential oil drilling. The response of Senator Hill and Dr Kemp is that, under the Environment Protection and Biodiversity Conservation Act, any process would have to go through scrutiny and of course nothing would ever occur. That is just not good enough for the people of Queensland and it is not good enough for the Labor Party and other opposition parties in this place.

We want to know for sure that oil drilling will never occur, especially in the Townsville Trough and the Capricorn Basin, but anywhere that the environmental, social and economic values of the Great Barrier Reef could in any way be threatened. The purpose of this legislation is to do what the government will not do—ensure that oil drilling cannot occur. TGS-NOPEC is a company which now has approval to undertake some seismic testing in an area near Lihou Reef and Marion Reef in the Townsville Trough. If that were to go ahead and they were to find that oil reserves exist there—and there is no reason to think that they would not—and that prospectivity were established, you can understand the pressure that would be brought to bear on any government to exploit that oil.

All of the community in North Queensland are opposed to any potential oil drilling on the Great Barrier Reef, including the fishing industry, for example—both commercial and recreational fishers. The tourism industry in particular is outraged that we would compromise a $1.5 billion industry to the state of Queensland by allowing oil drilling on the reef. Conservationists and the science community are opposed to any oil drilling on the Great Barrier Reef, along with the broader community. There is a very strong feeling of opposition to any potential drilling. But the other thing that comes across when you talk to people about it is the question, ‘Didn’t we fix this problem when Sir Joh Bjelke-Petersen was keen to exploit oil on the Great Barrier Reef?’ And the answer is no, it has not been solved, but we do need to do it now.

It is with great pleasure that I cosponsor this piece of legislation. I encourage the government to consider it as a sensible and practical answer to a problem—an answer that has enormous support in the community. Please do not play politics with it. Please do not think that you cannot support it just because it has come from this side of the
chamber. This legislation is a cheap option, unlike the option put up by Mr Peter Lindsay, the member for Herbert, who has suggested that the whole Great Barrier Reef Marine Park area—that is, the park itself—be extended to the exclusive economic zone. As you can imagine, that would be enormously expensive. This bill presents a simple answer to a real threat that we all want to avert. Please do not play politics with it. Please ensure that you do the right thing on behalf of North Queenslanders and on behalf of all of us who are interested in the protection of the Great Barrier Reef. I commend the legislation to the chamber.

Senator EGGLESTON (Western Australia) (3.38 p.m.)—The Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2] is totally pointless legislation which has simply been put forward to create political mischief. The Great Barrier Reef, as we all know, is a part of Australia's natural heritage which is world renowned for its unique natural beauty and the diversity of its marine life. It is a major tourist attraction, generating revenue of more than $1 billion a year. In 1997 visitor stays averaged 1.6 days, according to the Great Barrier Reef Marine Park Authority. It is one of the great natural wonders of the world.

The Howard government, through the Environment Protection and Biodiversity Conservation Act, has gone out of its way to protect the Great Barrier Reef. That, it has to be said, is in direct contradistinction to the record of the previous government, which did nothing whatsoever to protect the reef. For Senator McLucas to come into the chamber today with this bill moralising about what the Labor Party wants to do is a total nonsense. The record of the Labor government in protecting the Great Barrier Reef from oil drilling and mining within its precincts was utterly dismal. Today, mineral exploration and mining within the Great Barrier Reef Marine Park are explicitly banned by the Great Barrier Reef Marine Park Act. Beyond the boundaries of the park, the Environment Protection and Biodiversity Conservation Act provides the reef with an unprecedented level of protection from actions that might threaten it, wherever they might be contemplated. That protection extends well beyond the mineral exploration and mining issues that this rather inadequate, pointless little bill restricts itself to.

The bill proposed by Senator McLucas fails to acknowledge the great advances in the environmental security of the reef established by the Environment Protection and Biodiversity Conservation Act introduced a couple of years ago by the Howard government. I remind the Senate that, for the first time, that act gave the federal government direct power to deal with environmental issues. Admittedly, this was confined to five areas of national environmental significance, but it means that the federal government can now take action, and has taken action, to protect a great national treasure such as the Barrier Reef through legislation passed by this parliament. The McLucas bill, as I have said, fails to acknowledge in any way the great advances that the Howard government environment and biodiversity act has conferred upon the Commonwealth government in protecting the marine environment of the Great Barrier Reef.

The threats that have been dealt with—and threats of the sort that the current bill seeks to address did exist in the past—were neglected, in a very serious way, under the former Labor government. The Environment Protection (Impact of Proposals) Act was the Labor legislation used as some sort of paper thin protection for the Barrier Reef. It would have been too bad if the paper got wet, as it would have been washed away and the reef would have been left with almost no protection whatsoever during the 13 years of Labor government to 1996. That law—the Environment Protection (Impact of Proposals) Act—was the only law providing protection to the Great Barrier Reef, and the degree of protection it provided was, as I have said, absolutely abysmal. When actions were proposed that had a capacity to harm the reef, that act required only that the minister whose portfolio was enlivened by the particular proposal seek the advice of the environment minister. The decision on whether or not to enable any particular proposal to go forward was simply made by the line minister, and
the environment minister had no role in that decision beyond the provision of general advice. That was a completely inadequate form of protection of the Barrier Reef, totally lacking in its protection of the environment of the entire marine park. That is the record of the ALP which, I remind the Senate, just a year or so ago did not endorse the substance of the bill Senator McLucas has now brought before the Senate when it was tabled, in much the same form, by the Australian Democrats.

One wonders what has happened over the last couple of years to change the minds of the ALP on this legislation. One must wonder why it is that suddenly they are seeking to draw attention to the Great Barrier Reef and the protection of its marine environment from mining and pollution. One can only feel that there must be some sort of hypocritical motivation behind that when the protection offered by the Howard government’s environment and biodiversity act is so strong, particularly in providing such excellent protection to the Barrier Reef.

But this McLucas bill becomes even more ironic when Labor’s record on mineral exploration and potential mineral development near the reef is examined. The irony comes from the fact that it was the current Leader of the Australian Democrats, Senator Bartlett, who helped remind us of the record of the Labor Party, through the material he caused to be tabled in this chamber only last year. The hypocrisy I refer to comes from what those documents revealed. What the Democrat documents showed was that, from the late eighties onwards, the then Labor government were engaged in very active promotion—not passive promotion—of offshore mineral and oil exploration in Australian waters, with only the ineffectiveness of their old act to protect any offshore area, including of course, with relevance to this debate, the area covered by the Great Barrier Reef Marine Park.

So it was that under the previous legislation, as I have said, there was no protection of the marine environment of the Barrier Reef. Beyond that, the documents that the Australian Democrats caused to be tabled showed that Labor had a plan to promote exploration in areas immediately adjacent to the Great Barrier Reef, right up to the boundaries of the marine park. Exploration of the Townsville Trough and the Maryborough Basin was to be promoted, along with exploration of the Queensland Trough and the Capricorn Basin, amongst several others. The encouragement offered, as revealed in the tabled document *Offshore strategy: promoting petroleum exploration in offshore Australia*—which was signed off by the then Minister for Resources, Alan Griffiths, who has recently been re-elected, I understand, to the shadow cabinet—

Senator Alston—That is Alan Griffin.

Senator EGGLESTON—My apologies; it is Mr Griffin. I thought that perhaps we were seeing the resurrection of a previous figure—who could be said to be someone with little respect for the environment—to the current shadow cabinet, but that is apparently not the case. However, if this bill of Senator McLucas’s is anything to go by, the current Labor opposition do not have the level of respect for the environment that one would expect them to have in this day and age. Returning to the tabled document, it states:

Where an exploration permit holder makes a commercial discovery, there is an automatic right to a production licence over that discovery.

So the Labor government were proposing not just that there should be exploration but that there should be an automatic right of production over any minerals found in the Great Barrier Reef Marine Park. The document continues:

And where production requires a pipeline to transport petroleum to shore, a pipeline licence will be granted.

There is no doubt that the intention there was not only that exploration should occur but also that production should occur and that petroleum should be transported by pipeline through the Great Barrier Reef Marine Park, with all the potential hazard that involves and implies from the possibility of rupture of the pipeline and the destruction of the reef by oil leaking out from such a pipeline rupture were it to occur. So it was hardly, one would have to say, a program and a proposal designed to protect the Great Barrier Reef.
There is another irony to recount, and that is that last year there was an application to this government for approval of seismic oil exploration in the Townsville Trough, one of the several troughs that are adjacent to the Great Barrier Reef and one of the troughs specifically among the many troughs around Australia and near the reef that Labor sought to actively promote to oil explorers. Under Labor’s legislative regime that application would have barely been influenced by environmental issues. Under the Howard government, that application is required to run the very demanding gauntlet of the EPBC Act. The Howard government have also declared exploration within the confines of the Great Barrier Reef Marine Park to be a controlled action and issued guidelines for an environmental impact statement should any such action be proposed. To date, there has been no indication whether or not there has been a proposal for any company to proceed to undertake an EIS on a proposal to explore for oil within the confines of the Great Barrier Reef Marine Park. I suppose one could say that that is not surprising, given the strength of our environmental protection rules.

An environmental impact statement is required as a prerequisite should a seismic testing program be proposed. It is necessary that it be completed before any seismic testing is undertaken. If an environmental impact statement suggests there is a threat to the region, any seismic testing program is neither allowed nor permitted to proceed, but it would have been under the previous Labor government. Given that the present Environment Protection and Biodiversity Conservation Act introduced by the Howard government a couple of years ago ensures that protection of the environment is so strong, one has to question why Senator McLuscas is bothering the Senate with this rather ridiculous little bill today. It does not add anything and seems to be a bill with no purpose. One wonders at the hypocrisy of the Labor senators in supporting this bill when their own government’s record was so dismal on environmental protection of the Great Barrier Reef.

The Howard government has sought to expand the size of the Great Barrier Reef Marine Park. This means that a much larger area is now protected by the provisions of the Environment Protection and Biodiversity Conservation Act from a variety of environmental attacks which could be made upon the Great Barrier Reef area. Again, one is left to wonder why on earth Senator McLuscas is putting forward this rather funny little bill when we have such strong protection already for the Great Barrier Reef under the Environment Protection and Biodiversity Conservation Act, which this government put in place two or three years ago.

The Prime Minister has signed a memorandum of understanding with the Queensland government to enhance water quality in the Great Barrier Reef lagoon. The Howard government has ensured that there are elements in the recently developed sugar industry package which will significantly enhance wetland protection in important areas of the reef catchment. The National Action Plan for Salinity and Water Quality will also help deliver better quality water to large sections of the Great Barrier Reef lagoon and the Natural Heritage Trust will help generate a better quality of water in the Great Barrier Reef lagoon area.

This government has performed very well in significantly enhancing protection of the reef, as I have said. The McLuscas bill seems to have the objective of scaremongering and can only be, I think fairly, described as a piece of political mischief. It is fair enough in a political game to create concern that the Barrier Reef may be under some kind of environmental threat and to go around Queensland saying, ‘Look what we are doing. We have tried to introduce an additional piece of legislation which would protect the reef from environmental threats.’ But the Howard government’s Environment Protection and Biodiversity Conservation Act has provided the strongest possible protection to the Great Barrier Reef from environmental attack. One can only wonder what Senator McLuscas is about in seeking to introduce this bill.

It is very similar—no different at all—to a bill introduced by the Democrats in March last year. The McLuscas bill proposes to ex-
tend the Great Barrier Reef region eastward to the extent of the exclusive economic zone, which is now defined under the Great Barrier Reef Marine Park Act 1975. The area proposed for inclusion in the region is deep oceanic waters and around 20 reefs and reef complexes in the Coral Sea. A number of these reefs have permanent coral islands or cays associated with them. There are anecdotal and Coastwatch reports of increasing fishing pressures around some of these small coral reef complexes and, while they are generally remote, there are a number of tourist operations and charter fishing operators who access these reef areas. Nevertheless, the fact remains that, while the intent of this bill is to ensure protection of the Great Barrier Reef from oil drilling and exploration, this protection already exists. Oil drilling and exploration is already completely banned under the Great Barrier Reef Marine Park Act 1975. More to the point, the provisions of the Environment Protection and Biodiversity Conservation Act 1999 already apply to all Commonwealth marine waters, which include those areas intended to be covered by this bill. I put it to the Senate that this is a pointless piece of legislation. (Time expired)

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.58 p.m.)—The Australian Democrats are very happy to support the Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2], which has been co-sponsored by Senator McLucas and me. Like Senator McLucas, I am also a senator for the state of Queensland. The Barrier Reef is one of the major assets of our state, both environmental and economic, and an absolute environmental wonder—often seen and described as one of the environmental wonders of the world. It is under significant threat from a whole range of different things. This bill does not address every single one of those things, but it very simply and neatly deals with one of the ongoing significant threats that has been there for many years and continues to exist.

Senator Eggleston just said in his speech that this bill does not add anything. I find that very perplexing, because he then went on to describe what areas would be added to the Great Barrier Reef region if the bill were passed. It is quite clear that it will add a lot of extra reef areas. As he said himself, it will add coral islands, caves, about 20 other reef complexes and a range of other ocean environments. But the key thing is that the reef is under threat at the moment from onshore activities, as Senator Eggleston rightly said. The government has recently, in its sugar package, included measures to assist in improving water quality into the Great Barrier Reef. This was done at the insistence of the Democrats, I should note. That is a clear recognition that there are threats to the reef from activities outside the marine park—in that case, from some activities on land.

This bill addresses threats to the reef from other activities outside the marine park—that is, potential oil drilling and exploration to the east of the existing marine park. Those threats are very real. As Senator Eggleston again rightly said, there is a long history of interest from oil companies in the reserves of petroleum and probably gas far off into the Coral Sea. But that interest did not magically disappear the minute John Howard became Prime Minister. As the Democrats have shown in the documents that we have been able to table in the Senate and through questions we asked in estimates, that interest is still very clearly there from many oil companies. It is also still clearly there, at least within some government agencies and Geosciences Australia. So the interest is still there—the documents are quite clear on that.

Some of the documents we were able to table included some since the Howard government came to office. In 1997, the Queensland Department of Mines and Energy wrote to the federal Department of Primary Industries and Energy suggesting that areas east of the Great Barrier Reef Marine Park in the Queensland Plateau and Townsville Trough could be legitimate exploration target areas. The response from the federal level indicated that the department would write separately about the possible release of areas in the Coral Sea in future bidding rounds. A ministerial brief from the Queensland Department of Mines and Energy of 1997 indi-
cated 'a number of large international oil and gas company representatives have shown interest in exploring for petroleum in waters offshore of Queensland'. That is pretty clear-cut.

The Democrats acknowledge that regulations came into place in 1999 that prohibited mining operations or research for mining operations in the Great Barrier Reef region. The Democrats welcomed that action. Again, I would suggest that that action was taken in part because of pressure from the Democrats and our continual questioning of what was then AGSO and the then minister, Warwick Parer. But the Great Barrier Reef region only goes so far. The areas that the large international oil and gas companies are interested in include areas further east of the existing Great Barrier Reef region. That interest is still there, and this bill seeks to ensure that that interest cannot be pursued. The Democrats believe that any oil drilling, exploration or exploitation in that region clearly presents a risk to the marine park and to the reef itself. There is no doubt that you do not explore for oil or gas unless you are hoping to be able to extract it. Any prospect of significant extraction from that region in the Coral Sea to the east of the existing marine park would clearly present a risk to the life of the reef.

In many ways, Senator Eggleston’s speech actually put forward arguments in support of this legislation. He highlighted that there are threats to the reef already and that there is a history of oil company interest in these areas offshore from the marine park to the east. He did indicate that the existing regulations protect the areas contained in the Great Barrier Reef region from drilling and exploration, which is what this bill seeks to address—it seeks to extend that protection. He did quite rightly point to the stronger federal environment laws that are now in place under the Environment Protection and Biodiversity Conservation Act. This was another significant environmental achievement for the Australian Democrats due to the major amendments we were able to make to that act. That act is not able to prevent every single potentially damaging act, not least in part because, as with any other act, it is up to the government of the day or the minister of the day to enforce it. There are already examples of the minister of the day not enforcing it and, indeed, seeking to circumvent it. So, while it is a far stronger act than was there previously, it still cannot guarantee protection, because you rely too much on the political will of the minister of the day. What would guarantee protection would be the extension of the marine park. The protection that already exists in the Great Barrier Reef Marine Park would be extended if this bill went through.

Let us not forget that the documents the Democrats were able to table also highlighted that, as recently as 2001, leg 194 of the ocean drilling project drilled for core samples inside the Great Barrier Reef Marine Park—16 holes at four sites were drilled, as well as a number of holes outside the Great Barrier Reef Marine Park in the Coral Sea. The marine park authority did not require any impact assessment of the drilling, provided no opportunity for public comment or input and permitted the drilling despite the 1999 regulations prohibiting research for mining operations. Even with those regulations you are still relying on the minister to actually have the will and the ability to enforce them. Despite claiming that it was only investigating climate change issues, that vessel just happened to carry representatives from both the oil industry and the drilling industry. The Democrats have confirmed the presence on board of at least half a dozen people from the industry. It was very nice of them to be interested in climate change, but one suspects they were even more interested in the oil underneath. And there is little doubt that there are significant oil reserves in these areas.

This legislation is quite straightforward and quite simple. Mr Lindsay—who is the member for Herbert, which is based around Townsville—said that he would like to expand the whole marine park completely. That is great, and I would love to see it, but the marine park authority has a pretty big and difficult job and is underresourced already. If Mr Lindsay thinks he can get the marine park expanded, that would serve the same purpose as this bill. Why that means this bill
is unnecessary is beyond me, because his suggestion would simply be overlapping this bill if he pursued that prospect. But I would point out that the marine park authority already has a hell of a job. It is operating under an act which is now 25 or more years old. It was good for its time but it could certainly do with upgrading. Before the authority gets too panicked, I would note that it does have a very big job at the moment with the representative areas process under way. I think it needs to finish that important rezoning exercise in the entire marine park before we look at the legislative underpinnings.

Quite simply, this bill would automatically prevent oil exploration and exploitation in the Barrier Reef region, thus protecting some of the natural values of the Coral Sea. There are extensive reef areas in the Coral Sea that are well outside the boundaries of the World Heritage area and the marine park as it currently exists. By extension, the bill would protect the existing marine park from the effects of oil drilling and the prospect of spills being carried into the park and onto the reef with the extra tanker traffic that would clearly occur if there were any oil drilling. It is a simple and very cheap measure. It would not add to the burden of the marine park authority and its management requirements but it would provide clear-cut, unequivocal protection for the Barrier Reef, which is not there at the moment because that threat from oil exploration and drilling is still very real. The longer the interest continues from oil companies, the greater the pressure will be on governments of the day, today or into the future, to release some of those areas for exploration and exploitation. The only way to protect those areas from that is to clearly prevent it by regulation. This bill achieves that very simply and very elegantly, and it is one that should be supported by the Senate.

Senator MOORE (Queensland) (4.11 p.m.)—The Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2] will achieve what most people actually believe is already in place for the Great Barrier Reef—full protection from oil prospecting and potential drilling. The extension of the boundaries of the Great Barrier Reef region by amending the Great Barrier Reef Marine Park Act 1975 will ensure that our reef will not be threatened by damage or loss through any form of oil drilling or exploration. The Great Barrier Reef is an outstanding national wonder, as described by Elliott Napier in 1929:

In the Barrier Reef, Nature has bestowed a gift upon Australia which is as unique as it is wonderful.

This area we are talking about is not just a place of incredible beauty. It is also a place of enormous biological richness, spanning a high range of different habitats: mangroves, salt marshes, seagrass meadows, the large lagoon between the mainland and the outer reef and, as we would expect, over 2,900 different kinds of coral reef. The Great Barrier Reef, our Great Barrier Reef, holds a special place in the awareness of Australians. Somehow this debate is not actually well done with only words. We should be having this discussion aided by the outstanding pictures of reef beauty available through the web site and library of the Great Barrier Reef.
Marine Park Authority as well as the wealth of painting and artwork celebrating the unequalled wonder and the confounding, and even confronting, colours of our region. The seemingly fragile beauty of the marine life has captured our imaginations over generations and has led us to recognise the need to care for the life of the sea.

The relatively recent history—and I am not going to give a full history lesson—of the area reflects the particular role that the beauty and the vulnerability of the reef has had in the environmental awareness and action of many Australians. Since the 1960s, when the developmental enthusiasm of our then state government in Queensland led to the granting of exploration rights to the Great Barrier Reef area, the responsibilities of governments and the expectation of the community that legislation would protect the natural environment have caused extensive debates, not always and not necessarily acrimonious, and with some shared enthusiasm for a strong result.

A perception that the Great Barrier Reef was in dire peril was a fundamental force in the call for the establishment of the marine park. The principal threats were seen to be a proposal for the exploration of oil drilling and limestone mining and a severe risk of major pollution from shipping. We are talking about the 1960s, but those risks are just as real now and have the same threat. The call to save the reef was echoed amongst a growing force of people who were involved as community activists, many for the first time. Of course, there were leaders and, of course, there were larger scientific groups involved in submissions to the royal commission and governments.

Importantly, the people of Queensland and Australia as a whole became involved in the campaign. The widespread production and distribution of the now quite famous ‘Save the Barrier Reef’ bumper stickers highlighted the extent of the campaign. Many thousands were printed and distributed, and there are still some around on some very old vehicles. That campaign enlivened the debate and in many ways caused the establishment of the Great Barrier Reef Marine Park. The legislation in 1975 was truly significant. The managing authority created by that legislation—the Great Barrier Reef Marine Authority—has the goal:

To provide for the protection, wise use, understanding and enjoyment of the Great Barrier Reef in perpetuity through the care and development of the Great Barrier Reef Marine Park.

This can be achieved. As stated in the annual report 2001-02, that goal is big; it is inclusive. Implicit in the goal is the primary obligation to ensure conservation of the Great Barrier Reef. There are many aims of the authority, and two of the key aims are:

- To protect the natural qualities of the Great Barrier Reef, while providing for reasonable use of the Reef Region—and—
- To involve the community meaningfully in the care and development of the Marine Park.

These statements reinforce the sense of community ownership and the expectation of genuine protection for the environment. Under the legislation, the Great Barrier Reef region and the Great Barrier Reef Marine Park areas exist as separate entities. Currently, mining and petroleum drilling are not permitted in any part of the defined Great Barrier Reef region by regulation. The bill before us today effectively extends the protection required for the whole area. It is so straightforward but so necessary.

The community is involved with the Great Barrier Reef Marine Park Authority and with their reef. There is a relationship. Indeed, the authority has an extensive community consultation and education program. School programs, web based information and library services, as well as community visits and meetings, link the community and ensure that there is knowledge and commitment. People own their reef and they respect it.

The Great Barrier Reef was World Heritage listed in 1981, having met the four criteria required. They are enormous. The first is that the reef had to be an outstanding example representing a major step of the Earth’s evolutionary history. The second was that the reef had to be an outstanding example representing significant ongoing geological process, biological evolution and man’s—forgive me for using that word; it is actually in the
The third was that the reef had to contain unique, rare and substantive natural phenomena, formations and features, and areas of exceptional natural beauty. The fourth was that the reef had to provide habitats where populations of rare and endangered species of plants and animals still survive. Ian McPhail, a previous chairperson of the Great Barrier Reef Marine Park Authority, stated:

Although originally seen as a prize or badge of honour, World Heritage status is now increasingly being seen as an international obligation to maintain...

This responsibility we have should not be too difficult. The good health and protection of the Great Barrier Reef is not just noble or morally sound but good business. There is no question that tourism gives a major economic boost to Queensland and our nation. The Great Barrier Reef attracts over 1.6 million visitors a year, with an estimated economic worth of more than $1 billion per annum. People want to visit the reef, view the natural beauty and experience the wonder of the area. This attraction would not be enhanced by oil drilling or any perception that the natural area could be threatened in any way. The CRC Reef Research Centre at James Cook University is currently conducting a project studying tourism and recreational use of the Great Barrier Reef. On its web site it states:

The sustainability of Great Barrier Reef (GBR) tourism and recreation is based on quality and continuity. A quality experience must be provided for visitors, while improving the quality of life of the host community and protecting the quality of the environment.

The private member’s bill in front of us today continues Labor’s commitment to protect the reef. The ‘No Rigs’ campaign in 2002 received strong support. At the last election, Labor’s policy entitled ‘Caring for the Great Barrier Reef’ included a very straightforward statement. To preserve the health of the reef, Labor will:

Prohibit all mineral, oil and gas exploration and operations in Australian waters offshore of the Great Barrier Reef...

This was our policy. This is our policy. This will always be our policy. The bill before us today continues the sense of cooperation. We need cooperation on issues to do with the environment. People across political parties in the past have succeeded in meeting on this issue to agree on the need to protect the reef. Former Liberal Prime Minister John Gorton stood very strongly to protect the reef and made many public statements and got great support in Queensland for his position. He had great passion for the environment and, in particular, for the Great Barrier Reef. A young shadow resources minister for the ALP named Keating also had a great passion for the reef and in speeches which were actually to do with the resources portfolio for which he was shadow minister made a clear statement that he would support the Great Barrier Reef’s protection.

The private member’s bill in front of us should not cause any fear, and I am surprised by the opposition of the government and their attempts to block, dismiss or minimalise it. The only motivation for us is to secure real protection from oil exploration and production, and any other form of recreational activity such as fishing or visiting will not be affected. What we want to do is to protect our reef, and we should accept that there are causes that go well beyond any inference of profit or gain or any particular past party allegiances. What we are talking about is cooperation on environmental protection.

As a senator from Queensland joining with at least three other senators from Queensland who will be speaking on this bill, I am very happy to support Senator McLucas and to be able to say that I have been fortunate enough to live in North Queensland and to visit our wonderful Great Barrier Reef. Any sense that it could be under threat needs to be addressed. I am sure we will be able to find some acceptance that we need to be together on this—dismiss any acceptance that we can make political points—and to look at the key issue, which is protection and security for something that is vulnerable.

Senator Bartlett referred to the strong work done by the current Great Barrier Reef Marine Park Authority, and we echo that. The authority is doing splendid work and we rely on that work to protect what is already...
there. However, this bill extends that to ensure that there is no opportunity for threat and that there cannot be any activity that could in any way reverse the legacy that we all have. As senators in this chamber know, there is strong legislation. The debates about setting up the Great Barrier Reef Marine Park Authority in 1975 were strong and in many ways they were an example of how people could work together to ensure a great result. But, as Senator Bartlett said, that was a long time ago and there needs to be some reconsideration. It is to be hoped that that reconsideration can be achieved in the same spirit. However, comments dismissing any attempts to put forward this bill make one question whether in fact there is that understanding across this house. I commend this private member’s bill to the Senate. We can work together now to ensure that a natural wonder is protected, that the onerous national and international responsibility that we all share will be fulfilled and that future generations will be able to enjoy our Great Barrier Reef in the same safety that we do today.

Senator Santoro (Queensland) (4.25 p.m.)—I want to commence my contribution to this debate on the Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2] by agreeing in part with my distinguished colleague Senator Moore, who has just spoken, on the other side. I agree particularly with her last stated objective and aim, and that is that we preserve the Great Barrier Reef as a pristine natural area that not only we but also those who are to follow us can visit and enjoy.

Senator Crossin—You can sit down now; that’s all you need to say.

Senator Santoro—That is wishful thinking on your part, because I have a lot more to say than the few kind and benign comments I have just made about the contribution we have just heard. I accept that my colleague Senator Moore and others before her did speak with sincerity about the beauty of the Great Barrier Reef, but I just do not believe that they are saying everything they need to about this bill, in particular about their record of neglect and non-action when they were in government and able to influence policy, and the implementation of policy, in a way that genuinely protected the reef.

I will highlight a few of the things neglected by the Labor Party when it was in government, at the risk of being repetitive. I asked for some briefing material as to the Labor Party’s record, because I was very young at the time they were in government and I perhaps did not take as great an interest as I could or should have. I know that Senator Eggleston has put on the record the woeeful neglect by the Labor Party when in government, but in case you missed that I want to drill home a few truths that I know will be uncomfortable but, because my Queensland Senate colleague is a basically fair person, I hope she will accept them as fact.

As Senator Moore has just said, the Great Barrier Reef is unquestionably Queensland’s greatest natural asset except for the 3.6 million people who live in Queensland. They are its greatest natural asset, but the Great Barrier Reef is certainly up there. Sometimes it seems to me that those who push the environmental cause too far forget that human society is in fact the greatest natural asset globally. That is not to say that something as precious as the Great Barrier Reef, the largest coral formation in the world, does not deserve maximum protection.

I do not think there is anyone in this place, elsewhere in this parliament or indeed in Australia who would for a moment countenance malevolent interference with that reef. That is precisely why this bill, the brainchild of the Labor Party, is such a waste of time. This private member’s bill is, as others have said, ultimately and simply a piece of political mischief. It is a stunt. It is something that, with respect, we just should not be debating here today when there are so many other issues about which we could be debating that have relevance to people who need the protection of parliaments and senates like this.

Before I go on to talk at some length about the reef and what it means to Queensland, Australia and the world community, I believe I should reinforce for honourable senators the facts as they relate to the present protection of the reef and its precious and
frail environment under legislation. Let us take this bill’s proponents—the member for Wills in the other place and my Queensland Senate colleague Senator McCues—through the facts. Mineral exploration and mining are explicitly banned within the Great Barrier Reef Marine Park by the Great Barrier Reef Marine Park Act, which this bill seeks to amend.

Senator McCues—Yes, that’s right.

Senator SANTORO—Yes, that’s right.

Senator SANTORO—That is where we are going to disagree and that is where I am going to talk about your record in government, which is clearly illustrated from the documents tabled in this place and in other places on various occasions. If we look, for example, at what your government allowed to happen, such as—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! Senator Santoro, can you please address your remarks through the chair.

Senator SANTORO—Of course, Mr Acting Deputy President, always. The documents that have been tabled in this place on various occasions reveal that, from the late eighties onwards, the then Labor government was engaged in active promotion of offshore mineral and oil exploration in Australian waters, with only the effectiveness of the EPIP Act to protect any offshore or onshore area. That cannot be denied. If you look—

Senator McCues—Tell us the whole story, Santo.

Senator SANTORO—I am telling the whole story. If you look at the powers that the Environmental Protection (Impact of Proposals) Act gave to the minister, you will see that it only gave advisory powers. That they were advisory only can be gauged by the sort of exploration that was allowed offshore and beyond the boundaries of the reef. Exploration of the Townsville Trough was in fact promoted. Exploration of the Maryborough Basin was to be promoted, along with exploration off the Queensland Trough and the Capricorn Basin among others. That was under your act. It cannot happen.

Senator McCues—It can happen.

Senator SANTORO—It cannot happen now. Listen to the encouragement in extraordinary terms offered in this document, Offshore strategy: promoting petroleum exploration offshore Australia, signed off by the then Minister for Resources, Alan Griffiths. It says, for example:

Where an exploration permit holder makes a commercial discovery, there is an automatic right to a production licence over that discovery.

That is what it said. How much more blantly exploitative can a policy be?

Senator McCues—Keep telling the story, Santo—just get to the end.

Senator SANTORO—Of course. I do not know how you can sit there with no shame and ask me to keep telling the story, because it is your story. It is the story of the Labor Party in government. It is your story and you are just sitting there and laughing as if it were a joke. It is not a joke. It is fact; it is history. As I was saying, the document says:

Where an exploration permit holder makes a commercial discovery, there is an automatic right to a production licence over that discovery.

I quote the very next paragraph, which says:

… where production requires a pipeline to transport petroleum to shore, a pipeline licence will be granted.

That is the history of the Labor Party when it comes to offshore exploration and offshore exploitation of natural resources.

Senator McCues—You haven’t told the whole story.

Senator SANTORO—I will continue to tell the whole story—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! Senator McCues, you had your opportunity to speak to this bill at an earlier stage. Senator Santoro has the right to be heard in silence.

Senator SANTORO—Mr Acting Deputy President, of course I will always be guided by your rulings, but in fact I cherish the in-
terjections on this occasion from Senator McLucas and others, because they enable me to again underline just how ineffective the regulatory regime was when the Labor Party were in government in the eighties and just how disastrous they potentially were for the preservation of the Great Barrier Reef.

It is obvious that I do not think very much of the bill before us, and I do not intend to canvass in great substance what this bill provides for, because I want to talk about the reef and what it really means to Queensland. But I do think it is important to make the point—and it is a point that has to be made and remade in this place and elsewhere—that this bill is another Labor Party stunt. They obviously have no policies, just as they did not have policies or regulatory and legislative regimes in the late eighties. They had no positions. On this issue and many others they are rapidly running out of any moral authority whatsoever. That is largely their problem, and I do not think it is up to us on this side of the chamber to educate them. They should want to educate themselves. I could recommend ‘Relevance 101’ as an excellent starting point.

In Senator McLucas’s second reading contribution which was incorporated in Hansard yesterday, she asserted that the government had no desire to protect the Great Barrier Reef. I think she knows that that is simply not true—with respect, you know that that is simply not true, Senator McLucas. Her argument appears to be that the minister for the environment will not do what she would like to tell him to do. Senator McLucas also noted in her incorporated speech:

Labor has consistently opposed oil prospecting and drilling on or near the Great Barrier Reef.

That is a sensible policy position but not one that is uniquely held by the Labor Party. We can all be glad that Labor, while it searches for relevance, supports the government’s policy of not permitting such activity on or near the Great Barrier Reef. We can all be glad—and friends of the Great Barrier Reef here at home and around the world can feel reassured—that this government ended the inadequate protection of the reef offered by the Environment Protection (Impact of Proposals) Act, which was left in place during 13 years of federal Labor rule. I have just informed the Senate of the woeful record that weak act, which only gave the minister advisory power, represented in terms of protection of the Great Barrier Reef.

I have gone over some previously travelled territory briefly for two reasons: first, to reinforce the point that this is an unnecessary bill, and second, to put my subsequent comments into context. In her first speech to the Senate in 1999, Senator McLucas made these comments, which I also believe should be repeated here today.

Senator McLucas—You’ve done your research—very good!

Senator SANTORO—Yes, Senator McLucas, I have taken a great deal of interest in what you have had to say previously on this topic in this place.

Senator Abetz—You’re the only one who has read it!

Senator SANTORO—There were some good points. She recognised good people and the great place of Queensland that she came from, in particular her more immediate political and natural environment. I join her in recognising the significance and the beauty of Queensland, as well as the good work that people did in order to help her get into the Senate—all that sort of thing. But there were some other things that Senator McLucas said:

In North Queensland our tourism industry depends on our natural environment—the reef and the rainforest. I pay tribute to those in the environment movement who worked to have both of these wonderful natural resources protected through their listing on the World Heritage register. It is now our responsibility to ensure that these special ecosystems are protected and enhanced through sound management. However, it is not always a straightforward matter. Recently Greenpeace released a research report on coral bleaching, a phenomenon causing corals to die, lose their colour and turn white. It predicted that bleaching could become a regular occurrence on the Great Barrier Reef by the year 2030 resulting from a rise in ocean temperature of just one degree.

While scientists may not agree as to whether ocean temperatures will rise at the rate predicted by the Greenpeace report, the link between ocean warming and coral bleaching is not in dispute. As
we know, the key contributors to global warming are greenhouse emissions. The body charged with the management of the Great Barrier Reef, the Great Barrier Reef Marine Park Authority, has no control over greenhouse reduction targets; neither does the tourism industry or the fishing industry, which rely on the reef. We do. The plight of the Great Barrier Reef and the many jobs that depend on it is an illustration of why governments and parliaments must have a commitment to tackling the hard decisions—decisions which will determine the future of our communities, decisions like how to manage environment and industry sustainably.

It may be that some would want to argue with the detail of what Senator McLucas said in that part of her first speech, but I am sure no-one would argue with the sentiment. It points up the incredible fragility of the reef—in the context of coral bleaching—and the fact that the reef, the world’s largest living organism, deserves the best protection human ingenuity can provide it with.

The reef is our primary tourism attraction for thousands upon thousands of Australians and international visitors alike. It is—with apologies to the Sydney Opera House—the image that the world instantly recognises as Australia. We know, as Australians, that we hold the reef and its wonders in trust for all the peoples of the world. We know that the reef must be protected not just because it makes us money from the passing tourism trade but also because we owe it to the environment, to the whole ecosystem that is planet Earth, to do so. No-one I know would for a moment shy away from that sacred trust.

But I believe that when we are considering the Great Barrier Reef we need to do so mindful of the fact that it is an area that attracts human activity and is a major economic driver within the Queensland economy and most particularly in the long stretch of coast and hinterland that is settled and extends from Bundaberg in the south to Port Douglas in the north. The Great Barrier Reef Marine Park Authority recognises and is reacting to issues of water quality in the reef lagoon. It notes that the reef is a relatively unspoiled environment, although the region is a focus for agricultural production, tourism, shipping and of course expanding urban centres, all of which present a threat to the reef from pollutants. Run-off resulting from land based agricultural activities and from urban development is, as all honourable senators here would recognise, a further threat.

It is central to tourism. Domestic and international visitors to Queensland contributed 6.4 per cent to Queensland’s gross state product in 1998-99. Sale of goods and services to international visitors makes tourism the second biggest export earner, accounting for 11 per cent of total Queensland exports overseas, which, coincidentally, is more than coal. The tourism industry directly employs more than nine per cent of employed Queenslanders and accounts for over 151,000 jobs. That is a massive contribution to employment and to economic growth. Tourism directly accounts for more than half of the employment in accommodation, cafes and restaurants; 21 per cent of the retailing industry; 19 per cent of the cultural and recreation industry; and 13 per cent of the transport and storage industry. It is estimated that on average one job is created or supported in Queensland for every 167 domestic visitors or 65 international visitors. Indeed, tourism is becoming an important economic contributor in many regional areas—up to 29 per cent of jobs in some regions—and it contributes to community access to improved leisure facilities, cultural diversity and a greater appreciation of Queensland’s attractions.

All of these things are directly relevant to the Great Barrier Reef and its unchallengeable position as our premier natural drawcard. They are figures and statistics that should make it blindingly obvious that no-one is going to be allowed to put the reef at risk from the sort of thing that Senator McLucas’s bill is apparently designed to forestall. As Virginia Chadwick, Chair of the Great Barrier Reef Marine Park Authority, says:

Our fundamental obligation is to protect the Great Barrier Reef Marine Park and the World Heritage Area. But obviously, it must do this in a way that manages human impact on the reef and provides scope for growth in demand for services.

As I said, tourism is the principal commercial use of the reef marine park.
In conclusion, the essential question is: is this government’s position good enough to protect the Great Barrier Reef, unlike the position that the Labor Party—Senator McLucas’s party—adopted when they were in government? Clearly, our government has declared exploration a controlled action. The government has issued guidelines for an environmental impact statement when needed. To date there has been no indication from any company as to whether it will proceed with the EIS. If it does not proceed, the seismic testing program simply will not be able to proceed. If it does complete an EIS and that EIS suggests there is a threat to the reef, the seismic testing program will not proceed. They are just a couple of examples of how, in an administrative and legislative sense, the position of this government is far more advanced in terms of protecting the Great Barrier Reef than the position taken by your government in the 1980s.

This debate is a very simple one. Do we really need the provisions of this private member’s bill to be implemented in order to protect the Great Barrier Reef? I would respectfully suggest that, no, we do not. That is simply not the case. After listening to some of the debate prior to my speaking, I am not convinced. Clearly, this side of the Senate is not convinced. When we debate issues such as this, I think we need to be honest about our record when in government—and I am talking particularly about the record of your party, Senator McLucas. I think that we should also be honest about what legislative protection exists at the moment for the Great Barrier Reef. So I join others on this side of the chamber to oppose this bill, because it is a stunt. It represents political hypocrisy and, unfortunately, as often is the case in politics, it just refuses to give due credit to a job well done by a government of which I am a very proud member.

Senator HOGG (Queensland) (4.44 p.m.)—I participated in the debate on the last occasion that the Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2] was before us, under the Democrats. I made it clear that my reasons for participating in the debate on that occasion were firstly that I had an interest in the reef because it is an icon—

Senator Carr—Not a commercial interest.

Senator HOGG—Not commercial—

Senator Carr—I hope the Liberals have declared their commercial interest.

Senator HOGG—I am sure they would have declared any interest, Senator Carr. But having said that, I had an interest in the reef going back not only to my time as a senator and a citizen of the state of Queensland but also as a member of the environment committee of this Senate. I was involved in a rather substantial inquiry which looked at the effects on the reef from damage caused by human intervention. On the occasion that I last spoke on this bill, although it is now under the sponsorship of Senator McLucas and Senator Bartlett, I did complain about schedule 1. I still complain about schedule 1 because, if one looks at schedule 1, it lists a whole lot of latitudes and longitudes which are very nice on paper but do not paint the true picture of what we are talking about.

Senator Carr—I can see that.

Senator HOGG—Yes. That is a very important thing.

Senator Abetz—You want a map.

Senator HOGG—I want a map—that is right, Senator Abetz; you have hit it in one—for the simple reason that a number of other people in this debate need a map as well. We had Senator Eggleston in here, who is from the western side of the nation, speaking about a pristine area off the coast of Queensland. I am sure that if he knew where the Barrier Reef was exactly situated, he might have been a little more fervent about the protection of the reef as those of us from the state of Queensland are.

Senator Abetz—Senator McLucas should have done her homework.

Senator HOGG—We are very fervent, Senator Abetz, in the protection of the reef. We know what an icon the reef is. We know what part it plays in the economy of not only the state of Queensland but also the whole of Australia. My friend on the other side Senator Santoro has just admirably told us of the
quality of the reef in terms of tourism and what it draws to the state of Queensland. Senator McLucas, in her second reading speech, did allude to the economic usefulness of the reef in terms of the fishermen and fisherwomen of the state of Queensland. That is very important as well.

This legislation is absolutely necessary. It has been scoffed at from the other side, purely and simply, as being totally unnecessary and a piece of political mischief, as described by Senator Eggleston. Coming from a Western Australian, that was most unfair indeed. As I said, if he were to live in Queensland he would have a different view of it. Those of us in Queensland seek to protect this reef so that it remains not only for this generation but for generations into the future as well.

One of the attractions of the reef—which has prompted, in many ways, this bill as it appears in the second reading speech of my colleague Senator McLucas—is the prospect of oil and gas being there. Where there is oil and gas, there is money. Where there is money, people tend to push the iconic values of places such as the Barrier Reef to one side. Therefore, in my mind, that justifies this piece of legislation that is here today. Because the guarantees that have been provided by the senators opposite thus far in the debate are not really guarantees at all. There is a history associated with this issue. A brief history that I have been provided with looks at what happened back in 1968. In 1968, the then Bjelke-Petersen government issued 16 licences to prospect for oil in the waters east of Queensland.

**Senator Abetz interjecting—**

**Senator HOGG**—Senator Abetz, even you would not want a pristine iconic reef, such as the Great Barrier Reef, to be the subject of oil exploration with all the attendant problems that can happen with oil exploration.

**Senator Abetz**—It won’t go back to 1968. It was a very long time ago.

**Senator HOGG**—Going back to 1968 is very important, Senator Abetz, because governments—and there have been state Labor governments since the Bjelke-Petersen government—have not issued licences for prospecting on the reef. The only government to issue licences was a coalition government in the state of Queensland. That is the concern. In 1970, Ampol and Japex postponed drilling near Whitsunday Island. In 1972, the Whitlam government was elected, and in 1974 there was a royal commission into oil drilling on the Great Barrier Reef that was completed. The commission, as I understand it, was at that time split on whether drilling should be allowed on the reef or not. I do not think it is a matter of whether or not it should be; I think it is a matter of total exclusion, because once it is laid waste the reef will never recover. It is such a fragile ecological system that, having been destroyed, the time for recovery is not 10, 20 or 30 years; it will take thousands of years. That is the problem with that system, unlike any other system that we have around the world. Some systems can be restored, but in the case of the Great Barrier Reef we are dealing with a very fragile system indeed.

In 1975, the Labor government established the Great Barrier Reef Marine Park Authority. Also in 1975, the Fraser government was elected. In 1980, the Fraser coalition government placed the Great Barrier Reef on the Register of the National Estate. That is laudable, that is praiseworthy and that is proper. That is what should be done. We have something that is unparalleled anywhere else throughout the world. That is why the tourists come to see it. That is why there is such a diverse range of fish life and coral life on the reef itself.

Of course, some people tried to take a cheap shot by referring to difficulties that occurred during the Hawke Labor government and alluded to some efforts that were made by Mr Griffiths at that time. The fact of life at that time was that Mr Hawke, the then Prime Minister of Australia, came down on the proposition like a tonne of bricks. What there was, in effect, was probably described in other words as a 'rogue element'. But that was clearly and quickly stopped by Prime Minister Hawke. He was not entertaining any interference in any way whatsoever with the Great Barrier Reef.
The legislation today really gets to the point of ensuring the lasting value of the reef is preserved for all time. We have real concerns that, with the passage of ships through that area, if a tanker, for example, were to hit then one faces the prospect of calamitous damage to the reef. But, of course, fortunately there has not been anything of great magnitude at this stage. Having said that, one should also then look at the views of the locals, particularly in the area where there was talk of seismic testing in the Townsville Trough. It is interesting to look at the Townsville Bulletin of 17 April 2002. I can assure you that I do not think the Townsville Bulletin is noted as being overly sympathetic towards the Labor Party, but it is interesting to look at the editorial of that day. It notes:

... Opposition Leader Simon Crean ... pledged a Labor government would ban exploration or drilling for oil on or around the Great Barrier Reef.

That is important. People thought that I was having a bit of a joke before when I was talking about the map, because when you look at the map, whilst it will have a boundary for the Great Barrier Reef Marine Park Authority and the area that we are talking about, you see there is no partition dividing the two areas. Movement between the two areas defies the boundary. The boundary, in effect, is something that we as human beings have created but there is no boundary in terms of the movement of water, the movement of fish life, the movement of bird life and the movement of species across those boundaries. It is not simply about looking at the Great Barrier Reef Marine Park, as has been raised in this debate. One needs to also look at the areas adjacent to, abutting, the Great Barrier Reef Marine Park area so that one excludes dangerous activities from taking place in that area. That is what this bill seeks to do. It is not doing anything extraordinary; it is simply saying that oil prospecting and oil drilling, being the target of the bill, will be stopped.

There is no reason why anyone on the other side of politics in this debate should not be able to sign up, whether they think that it is excessive to existing provision or whatever and whether they believe it is even a political stunt. It is not a political stunt in the eyes of the people of Queensland. It is not a political stunt, because it has iconic values. The editorial in the Townsville Bulletin goes on to say:

The reef, he— that is, Simon Crean— rightly observed, was one of Australia’s greatest natural tourism assets and legislation may be required to protect it from further oil exploration.

The article goes on:

Federal Environment Minister David Kemp meanwhile is adamant that under the Great Barrier Reef Marine Park Act, oil drilling and exploration have been “explicitly, totally and unambiguously” banned on the reef for more than 25 years.

That is right, but we are not talking about the Great Barrier Reef Marine Park solely. There is the area adjacent to it. It does not live in isolation. Whilst Minister Kemp, quoted in this editorial, may well be correct, the fact of life is that you have to live with the area that is adjacent to it as well. And that is the area that is targeted by the legislation presented by Senator McLucas. That is why I said it would have been very helpful if we had had a map, rather than a series of latitudes and longitudes. It would have assisted people such as Senator Eggleston when participating in the debate. I do not blame him: he is from Western Australia, and I know it is a long way away. It would have helped him, though, to realise where the Great Barrier Reef Marine Park Authority area is in relation to the area that is being described by Senator McLucas’s legislation. Maybe we can get someone to convert it to a map and send it to Senator Eggleston. I must say that my colleague Senator McLucas has tried to draw a map for me, but I said that that was completely insufficient for my needs. The Townsville Bulletin editorial goes on to say:

We should all rest easy then, knowing that politicians at all levels are opposed to any harm coming to this wonderful asset. But even though the reef might well be protected under the Marine Park Act, other legislation is in place that is allowing a seismic survey to go ahead in an undersea area known as the Townsville Trough which, if the survey confirms the suspected presence of vast oil reserves, will spark intense pressure from oil companies for drilling to proceed.
That is the nub of it. If there is oil there, if there is gas there, then as the editorial—which is not normally sympathetic to the Labor perspective and the Labor point of view—identifies, it will spark intense pressure from oil companies for drilling to proceed. They will harangue and they will harass until they get their way. The article goes on to say—

Senator Abetz—It’s your reef, too.
Senator HOGG—It is your reef, too. Senator Eggleston, I am glad to see you here. I am going to get a map produced for you.
Senator Eggleston—I brought them out of the office.
Senator HOGG—That is good. Although everyone agrees the reef cannot be drilled, there is interest in whether oil is in the region and in determining at what distance from the reef drilling would be acceptable to the Australian public. That is the other issue that is raised in this. Having established that there is oil there, will that then put pressure to bear on politicians and the like to ensure that the reef is drilled? The article concludes:
Without doubt, the Government and Opposition will be lobbied—and lobbied hard—if and when the presence of a vast reservoir is determined. The article goes on to say:
That confirmation could occur at any time and so it is vital that the public holds the politicians to their word and ensures that the reef can never be harmed.
The operative word there is ‘never’—‘holds the politicians to their word’ and ‘never be harmed’. If this legislation ensures that the Great Barrier Reef can never be harmed then it is a positive step in the right direction. It is not a step that is a political stunt; it is not a step that is going to do anything other than protect the lifestyle, the livelihood, of many people in Australia and protect an iconic world-class attraction for many tourists throughout this world.

Senator SCULLION (Northern Territory) (5.02 p.m.)—I am very pleased that Senator Eggleston has entered the chamber so that I can perhaps take the opportunity to defend him. I am quite sure that neither Senator Eggleston nor I need a map to understand that Kakadu, the Olgas and the Great Barrier Reef belong to all Australians. In fact, they are three places that are managed by the Commonwealth on behalf of all Australians because of their iconic status. I would say to Senator Hogg that I can understand why Senator Eggleston would take such offence at the suggestion that he is too far away and that he does not, as an Australian, have an interest in that area.

There is simply no need for the Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment Bill 2003 [No. 2]. You will have to look around and say, ‘What sort of mischief is out there that this piece of legislation seeks to apprehend and stop?’ As I see it, there is no immediate threat to any of these things. I have heard of people talking about a number of applications that are happening and the great fear of something happening with a seismic survey. There has been much exploration north of the Northern Territory. It has been done under the legislation of this government and it has been very successful in ensuring that there has been absolutely no damage to the environment.

As has been mentioned many times in this chamber by both sides, the principal issue, which seems to have been ignored, is that mineral exploration is in fact banned completely from the marine park by the Great Barrier Reef Marine Park Act. There is absolutely no exploration there at all. As has been mentioned here before, there were obviously some concerns up to 1996 when we had a simple act—the Environment Protection (Impact of Proposals) Act. That act, as has been stated often in this chamber, was completely insufficient to be able to manage comprehensive exploration activity in our marine reserves.

It is interesting and I suppose ironic that we have heard from the other side about how important it is to pursue exploration for minerals in our marine estates under very tight legislation. I find it very difficult to believe that the Labor Party are standing before us today saying we need tougher regulations when in the late eighties they actively pursued exploration around the reef under the offshore strategy, which promoted petroleum exploration in offshore areas, with very little
protection provided in terms of legislation. I heard Senator Santoro talk about this particular legislation and about an automatic right. It is as if someone can say, ‘Look, I’ve got to make a decision on the environment. I’ll just pick the phone up; I’ll ring the minister and say, “How’s it going, mate? Listen, we’re doing a little bit of a pipeline thing—a bit of reef. Don’t worry about it; I just want to seek your advice. But even if your advice is that I can’t possibly do that, well, no worries, mate. Crack on.”’ That is not legislation of any value and it is certainly not the sort of legislation that underpins an offshore strategy that pursues exploration, particularly in the Townsville trench. Isn’t it ironic that we are in this chamber today considering legislation that has been triggered by this fear campaign in the same area that the Labor Party, in the eighties, was looking to explore under such flimsy legislation.

I heard Senator McLucas in her opening remarks on this legislation say that an application has been successful for seismic exploration around the area of the Townsville trench. That is not actually the case. She needs to understand that seismic exploration can take place subject to the Environment Protection and Biodiversity Conservation Act—a very rigorous piece of legislation that lays out a whole suite of activities that have to be undertaken prior to the commencement of seismic or other exploration activities. It is a very important piece of legislation because it is very comprehensive. It ensures that the EIS deals with a whole range of issues associated with the biodiversity of the area and that it understands the complexity of the biospheres under which the proposed exploration is going to act.

So it certainly has not gone ahead. As I understand it, the EIS has not actually been completed at this stage. I know that was not misleading, but I thought people should really try to understand the process. Perhaps when they understand the process they can understand why people like me, who have a long association with the marine environment, are so confident that the suite of legislation provided by this government will give future generations of Australians confidence that they will have access to our marine resources. That might be for jobs or for the commercial interests that the members opposite resile so strongly from that provide huge amounts of employment and development in Queensland. If the EIS indicates any problem whatsoever, the seismic activity will not be able to continue. It is as simple as that.

This government has put in comprehensive arrangements to protect the park. To understand the management of natural resources you need to understand that no single tool will provide protection for the environment. It has to be a suite of tools, because the environment is diverse and the management tools need to be equally diverse. This government has expanded the size of the park and has developed extensive programs that now represent over 70 bioregions within the park. The boundary of the reef is well inside the boundary of the park. People say, ‘It is right up against the side of the park.’ The marine park was designed with a boundary, a buffer zone, that is many kilometres outside any of the areas that the park seeks to protect. The Great Barrier Reef Marine Park Authority has been tasked with looking after the very delicate biodiversity of the Great Barrier Reef. It is the tools that we find in the marine park management plan that are so good at doing those very things. To say that we will extend the park in some clumsy attempt to control something else is an absolute nonsense. It is a suggestion put forward by people who do not understand the principles of natural resource management.

There are some examples of other people who have looked at managing their fisheries well into the future and who have done it very well. I point to the Torres Strait Treaty. It says that there is a five-year moratorium on any exploration in the area. In that five years we are developing a management plan to ensure that we can have access perhaps to petroleum resources within our region, but that has to be done sustainably and in a way that ensures that the environment is not impacted in any way. That is a very sensible approach. We have already heard about this government’s suite of measures, including the wonderful sugar package that came out. That was also associated with ensuring that the activities of the sugar farmers did not
affect the marine park of such iconic value that is adjacent to them.

Places like Coringa-Herald National Nature Reserve and Lihou Reef Natural Nature Reserve are within this area that we speak about. There is absolutely no petroleum exploration there. We do not need to regulate for it; we do not need to legislate for it. It is within a management plan, and protection has already been achieved. The Commonwealth government have recognised that there are iconic areas to the east of the Great Barrier Reef in the Coral Sea, so they have managed them within a suite of management plans. The government have made these areas national nature reserves in order to manage them effectively and efficiently. The Coral Sea Fishery in that area is also very efficiently managed by the Commonwealth government through the Australian Fisheries Management Authority. There is also the Coral Sea Islands Act. We have layers of regulation that ensure that every bit of activity that occurs not only in the areas within the reef but outside the reef is managed perfectly and sustainably. People are saying, ‘Let’s just extend it out there. This is a bill that is supposed to protect the reef, so we will extend the park all the way to the EEZ.’

There is no concise appreciation of the issues that we are trying to resolve. There is no appreciation that the Townsville trench might have some special diversity that we need to protect. There is none of that. The idea is to take the park all the way to the EEZ. Do you know why? Because there is an arbitrary line there. No Australian should need a map to know that there are an awful lot of resources and an awful lot of area between the edge of the Great Barrier Reef and the EEZ.

The trick is to watch how things are perceived to so easily transfer. This has gone from being an area adjacent to the park to actually spreading out to become part of the park, yet there is the notion that this proposal for an extension to the region would impose no management or cost implications for the Great Barrier Reef Marine Park Authority. This clearly is not the case. Once an area is determined to be within the Great Barrier Reef Marine Park, the authority has a legislative obligation to administer the area in accordance with its objectives and functions. I can assure you, Mr Acting Deputy President, that, should it be declared part of the marine park, it is anticipated that there will be a reasonable community expectation that once the Coral Sea area is incorporated into the region it will be incorporated into the marine park. That is the flow. Section 32 of the act requires that as soon as practicable we need to prepare a zoning plan for the area. This is not just something you do over breakfast; this is a comprehensive process second to none in the entire world. We look very carefully at the impacts, and that is how we have zoned the Great Barrier Reef. But suddenly we are going to be preparing a zoning plan that goes from the Great Barrier Reef to the edge of the EEZ and we are going to say, ‘That is not going to cost a thing—not a cent.’ What a lot of rubbish.

There are two full phases of public consultation. It is a huge area and there are so many stakeholders in that area to be consulted. I do not know that they are all going to say, ‘That will take two days. We will do it over breakfast; it will be easy.’ What a lot of absolute nonsense. It flies in the face of reality. The same issues are associated with people trying understand marine management. It is about managing people. It is an absolute insult to Queenslanders and Australians to say that we are suddenly going to be able to do this widespread consultation at no cost. Let us talk about some of the stakeholders. Let us say the park has now expanded to the edge of the EEZ. The fishing industry does not care, tourism is all right and everyone is happy. I have just been on the phone today to the CEO of the East Coast Tuna Association. He said, ‘If the marine park goes anywhere else but where it is, you will put an awful lot of people out of business, Nigel.’ I said, ‘I am not suggesting that at all. I resile from that. This is just a suggestion—some bill that is being put up that is supposed to be protecting the park but is in fact going to do other things.’

Senator McLucas—That is not true, Nigel, and you know that.

Senator SCULLION—While you were out of the room, Senator McLucas, I explained how we went from an extension un-
der section 32 of the act to it being a marine park. One of the problems with the park was that they were excluded because they had a multihook fishing capacity. They have $20 million to $40 million in production; there are 800 to 1,200 people; there is $150 million to $180 million in capital invested in the northern area of the zone; and there are 50 boats in Mooloolaba, 10 boats in Cairns and four boats in Bundaberg. You cannot be too flippant about this. These people are deeply concerned about the regulatory arrangements in the area that they fish—because they have been excluded, and they accept that—which is between the EEZ and the reef. I can tell you right now, judging by the phone call I had today, that it will not take too long to consult with that part of industry. They will certainly not be too happy about it.

I have been in some confusion trying to come to grips with this terrible fear that we have out there, that at any minute now oil will gush out of something and it will then run all over the top of the ocean and kill everything. As an Australian and someone who has worked, studied and been closely associated not only with the Great Barrier Reef but also with many similar biosystems around Australia, I am passionate about making sure that not only the iconic values but also those commercial interests that those opposite resilient from so much are protected in the future. There is absolutely no doubt about that.

The oil industry no longer drills holes in the ground, with all those associated nightmares. It is a heavily regulated industry in Australia. It cannot do anything anywhere near the Great Barrier Reef in any event because we have the border of the Great Barrier Reef a long way from the reef itself. There is a buffer zone that was designed to make sure that such activities would occur far enough away. We could not have ended it at the reef edge; that would have been silly. The oil industry cannot just do anything; it operates under the seas and submerged lands act, another piece of Commonwealth legislation, another layer of sensible resource management. It controls the expansion of activities within the petroleum industry and it does it very well. Environmental plans have to be in place before you can engage in some activity, whatever it is. That is in the submerged seas and lands act. We also have the Environment Protection and Biodiversity Conservation Act.

We have layers of legislation and regulation to ensure that the iconic areas in the reef are not the only ones protected—because there are other areas that we do not know anything about. I know that Senator McLucas is very keen on preserving biodiversity wherever it exists. I know that she is aware that in other areas outside the reef, particularly in those deep waters, there is new biodiversity that we still have to protect. I do not think that they should be allowed to do anything they like outside the reef at all. In fact, this is why the Environment Protection and Biodiversity Conservation Act throws a blanket across all of our territories and all of our waters. Look to the north-west and the oil and gas exploration happening there. Look at the Timor Sea. It is already happening. It is providing jobs for people. It is a wonderful industry that is well regulated, and it has not done a single thing to the environment over there—not one single thing. I think people are saying that we cannot possibly have oil development anywhere near anything that has some sort of icon status, but Senator Eggleston will tell you about some of the magnificent biodiversity areas off the north-west of Australia that are greatly valued. The industry certainly works in with the environment there.

Having a bit of a history in the fishing industry, I have to say that we have learned a bit from the approach taken by the oil industry, and I think there are still some lessons to be learned in the future. I think the industry’s only failure is to not publicise and educate people on the very rigorous process that they have to go through to establish development programs and exploration. So where is the risk? Senator Moore and Senator Hogg touched on very important issues, including shipping. Last year, on the way to a committee hearing at Thursday Island, I flew over a boat stuck on the Great Barrier Reef. We all peered out of the window—fantastic stuff! Luckily it was not an oil tanker spilling oil everywhere, but somebody from the other side came to me and said, ‘We have got some
real risks; we have had three boats hit the reef. We need to change the legislation. This government is looking at that now. In concert with the IMO, we are putting things in place to make sure that shipping passes through these iconic areas without having a negative interaction with the environment.

It is anathema to me that people on the other side who represent people in Queensland would be saying, 'I don’t think we need to have a hydrocarbon industry at all.' The potential area between the end of the Great Barrier Reef Marine Park and the EEZ is huge. It is quite possible there are going to be hydrocarbons in that area. I do not know why we need to resile from that and say, ‘Oh no, not jobs for Queenslanders. Not development. Not a future for our children. That would be horrific.’ I just do not get why we should resile from an industry that has brought so much benefit in such a sustainable way to Australia already.

Understanding marine resources is about understanding the sorts of tools that you have to use. Marine parks are used to protect marine biodiversity. It is self evident. It is in the name, we have established it and that is the sort of thing they do. They are there to ensure that we prevent the mischief of unsustainable use or unsustainable behaviour, and I think the Great Barrier Reef Marine Park Authority ensures that that is what happens within that area. We have the submerged seas and lands act and other acts that regulate the petroleum industry, and that is exactly what we should do. We have national reserves and their regulations to preserve special areas of iconic value. We have fisheries management plans. We have all these tools, but what we have to understand is this: if you want to somehow control the petroleum industry, I would have thought it would have been self evident that you would not use a marine park plan to do that. You have to look at the comprehensive suite of regulation and legislation in this country that adequately protects the Great Barrier Reef. This bill, if supported, will bring grief to Queensland rather than the benefits of the protective measures that this government have taken to ensure that the Great Barrier Reef is protected in perpetuity for our children.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (5.21 p.m.)—That was one of the best exposes that I have heard on the subject of the Barrier Reef. It should have been good, too, because Senator Scullion has been not only a fisherman but also in charge of the fishing industry in Australia. Halfway through his speech I commented to my colleague Senator Eggleston: ‘He certainly knows his stuff.’ And he should know his stuff because he has been out there working on the reef. Fishermen farm the sea; farmers farm the land. They both know that if they abuse their respective industries or regions—the land or the sea—they will not get a living out of them. So they are conservationists, because they live on the land or on the sea, they do not want to spoil it and they want to pass it on to another generation. I was very impressed by what the relatively new senator had to say in his presentation to the Senate today.

As a Queensland senator, I am fully aware of the benefits of the Great Barrier Reef. It was only a couple of weeks ago that I asked the Minister for the Environment and Heritage, Dr Kemp, to come up and examine some of the problems that he had with certain industry groups and to let them point out their position to him. While we were up there we met with the people at the Great Barrier Reef Marine Park Authority whose job—some people would say they are overzealous in doing it—is protection of the reef. Nevertheless, if they err in any way it is certainly for the protection of the reef.

For the life of me I cannot understand why we are going through this bill, because it seems to be have been thought up in about 30 seconds—it has a whole lot of latitudes and longitudes on it and about two lines of anything else. Senator Scullion raises the very important point that, if you draw a couple of lines on the map, get a few latitudes and longitudes and then ban everything within the 200-mile zone, you can then think: ‘That’s good. We’ve done our bit for the cause.’ I can understand the Greens and the Democrats, but I cannot understand the
Labor Party. Senator McLucas is one of the sponsors of this bill and she lives in Cairns. Maybe she has given up on the fishing industry, because they have certainly given up on her. I do not know why she would proceed with a bill that jeopardises not only jobs for fishermen but jobs in the processing works, the engineering works and the slipways. Fishing is a very high-impact industry: a boat goes out for two or three weeks and has to be recommissioned every 12 months or so, given new nets and so on—the jobs that the fishing industry provides are immense. So, just willy-nilly, out of the blue, we have a map, we have the latitudes and longitudes of the 200-mile zone: ‘We don’t have to do much about that, we’ll just pick them up, write a bill, get up in the Senate and try and pass this private member’s bill.’ There is no thought of any consequences for the industries that depend on access to that zone.

It was the coalition government that formed the Great Barrier Reef Marine Park Authority some time ago. The National Party and the Liberal Party have taken the practical steps of bringing in the Great Barrier Reef Marine Park Act and, for areas beyond the boundaries of the park, the Environment Protection and Biodiversity Conservation Act. Senator Scullion mentioned a number of other acts that protect the reef—I think I counted five or six that he reeled off. So why do we need this bill? I cannot understand it—but that is not surprising because I do not understand a lot of what the Labor Party does. What surprises me is that there are only two speakers supporting Senator McLucas on the Labor Party side.

Senator Eggleston—Be fair—there are three!

Senator BOSWELL—I will be fair, Senator Eggleston, as I do not want to misrepresent the situation. They have had three speakers, while we have put up a number of speakers to oppose this very silly piece of legislation. Senator McLucas must have drawn the short straw to present this. Let me put it to the tactics committee of the Labor Party: if you want someone to move a bill like this, do not get someone who comes from the Cairns environment, where Senator McLucas lives, because the bill, if it is passed, will impact on that area. Fortunately, I do not think it will get through the lower house. It will impact heavily on Cairns.

Senator McLucas—You know it won’t affect the fishing industry!

Senator BOSWELL—Senator McLucas, I was suggesting that you should keep out of the fishing industry.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Senator Boswell, address your remarks through the chair, please.

Senator BOSWELL—Sorry, Mr Acting Deputy President—I was just addressing some of the prospects. Do not say that the fishing industry will be set free and let loose.

Senator McLucas interjecting—

Senator BOSWELL—You well know that I have just spent time acting in concert with the Labor Party in Queensland to get $10 million out of this government to remove 250 boats from the Great Barrier Reef. I am not saying that was a bad thing; I think it was a good thing. But do not think you can just say, ‘We’ll put these zones out here and draw a few lines on the map and nothing is going to happen to the people that fish.’

Senator McLucas—It will not affect the fishing industry!

Senator BOSWELL—It certainly affected them in the Great Barrier Reef. They are affected already. What you are—

The ACTING DEPUTY PRESIDENT—Carry on, Senator Boswell. Do not be derailed by interjections.

Senator BOSWELL—I am being provoked. It was the coalition that created the Great Barrier Reef Marine Park Authority through legislation. We also introduced the Environment Protection and Biodiversity Conservation Act. We have done many things, yet we are being asked to make a decision on this bill on a Thursday afternoon. The Democrat and Labor proposers of the bill say it is needed to protect the Great Barrier Reef from oil prospecting and ultimately oil drilling. That just cannot happen. The bill aims to extend the boundaries of the Great Barrier Reef region to the extent of the eco-
nomic zone. I have commented on that already. It is just an easy target because the latitudes and longitudes are already there. However, what surprises me is that this bill is very like the bill proposed by the Democrats last March when the ALP would not support them. I do not know what has happened to the Labor Party. They have had a conversion on the way to Damascus and now want to get into bed with the Democrats.

It is quite interesting from this side of parliament to watch the ALP being outflanked by the Democrats and the Greens trying to outflank the Democrats. It is almost like a circle: everyone is trying to move to the Left. It is quite interesting to watch. If it was wrong in March last year, I cannot see why it is suddenly right this year. Maybe it is because of the election that is coming up in New South Wales. Both the Democrats and the ALP are very concerned that the Greens have a run on and they think they have to produce a few green credentials. That is the only possible reason I can think of as to why the ALP would change their position and start to hang on to the coat-tails of the Democrats when they would not support the bill last year. The pressure that is building up from the Greens is pushing them continually to the Left.

The government has already ensured that the Great Barrier Reef region is protected. Drilling and exploration are completely banned under the Great Barrier Reef Marine Park Act.

Senator McLucas—In the marine park area.

Senator BOSWELL—The marine park area does not extend right to the zone. There is a buffer zone in there too. You want to take the buffer zone out another 200 or 300 miles. You do not explain why you want to do it or go into any of the detail. The greater area sought to be covered by the bill is already covered by the government’s Environment Protection and Biodiversity Conservation Act. There are about five acts that protect the Great Barrier Reef.

No-one knows more than I do what the Great Barrier Reef is and what it means to Australia as far as the environment and the economics of the tourism industry are concerned. I am very much aware of that. As I said, I spent the last four days of the most recent non-sitting period investigating certain things with the minister up in the area. The Environment Protection and Biodiversity Conservation Act, the Great Barrier Reef Marine Park Act and the four or five acts reeled off by Senator Scullion are much wider in application than this phoney bill that has just been put up. Our legislation covers many more applications than this bill which limits oil exploration. I repeat that the Great Barrier Reef Marine Park Act explicitly bans exploration and mining within the Great Barrier Reef Marine Park. The park is fully covered under the government’s Environment Protection and Biodiversity Conservation Act 1999.

In the 13 years that I sat here in opposition—

Senator Eggleston—What an experience!

Senator BOSWELL—It was a terrible experience but it hardened us and made us tough. It fired us up and we came out of it a lot tougher and much more determined that we would never spend any more time on the other side. The opposition have to go through that experience and, if they are going to put up legislation, they ought to do it better than this.

In the 13 years I was in opposition, the only coverage of the reef I saw was abysmal legislation in the late eighties, when Labor was in government, which really allowed Labor to consider exploration on the reef. The only protective legislation has come from this government. As I said, it was a coalition government that formed the Great Barrier Reef Marine Park. Why didn’t Labor support the bill last time? When Senator Bartlett tabled his information last year, it showed that Labor was engaged in active promotion of offshore mineral and oil exploration in Australian waters and they had abysmal, paltry and ineffective legislation. Senator Bartlett’s documents showed that Labor had a plan to promote exploration in areas immediately adjacent to the Great Barrier Reef, right up to its boundaries, including the Townsville Trough. That is in contrast to what we have done. This is certainly
a change in attitude. The Democrats tabled the documents, and it was there in black and white that Labor wanted to explore right up to the very edge of the national park.

I do not think any government has done more than this government to protect the Great Barrier Reef. I agree that some little things escape me, as Senator Scullion has just told the Senate. But I do not think he raised the prospect of us, on this side of parliament, putting in $10 million to reduce the size of the fishing fleet, by pulling out around 250 boats, because we believed that the reef was overfished. And so did the fishing industry. They came to us and said, ‘We have to reduce the fishing effort and we would like some assistance.’ I went to Senator Hill, the minister at the time, and said, ‘We have to help these people.’ He said: ‘If it’s going to help the reef, of course we have to help these people. I’m only too pleased to take the proposition to cabinet.’ I do not think Senator Scullion mentioned that, but it also shows what a responsible government we are as far as the reef is concerned.

The America’s Cup has just finished, and many superyachts will be coming to Australia. I think 30 or 40 are going to come to Australia. These superyachts are owned by the wealthiest people in the world, and they want to have a look at our barrier reef. They will come here not only to look at the reef, which is a major attraction to them, but also to repair and refit some of their boats. These boats are worth $60 million, $80 million or $90 million, and every three or four years they have to spend 10 per cent of the value of the boat on a refit. The main attraction to them is the barrier reef but the spin-offs for us include the refitting and the servicing of the boats, and the victualling of the boats with food and beverages. The barrier reef is a huge attraction for these wealthy boat owners, but their arrival is going to be absolutely fantastic for the Australian economy. So why would we, on this side of politics, not take every care, every precaution, to protect the reef? Of course we will. We will, even to the point of going up there with the minister to talk to the farmers, the people and the fishermen to get their views and for them to exchange views with the minister in order to protect the waters in the lagoon of the Great Barrier Reef.

I do not see the need to introduce this bill. It seems to me that someone in the Labor Party party room must have said: ‘Gee, what are we going to put up on Thursday? Does anyone have anything available? Who has a private member’s bill? Let’s give that one a run.’ It is an absolute reinvention of the wheel—a wheel which does not need to be reinvented. This bill is not going to be helpful to anyone. It certainly will not be helpful to the fishermen. I cannot see the slightest need to go ahead with this legislation. As I said, I think Senator McLucas drew the short straw. I do not know why Senator McLucas always falls for these sorts of things. I suppose she is a new senator and she is easy to catch. (Time expired)

**Senator MASON (Queensland) (5.41 p.m.)—**There is one golden rule of politics in this place: you do not listen to what the Labor Party say, you remember what they did. On issues like the economy, they talked about the economy but what did they do? They trashed the economy. For a party that talk about social equity and intergenerational justice, they were going to slug the next generation with a huge debt. For a party that are committed allegedly to social justice, they were going to slug young people with a huge debt. And on issues central to social democracy, allegedly, like health, what did they do? They wrecked the health system by wrecking the private health system and private hospitals. Then there is the issue of welfare. The worst thing the Labor Party have done over the past 25 years was to create a culture of entitlement that nearly flattened the Australian people and took away their will. They are a party who talk about social justice yet they trashed the economy, wrecked the health system and changed Australia’s culture for the worst.

Then there is their big issue of human rights. They always preach to this side of the chamber about human rights. Do you know what I think about when the Labor Party talk about human rights? They, the Left of the Labor Party, believed in moral equivalence. They preached to the Liberal Party about human rights all over the world yet they be-
lieved that any system of government anywhere in the world was okay. Communism was a legitimate aspect of cultural diversity—that is what they believed last century. Their big issue now is human rights, and they preach to the Liberal Party about human rights. But they got the economy wrong, the health system wrong, welfare wrong and human rights wrong. Their last big issue is the environment because the Labor Party sticks up for green issues. Isn’t that right, Senator Boswell?

Senator Boswell—Well, they get dragged along.

Senator MASON—Which party has spent more money on the environment than any other in the history of this nation? The Howard government has, under the Natural Heritage Trust, which was funded by the sale of Telstra. The Howard government has done more for the environment than any other government in the history of this nation. Yet the opposition think they have the green vote and that they have done more for the environment. They have not.

What did they do? The Labor Party opposed the setting up of the Natural Heritage Trust from the sale of Telstra. That is what they did—like everything else they know is in the public interest, they are against it. This is the party that opposed the GST, not because they did not believe in it but because they thought they could win an election on it. I do not care about disagreement in debates in parliament—we sometimes have legitimate disagreements, and that is fair enough—but the worst thing about the Labor Party is that they will go against the national self-interest of this country if they believe there is a bloody vote in it. That is what they did with the GST and the partial sale of Telstra, and they think that somehow the Australian public will reward them for that. Cheap politics! Cheap populism!

Senator Marshall—I can hardly believe that you are protecting the reef. Protecting the reef against the national interest, is it?

Senator MASON—Let us get to that. Australia has made significant advances in recent years in managing and protecting the environment. Most of that has been funded through the Natural Heritage Trust, which was opposed by the Labor Party. The government is moving to integrate the principles of sustainable development into programs all across government agencies, as well as improving the sustainability of government programs’ in-house operations. This has been the result of partnerships with the community, industry and state and local governments. The largest environmental restoration program in the history of this country was funded by the Howard government from the partial sale of Telstra—opposed by the Labor Party. That was opposed by the Labor Party—and they come into this chamber and preach to us about the environment! They opposed the greatest single injection into environmental protection in the history of this country, and they wonder why Senator Boswell and others are incredulous of the Australian Labor Party. Now you know why.

What they have been saying on this issue has largely been political window-dressing. They say oil should be banned on and off the Great Barrier Reef. As Senator Boswell said so eloquently, mining is banned on the Great Barrier Reef and has been for decades. The Howard government has enacted the Environment Protection and Biodiversity Conservation Act, which for the first time ever gave the federal government the power to protect the reef from any activity anywhere in Australian territory which could harm it. The Labor Party do not want anyone to know that, because they think they can lecture the government about the environment, yet they opposed the greatest injection of funds into protecting the environment in this nation’s history. They opposed it, yet they lecture us. The Labor Party also do not want the public to know that the Howard government is currently hard at work with the Beattie government of Queensland developing for the first time water quality standards for run-off into the Great Barrier Reef lagoon. Agricultural run-off in Far North Queensland is creating problems.

Senator Boswell—I took the minister up there last week.

Senator MASON—that is right. Senator Boswell took the minister up there last week. That is an issue, and who is addressing it?
Who is doing the practical things that need to be done, Senator Boswell? The Howard government is. Who opposed the greatest injection of funds in environmental protection in this nation’s history? The Labor Party and the Greens and the Democrats—they are all condemned. The government that has spent more money on the environment in the history of this nation is the Howard government. We keep saying it because they do not like it: they all wince and turn and say, ‘We don’t like it’—but we did do that. They know it and they do not like it. The Labor Party also objected to the Howard government’s proposal to put water quality onto the national agenda. The Howard government introduced the $1.4 billion national action plan on salinity and water quality, and created the first national oceans policy and, of course, a national coastal policy.

Finally, there is all this talk about Kyoto that comes from the Labor Party. That is a big issue with the Labor Party and once again they preach to us. They preach to us about human rights and the economy and health and education and welfare. They preach to us about the Kyoto protocol. Labor do not want the public to know that the Howard government is committed to meeting our Kyoto targets and is busy implementing Kyoto with a billion dollars in greenhouse gas abatement programs which are on track to deliver 60,000 tonnes of abatement, the equivalent of taking all passenger cars off Australia’s roads.

Senator Marshall—Then ratify the protocol. Ratify it!

Senator MASON—That is what we are doing, something practical—not the rhetoric of the Left. That is what we are doing in practical terms. The Howard government has already moved beyond Kyoto, which will not deliver enough cuts in emissions to combat global climate change. It will not do that, but we have moved beyond it by working both within and outside the Kyoto mechanism for a more effective regime, by engaging the United States in a joint climate action plan to work on better science and technology to monitor and combat global warming and, by working with businesses, environment groups, local government and community

Where is Labor’s plan to improve shipping safety on the Great Barrier Reef? Where is Labor’s plan to improve water quality? Where is Labor’s plan to achieve the cuts in greenhouse gas emissions needed to meet our targets? Mere ratification of the Kyoto protocol will not deliver one ounce of additional abatement. What the Howard government is doing and has always sought to do is to do what is practical and what is possible. Issues about salinity and the Murray-Darling Basin—who put them on the national agenda? The Howard government. Who opposed the greatest injection of funds in the history of this country into environmental degradation? The Labor Party. Who has done more for environmental sustainability in the history of this country? The Liberal Party. You would not know that, coming from the Left, would you? Who has failed to protect human rights, Senator Marshall? Not the Liberal Party but the Labor Party—we will get on to that another time.

Senator Ian Macdonald—What about White Australia too?

Senator MASON—That as well. Senator Macdonald, you missed my introduction but, make no mistake, I have covered those issues, as I usually do. What the Labor Party needs is a book like this one, Strategic leadership for Australia: Policy directions in a complex world, by the Prime Minister. Mr Crean or, indeed, Mr Beazley never developed one of these, did they Senator Tchen?

Senator Tchen—They had Knowledge Nation.

Senator MASON—I read that book every night when I go to bed. I read the Prime Minister’s words. In a landmark speech on sustainable environment, the Prime Minister said:
The threat posed by poor quality water from nearby catchments entering the Great Barrier Reef lagoon and harming coral reefs provides an example of how the Government is working to meet complex environmental challenges. This year the Commonwealth developed a memorandum of understanding on this issue with the Queensland Government, and the two govern-
ments are working jointly with stakeholders such as cane and beef producers, environmental groups, the fishing and tourism industries and local government, to determine the reasons for declining water quality, the level of impact, and the best solutions to this problem. It is expected that a Reef Water Quality Protection Plan will be finalised early in 2003 that sets out key actions, timelines and responsibilities for helping to protect the Reef.

Who is doing the practical workmanlike stuff to help fix the reef? As always, the Labor Party just talks. When it was in government it failed. Now, it uses rhetoric and has no plans for the future. One of the changes in the Left over the last 20 years—you may have noticed this, Mr Acting Deputy President Lightfoot—is that they used to dominate the rhetoric but now even the rhetoric is sour. I will get to that at the conclusion of my speech. There are certain ideological reasons involved but the bottom line is they are becoming increasingly irrelevant.

Late last year—this is another practical issue with respect to the reef—the cooperative research centres for rainforest and reef won joint funding from the Commonwealth government to minimise the effects of agriculture on the Great Barrier Reef lagoon. This $2.25 million three-year program will develop new cost-effective ways to identify, monitor and limit water quality problems in the wet tropics and the Great Barrier Reef World Heritage areas. Once again, that is a practical, workmanlike solution to a difficult problem and, once again, we are doing something that works after consultation with the community.

The Labor Party talk about things and, of course—I have to remind them again—opposed the greatest injection into environmental sustainability in the history of this country. They have no credibility when it comes to the environment. They opposed the greatest ever injection of funds into the environment, yet they lecture the Liberal Party about the environment. It is a bit like lecturing us about human rights; it is not the right thing to do. It is not clever debate; it is not clever policy. The Natural Heritage Trust has been the greatest boon to the environment this nation has ever seen. It has involved the greatest injection of funds, the greatest practical solutions—community-based solutions—this nation has ever seen. Sure, we have not got all the trendies and all the Lefties running around, but we have given them the money. The community organisations have been given the money. Those people opposite opposed it, and they opposed it on ideological grounds as usual. Of course, the ideology is failing and becoming more and more pathetic.

In 1996, the Howard government, when Telstra was finally sold, allocated $1½ billion to the Natural Heritage Trust over six years. It was the largest and most successful environmental restoration program in Australia’s history. In the 2001-02 budget, the trust was extended for a further five years, commencing in 2002-03 with the injection of an additional $1 billion. The Labor Party opposed the Natural Heritage Trust. All the issues that we talk about today, whether it is the Great Barrier Reef, salinity or recovery in the Murray-Darling Basin, are the big issues. Did you ever hear the Labor Party mention them in their time in office?

Senator Eggleston—Not once.

Senator MASON—That is it. It is all very trendy but when they were in office there was no action and no money. Every morning, I spend time on the rowing machine in the gym, and I think about the Labor Party as I am struggling along.

Senator Hutchins—What, stroke for stroke?

Senator MASON—Stroke for stroke. There are two simple conclusions with respect to the Labor Party. Mostly, the Labor Party do not believe in anything anymore. Social democracy has been dealt some nasty blows. Basically, their economic template has been borrowed from the Liberal Party. Issues such as the economy, health, welfare, human rights and the environment are dominated these days by non-social democratic forces or, if they are social democratic parties—like Mr Blair’s—they adopt the conservative template. Basically, they do not believe in anything anymore—except that they will get into government. When they do believe in something—they do occasionally believe in something, although rarely—do
you know what? They get it wrong. They got the GST wrong because they thought they would win an election on it. They are all very guilty and they won’t talk about that. Remember roll-back? They got it wrong. It was pathetic and they got it wrong. I am afraid that here again with this bill—guess what!—they got it wrong, even though I am sure Senator McLucas is earnest and sincere about this bill.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot) —Order! Thank you, Senator Mason, that was a very entertaining speech. It being almost 6.00 p.m., the time allotted for consideration of general business notices of motion has expired. The Senate will now proceed to the consideration of government documents.

DOCUMENTS
Auditor-General’s Reports
Report No. 31 of 2002-03

Debate resumed from 5 March, on motion by Senator Hogg:

Senator HOGG (Queensland) (6.01 p.m.) —I rise to continue my remarks from yesterday on the Performance audit: retention of military personnel follow-up audit because of the importance that I believe it holds for the Australian Defence Force. Recommendation No. 5 of the audit report relates to the problems being faced by the sons and daughters of military personnel who are transferred around Australia as part of their duty and the fact that there is inconsistency between the various state and territory education systems. The recommendation mentions ongoing discussions with the state and territory education departments and says:

With the Department of Education, Science and Technology, Defence has funded a study of mobility and its impact on learning outcomes.

Really, that is a bit over the top. The problems with the education of children of Defence Force personnel were recognised a long time ago. It seems to me that it is begging the question now to be funding a study on its impact on these young people. The impact is known, the impact is there; it is the solution that is the hard part—and the solution is getting some sort of consistency between the various state and territory education departments. They all have their own dung heap and they are not going to move. They have their own little place in the sun and they want to keep it. Until one can get the various state and territory departments of education to move, one can have as many studies on mobility and its impact on learning as one likes. The reality is that the reports I listed yesterday, going back as far as the Hamilton report and the Cross report, in 1986 and 1988 respectively, identified these issues, as did the report that the Senate Foreign Affairs, Defence and Trade References Committee put out in October 2001.

When one sees these types of recommendations, along with the other recommendations that I commented on yesterday, advocating that things will be done by late 2003 or 2004, one becomes gravely concerned, because these are not issues that have just lobbed onto the doorstep of the Department of Defence; they are issues that have been there for a long time that the defence department have failed to address either because of inertia within the department or because of structures that exist within the department. I do not see how these ongoing reports that make these recommendations to Defence, which Defence have seemingly ignored for a long time, help our Defence Force in any positive way whatsoever.

The other recommendation that I wanted to comment on, which I think I started to comment on yesterday afternoon, was recommendation No. 8, which states:

The proposed Retention Research Decision Guide will apply a systematic approach to the issue of retention by optimising the use of research to guide retention policy and planning.

That, in theory, sounds very nice—it sounds wonderful. But again, given Defence’s experience of a large number of reviews over a long period of time, one would have thought this issue, which has been so central to many of those reports, would have been addressed. Retention is absolutely paramount to giving us an effective and efficient military force, a force that can operate for the best defence of Australia. I am not in any way denigrating the job that is done by current serving Defence Force personnel. But it should be noted
that, in the inquiry that was conducted by the Senate Foreign Affairs, Defence and Trade References Committee in 2001, many defence personnel came before that inquiry and quite freely and openly—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! I wonder whether senators on my right could have the circumspection to whisper. It is obviously an important meeting! I do apologise, Senator Hogg—please proceed.

Senator HOGG—Thank you very much, Mr Acting Deputy President; that is very kind of you indeed. The Senate committee made a very detailed study. They had a number of very frank and open discussions with defence personnel and found that the problems that were confronting defence personnel in terms of retention—that was the issue that was before those people, as they were acting service personnel—were just not being addressed. They never had been addressed, but they could have been and should have been addressed.

It is disappointing to see that the ANAO treated Defence so mildly—and I thought that was very kind of you indeed. The Senate committee made a very detailed study. They had a number of very frank and open discussions with defence personnel and found that the problems that were confronting defence personnel in terms of retention—that was the issue that was before those people, as they were acting service personnel—were just not being addressed. They never had been addressed, but they could have been and should have been addressed.

One of the areas where there is an identified deficiency within the audit report is in respect of pilots. I am led to believe that the cost of putting a pilot into the level of experience they need within the Air Force is in the order of $6 million, which is a huge investment. One should not underestimate what happens when that pilot becomes disenchanted with our defence forces and walks out the door. Someone might challenge that figure but that is the figure that I have been given. Even if it is not $6 million, even if it is $3 million, it is still a very substantial amount of money and a substantial investment that has been put into our Defence Force personnel.

In conclusion, Defence as usual have agreed to the recommendations of the audit report, although I understand there is a qualification to one of those recommendations. That raises the question of what Defence are doing. That is what they do all the time: they agree with you and then do nothing. What we want to see from Defence is some action.

What is disappointing to me personally is the fact that the Senate Foreign Affairs, Defence and Trade References Committee report tabled in October 2001 has still not been responded to by the government. It contains many recommendations and identifies many of the concerns that have been identified by the Audit Office over a period of time—and there are other reports as well. It would be very good indeed to see a detailed response forthcoming from the government on that particular Senate inquiry and, hopefully, the government will give Defence a good kick up the you-know-where and get them into action to solve some of the problems that have been identified in both the audit reports and of course in the report of the Senate references committee. I think the report should be read closely by those interested in defence. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 28 of 2002-03—Performance audit—Northern Territory Land Councils and the Aboriginal Benefit Account. Motion of Senator Crossin to take note of document agreed to.

Orders of the day nos 2, 3 and 5 relating to reports of the Auditor-General were called on but no motion was moved.

Consideration

The following orders of the day relating to government documents were considered:
Department of Foreign Affairs and Trade—Advancing the national interest: Australia’s foreign and trade policy white paper. Motion of Senator Mackay to take note of document agreed to.

Treaties—Bilateral—Text, together with national interest analysis and regulation impact statement—Singapore-Australia Free Trade Agreement, done at Singapore on 17 February 2003, and associated exchange of notes. Motion of Senator Mackay to take note of document agreed to.


SOUTH AUSTRALIA: NATIONAL RADIOACTIVE WASTE REPOSITORY

Return to Order

Senator KEMP (Victoria—Minister for the Arts and Sport) (6.12 p.m.)—by leave—On 4 March Senator Allison moved that Senator Hill table the written advice provided by the Department of Defence to the Department of Education, Science and Training concerning the defence related issues in connection with the National Radioactive Waste Repository. The Department of Defence has consulted closely with the Department of Education, Science and Training about the location of the national repository. Defence has also worked closely with Environment Australia, which oversaw preparation of the environmental impact statement. Senator Hill is advised that the document in question is in the form of a written interdepartmental advice or communication. Traditionally, governments have regarded such advices as confidential and declined to publish them. Senator Hill does not intend to depart from that practice. The final EIS was published on 23 January. Senator Hill shall be responding to Minister David Kemp during the 30-day comment period which is expected to commence next week.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! There being no further consideration of committee reports and government responses, I propose the question:

That the Senate do now adjourn.

International Women’s Day

Senator SANTORO (Queensland) (6.15 p.m.)—It is appropriate in the week of International Women’s Day to highlight some very positive aspects of the work being done nationally and at home in Queensland by and for women. In doing so, I first want to acknowledge the key role played in national affairs today by my friend and colleague in this place Senator Amanda Vanstone, the Minister for Family and Community Services and the Minister Assisting the Prime
Thursday, 6 March 2003

Minister for the Status of Women. It is also appropriate to note that this year marks the centenary of most Australian women getting the vote. How far away that time seems from the perspective that Australians have on life today.

As a result of this centenary focus, a conference to be held in Canberra at the end of the month takes on special significance. It is the second national women’s conference, Australian WomenSpeak 2003, and its aim is to highlight and celebrate the achievements of Australian women. This year there will be a special focus on the centenary of women’s suffrage. This year we celebrate the centenary of the first occasion—on 16 December 1903—on which most Australian women were entitled to vote. That was an occasion on which, as is this country’s proud heritage, Australia was among the leaders of the world. Yet it was another 65 years before a woman was sworn in as a federal minister. That was Dame Margaret Guilfoyle in the Fraser cabinet of 1976. Seven years later Susan Ryan became the second female cabinet minister, serving in the Hawke government. It is a matter of interest to me that both women have agreed to speak at the national women’s conference being held from 30 March to 1 April. I believe they will present a perspective on politics and governance that will challenge everyone and which should be listened to with close attention.

As Senator Vanstone notes in her invitation to Australian WomenSpeak 2003, we are fortunate that in Australia our education system is such that women have the opportunity to develop their full potential. This stands in stark contrast with the situation that prevails in far too many parts of the world. Our record is good; it is up there with the best. But it can be better and it should be better. We still have a situation where women are over-represented in occupations such as sales and clerical work, nursing and teaching—all vital, valuable and fulfilling work—but are under-represented in many other occupations. Relatively few women take up non-traditional careers such as engineering, information technology, flying aeroplanes or even entering parliament. Across Australia, women make up fewer than 30 per cent of parliamentary members and that figure is similar to the representation of women on Commonwealth boards and in senior public service ranks. Less than 10 per cent of major company chief executives or private board members are women.

I would like at this point to pay further tribute to some of the Queensland women who have been so active in such a positive way in politics in my home state, and at all three levels of government. Last night I mentioned Joan Sheldon and Sallyanne Atkinson and I mention them here again tonight. But there are others: for example, Yvonne McComb King in the state sphere. Yvonne McComb King became the first female state president of a major political party in Queensland—in this case the Liberal Party. One of my predecessors in this place, Kathy Sullivan, commenced her federal parliamentary career in this chamber before entering the House of Representatives. These women epitomise the hardworking women who help make this country great.

One of the women in local government who, in my view, deserves recognition is Councillor Deirdre Ford from Cairns in tropical far north Queensland. Councillor Ford was first elected to the former Cairns City Council in 1994, then to the newly amalgamated council in 1995. She has an impressive local government background and has served on the board of the Australian Local Government Women’s Association and the Queensland board of the Australian Federation of Business and Professional Women. She is a director of the Residential Tenancies Authority, a Queensland agency, and of the North Queensland Community Corrections Board and the Cairns Regional Gallery, about which I have already spoken in this place—and, Minister Kemp, they are very grateful for your attendance and your participation in the gallery the other day. She is also a member of the Cairns Community Foundation. She is a patron of the Cairns Softball Association, the Cairns Highland and Irish Dancing Association and the Cairns Junior Choral Society. She is a member of the Zonta Club of Cairns and is studying for a master’s degree. They really believe in
hard work in Cairns, and Deirdre Ford works harder than anyone.

She is also chair of the Cairns City Council’s community services committee, and has previously served on the board of the Regional Galleries Association of Queensland and the board of the State Library of Queensland. I mention all this because Councillor Ford is also a participant in the Australian WomenSpeak Conference. She will be leading the workshop session on developing skills in local government. I am sure that this session will produce some lively and well informed discussion. This will particularly be the case since Councillor Ford was one of two Queensland women appointed to the federal government’s roundtable for women in local government that was announced on International Women’s Day in 2001. Local government will, of course, continue to undergo change, and in Councillor Ford’s view and that of others the roundtable was another very good step in removing barriers that might otherwise continue to preclude women from full participation in this important level of government. Councillor Ford is keen to encourage women into senior management positions, and for local government management to be seen as a career option for women. I strongly commend the efforts of Councillor Ford and all other women who are involved in the vital area of local government.

Tasmania: Meander Dam

Senator BARNETT (Tasmania) (6.20 p.m.)—I stand to speak in favour and support of the Meander Dam, which is a very important project in Tasmania. The federal government has committed $2.6 million to this project, subject to approval processes—environmental approval in particular. My own family farmed for 40 years on the Meander River. Like everyone else, the viability of our family farm depended on the water from the Meander River. I can assure you that over the past 10 years or so each summer it has been getting harder and harder to irrigate from the Meander River because of the lack of water.

The Meander Dam is going to have many benefits. I say that the green lobby have no right to blame the farming community for the Meander River’s problems. The economies of the Deloraine, Exton, Westbury, Hagley, Carrick and surrounding communities rely heavily on primary industries. Nobody can argue that the river is healthy as it is. Today, problems with the river are well known. Low flows in the summer mean that water restrictions can be imposed, and only a couple of weeks ago they were imposed. Irrigation is now not allowed on the Meander River; it is prohibited. Ironically, winter flows are so unpredictable that homes in the region get inundated and property is damaged from time to time. The most serious flood in winter in recent years was in 1998.

A carefully designed, constructed and managed dam would guard against drought and flood and would bring untold economic and other benefits to the region. It would also allow for the production of clean hydro-electricity and the development of another fishery and recreation area. Environmental concerns are valid, but in my view they are not significant enough to scuttle this project. This project will bring so many benefits. This dam is too important a project to our community.

The Tasmanian Liberal Senate team are totally committed to working together to ensure that the dam will still be built without unnecessary delay. It is now vital that the state government act within its power to get the dam back on track. It put up a submission to the Planning Appeals Tribunal and, unfortunately, it was inadequate. They needed comprehensive work, research and evidence to make sure that there was a convincing submission put to the tribunal. They failed in that effort, and the tribunal turned down their proposal and knocked it back. They are now looking at enabling legislation. They have one last chance. They have a second and last chance to get it right. This is one shot in the locker, and I am urging them to do whatever is required to make sure that they are successful in getting the dam built and that they put the research together. It must, at the end of the day, come to Dr David Kemp and Environment Australia to gain approval. The research must be done. There is no turning back; this is one last chance to get it right. They have the full support and commitment
of the Tasmanian Liberal Senate team in getting that evidence right. The Meander Dam, as I said, is good for the economy and the environment.

I want to commend the work of Mayor Mark Shelton and the Meander Valley Council and their total commitment to support the dam, as well as the Meander Dam Action Group—Jenny Dornauf and her committee. In particular, I want to highlight the wonderful work that has been done by the Tasmanian Farmers and Graziers Association with Brendon Thompson and Ian Whyte. The entire association is totally committed to making this a success, and we stand with them shoulder to shoulder to make that happen. We want to support and offer our assistance to the state government to make sure that they do their job correctly on this occasion in putting their submission forward to the federal government. We stand with the state opposition—Rene Hidding and his colleagues—in our support and with the local community, which overwhelmingly—and I repeat overwhelmingly—supports this project going ahead.

It is to be a 360-hectare lake, holding 43,000 megalitres of water. There will be a mini hydro scheme of some $4 million, not just for irrigation. This project will help in terms of power. It will cost between $25 million and $30-odd million. It will have total flow-on benefits of $53 million per annum and an increase in employment of 77 full-time on-farm jobs and 79 other full-time jobs. It has a projected capital investment of $12.7 million in on-farm infrastructure. All in all, it is good for the economy and good for the environment. (Time expired)

Iraq

Senator FORSHAW (New South Wales) (6.25 p.m.)—On 4 February, when the parliament resumed this year, the Minister for Foreign Affairs made a statement in the other place on Iraq. Similarly, in this chamber, the Leader of the Government in the Senate, Senator Hill, made that statement. There followed debate in both houses of the parliament, with a number of speakers putting forward their views. The Leader of the Opposition, Mr Crean, and Mr Rudd, the shadow minister for foreign affairs, put forward the view of the Australian Labor Party. Due to other commitments, I was not able to participate in the debate that occurred that week in the Senate. So I want to take the opportunity tonight to make a few comments about this most serious issue—indeed, the most serious and grave issue that is clearly facing the international community at this point in time. It is certainly the most serious and grave issue that is facing this country at the moment following the government’s decision to predeploy troops to that region. Apparently, the government is strongly supportive of unilateral action in the event that there is no UN resolution forthcoming from the Security Council.

The first thing I want to say—and it has been said by many, but I do not think it is said often enough, and it needs to be repeated time and time again—is that the leader of Iraq, Saddam Hussein, is a murderous tyrant and he runs a murderous, tyrannical, genocidal regime. He has done so for years and years. The world community, through the United Nations, has to do something about that situation. It is no response to say that there are other dictators in the world, to point at a country such as Zimbabwe or North Korea and say, ‘What about them?’ That, at the end of the day, is to vacate the debate and vacate the issue and it leads to inaction, with the result that these people remain in power. I do not support unilateral action to go in and achieve regime change in Iraq or indeed to achieve disarmament, but I do believe that we have to strongly support the United Nations and the Security Council of the United Nations—itself taking strong action to implement its own resolutions, particularly resolution 1441.

The record is of course well known. This is a regime led by a murderous tyrant who has murdered and massacred his own people. He has used chemical weapons on the Kurdish people. He has driven the Marsh Arabs out of their lands and denied them the opportunity to continue their traditional way of life. This is a regime that sent its own children—10-year-old children—into the front lines in a disastrous war with Iran that led to the deaths of at least a million people. This is a regime that invaded, without any justifica-
tion whatsoever, its neighbour Kuwait in 1990. I remind those people who consider that the way to stop war is to go to Iraq and become a human shield—and I remind the parliament—that the first thing that Saddam Hussein did when he occupied Kuwait was to detain all of the foreign residents in the country and hold them as hostages for up to five months. Many of them were held in refineries and other installations as human shields in the event of action taken to remove him and his forces from Kuwait. I could go on, but time does not permit.

As I said, the world must do something about disarming Iraq and hopefully bringing about freedom, human rights and liberty for the people of Iraq—something that they cry out for. I hope that, through peaceful means and through the United Nations taking the appropriate action to enforce its resolution, that will come about. That is what this government should be continuing to pursue and pursue strongly. I know that the Prime Minister and the government have a very grave decision to make in this regard. My fear is that they have already made that decision—that they have pre-empted the outcome of the United Nations Security Council deliberations through their predeployment and through the rhetoric of supporting those who seem to be hell-bent on unilateral action. Events are unfolding, as we know, day by day, and over the coming days and weeks things will come to pass. Hopefully what comes to pass will lead to the disarming of Iraq and, ultimately, the removal of this tyrannical regime.

I am concerned in this debate—in this parliament and in the public arena—that people, through their passion and no doubt sincere feelings and views in trying to achieve peace, will sometimes lead them to resort to arguments that have no basis in fact. I want to touch upon one of those in the few moments I have left. Recently, people such as Dr Mahathir—that great democrat from Malaysia—have tried to link what is happening with regard to terrorism and the events of September 11 and blame the state of Israel. At the Non-Aligned Movement conference recently, he said, and I quote from a newspaper report:

Describing recent acts of terror as “not on the scale of the Holocaust, the pogroms and the Inquisition”, he said there “was no systematic campaign of terror outside Europe until the Europeans and the Jews created a Jewish state out of Palestinian land”.

“If Iraq is linked to al-Qa’ida, is it not more logical to link the expropriation of Palestinian land, and the persecution and oppression of Palestinians, with September 11.”

Simon Crean’s response to Dr Mahathir’s comments is referred to in the newspaper article in this way:

Simon Crean said Dr Mahathir was wrong to portray the Iraq conflict as a religious war. “This has always been about disarming Iraq of its weapons of mass destruction, and nothing more,” the Opposition Leader said.

I reiterate and support the words of the opposition leader. Ultimately, it has nothing to do with that terrible conflict in the Middle East between Israel and Palestine. People may wish to draw those conclusions, but they are wrong; it has nothing to do with it. People should remember in 1991, when the Gulf War started and the US led forces, which included Arab nation forces, went in to liberate Kuwait, what the response from Saddam Hussein was. He launched Scud missiles against Israel. Israel had nothing at all to do with the war and yet it was attacked as Iraq was hoping to ignite a conflagration. That was not some action designed to help the supposed brothers in Palestine; this was simply an attack upon Israel to try and provoke another Middle East war—something that we have seen at least three examples of since the creation of Israel in 1948. We continue to see that tragic conflict going on, such as the suicide bombing today in Haifa and the deaths of innocent Palestinians as a result of Israeli Army actions targeted against terrorist groups.

I could go on to speak about other spokespeople who have made comments, but I want to make one final remark. The people who have argued in this parliament that we should also focus on Israel and its non-observance of UN resolutions should go back and read those resolutions. They should go back and read resolution 242 of 1967, which is not singularly directed at Israel but calls for both sides to enter into negotiations on the basis of respect for each other’s terri-
torial integrity and right to exist. That is at the heart of the Middle East dispute. When all parties—and particularly the organisations such as the terrorist groups—come to realise that, we may get some peaceful resolution. (Time expired)

**Small Business**

Senator MURRAY (Western Australia) (6.35 p.m.)—I rise to speak tonight in response to the High Court’s recent decision in the Boral case and its implications for small business and for Australian consumers. I am moved to do so by the Democrats, and my longstanding interest in trade practices reform and by recognition of the important social and economic role small business has to play in Australian society. In recent weeks I have been contacted by a number of small business owners and organisations in relation to this decision. In particular, I acknowledge the input of the National Association of Retail Grocers of Australia and the Fair Trading Coalition, for which I am grateful.

Until regulatory law is tested, its force often rests as much on moral suasion and perception as on the black letter. That is why the character and style of the chairman of the ACCC is so important, because threat and posture do help keep companies on the straight and narrow. Once the law is tested, it is a different matter. As it did with the Hughes Wakim and Mabo cases, by exposing serious deficiencies in the law, in the section 46 sense, first in Melway and now in Boral, the High Court has told parliament that a key part of the competition law is ineffective. Academic and small business experts have long complained that section 46 of the Trade Practices Act, which prohibits predatory pricing, is weak. They are right. Far from doing small and medium business a disservice, the High Court has done them a favour. This case will pressure the parliament to tighten up the TPA regime.

The Dawson committee report into the TPA was submitted to the government last month. Its views on section 46 will have to be borne in mind, but the Boral case guarantees that parliament will seek to strengthen section 46 regardless. The difficulty with the Dawson report is that small business and a number of politicians fear that Treasurer Costello is keeping this report secret and away from his backbench because he wants to finesse them with a cabinet decision first. A number of National Party and Liberal Party members and senators want a stronger, not a weaker, Trade Practices Act. Maybe they learned their lesson from the Baird report—some of them talking big for small business but wimping out when faced down by the economic rationalists in the government. My own additional 10 recommendations to the Baird report lacked support, therefore, and the National Party, who are hot on small business concerns, in the end failed to negotiate a sufficient government response to the overall report.

Predatory pricing is a big problem for small and medium businesses, both upstream and downstream. From a public policy point of view the issue is that the destruction of competitors, if taken to its logical conclusion, can result in the destruction of competition. That is why market power has to be regulated and constrained. What the Boral case says is that conduct by a powerful competitor that is predatory in economic terms and anticompetitive in nature may not be caught under section 46 of the act. Despite its powerful market position, Boral was deemed by the High Court to lack the necessary market power—the ability to ‘give less and charge more’. The court made a distinction between monopolistic power prior to predatory pricing, which would be an abuse, and the monopolistic power that results from successful predatory pricing. The problem is that if you let the latter happen, the regulator has failed. That is why section 46 must be toughened up to prevent companies from achieving such monopolistic power. A business alleging that another business has engaged in anticompetitive conduct must presently show there was an intention to eliminate competition. Proving that intention is notoriously difficult because it is so hard to get behind the big corporate shield and find the smoking gun.

This is not the first time it has become necessary for the Australian parliament to address this issue. Prior to 1986, the provisions of the Trade Practices Act caught only the predatory pricing of a monopolist or near
monopolist. Realising that the threshold was very high under that version, the parliament enacted the present section 46 with a view to lowering the threshold to include not only monopolists or near monopolists but also those corporations with a substantial degree of market power. In talking of substantial market power, reference was made to the terms ‘large’, ‘weighty’ or ‘big’. Accordingly, the ACCC and small business believed that powerful corporations with a large market share and considerable financial strength were on notice that their conduct could be within section 46 and therefore in breach of the Trade Practices Act. The Boral case shattered this belief. The High Court has said that a substantial degree of market power covers only those corporations that are able to set prices unilaterally without fear of losing custom. But which corporations can set prices unilaterally without fear of losing custom? In the absence of collusion, only a monopolist or a corporation that is in a controlling or dominant position in a market can raise prices without fear of losing custom. It is certainly not the case that duopolists and oligopolists would ordinarily have this ability. In a duopoly or oligopoly situation, absent of cartel-like behaviour, no single competitor is able to raise prices unilaterally without fear of losing custom. In short, there is now a considerable hole in the protection afforded under section 46 against abuses of market power by large and powerful corporations.

As section 46 now effectively applies only to the conduct of monopolists and near monopolists, small businesses have no protection against those other large and powerful corporations choosing to throw their weight around. Two possible measures could overcome this problem and still maintain fairness. The first is to remove the requirement to show intention and to instead show that the actions of the alleged perpetrator have had the effect of damaging competition. The second is to get behind the corporate veil by changing the onus of proof where the ACCC pursues the matter. The onus would fall on the defendant, not the applicant, to show that there was no purpose of eliminating competition. A system of protecting and rewarding whistleblowers who provide evidence about collusive and anticompetitive conduct should also be considered.

The ACCC should be given a power to grant cease and desist orders against companies involved in anticompetitive behaviour. Such a power would allow intervention on behalf of small firms who are being harmed by the behaviour of a large competitor. Rather than wait years for a court to determine the legality of a firm’s behaviour, a cease and desist power would allow early intervention before the competitor was driven out of business. Further, there is a case for section 46 to have specific prohibitions against predatory pricing. Another route of interest is to also toughen up and broaden section 51AC.

In many respects, Australia’s approach to the TPA is similar to that of other OECD countries; in other ways it is not. Missing from the TPA are a number of elements that are successfully implemented in foreign jurisdictions, such as the US antitrust or divestiture laws and the United Kingdom scale or complex monopoly mechanisms. The United Kingdom Fair Trading Act uses a figure of 25 per cent as constituting a fair market power strength measure. Boral, with at least 30 per cent of the market, would have officially been under market watch in the UK—a measure that usefully ensures better market behaviour. The point of the US antitrust laws, as interpreted by the US courts, is to prevent unreasonable and unfair methods from being employed by companies establishing a position of substantial market power or reinforcing a position of substantial market power.

Big business roar approval at the dynamism of the American market but fiercely condemn a major contributor to that dynamism—that is, the effects of antitrust laws. We need them in Australia. A practice should be deemed illegitimate if it restricts competition in a significant way or is likely to harm consumers through increased prices, reduced availability of goods or services, lowered quality or service, reduced diversity or stifled innovation. A stronger TPA will be good for Australia. What is needed is for legislation to be enacted to prevent the High Court’s Boral decision from being used by big business to
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justify open season against their small business competitors. It is time the bullies were put in their place.

Northern Territory

Senator SCULLION (Northern Territory) (6.45 p.m.)—I rise today to report on some very serious and significant developments in my beloved Territory. I was delighted to be in the chamber today to assist in the process of putting through a bill that enables the ratification of a treaty that brings great development prospects to Australia and the Northern Territory. Unfortunately, I did not have an opportunity to speak this morning because of an agreement by government senators not to speak then to allow the swift passage of the bill, which was very important because it had to happen before the ratification of the treaty. I would now like to take the opportunity to illuminate some of the benefits that will flow from it.

The Northern Territory has been blessed with developments over the years and it seems to be cyclical. We have just got to the stage of completing the railway, and it is on track. We have completed the port and we are now looking at developments to allow the port to connect Australia, and particularly Darwin, with the rest of the world. You could not ask for better timing. We now have a treaty and we are embarking on a journey of development and economic prosperity for the Northern Territory. It is not only for the Northern Territory but also for Australia. For the first time we in the Northern Territory can start thinking about our own economic independence in the sense that it gives us access to basic aspects of manufacturing, which are always associated with power. The development of the LNG from Bayu-Undan will not bring that specifically, but certainly in the future Greater Sunrise will bring the opportunity to have cheaper power and a manufacturing base in the Northern Territory.

I think it is important to recognise and congratulate people who have been associated with the treaty. I would like to take the opportunity to congratulate both Mr Downer and Mr Macfarlane for the huge effort they have put into ensuring that this treaty is ratified, and to all others who have been associated with those negotiations. It is also important to recognise the efforts of my colleague Mr Tollner. He is returning to the country after having participated in the ratification process in Indonesia. It is also important to thank both Shane Stone and Denis Bourke, who put so much work in on behalf of the Country Liberal Party to make sure that the Bayu-Undan negotiations were completed. This is now larger than that; it has gone on to Sunrise. It would not be reasonable of me not to also congratulate the current government in the Northern Territory, particularly Clare Martin for her efforts in ensuring that this process went through.

The additional developments that I am delighted to report on have happened literally today. They are additional developments inside the Northern Territory and they seem to have happened simultaneously—it is probably rare that this does happen—on the very day the treaty was announced. People said, ‘Yes, let’s go ahead now. This is so important, we can actually decide.’ The Chinatown development in Mitchell Street was decided today. There are two hotels going up, there is office space and there are restaurants. It is synchronous. They had to have a treaty to ensure that we could support those sorts of developments.

Developments come because we have had strong representation in federal parliament. What is not such good news for Territorians is that, as a consequence of the most recent census in September last year, there is a proposal to rationalise the electorates of Solomon and Lingiari to create a single seat of Northern Territory in the House of Representatives. I see this, and so too, no doubt, does my colleague on the other side of the House—and so should all of my colleagues in this place—as an inequity.

I do not want to go too far into a history lesson, but we started off in 1888 with the South Australian Northern Territory Representation Act. The Northern Territory was seen as some sort of funny northern suburb of Adelaide that had buffalo and barramundi, and crocodiles running around. Representation was made up of two members of the South Australian Legislative Assembly. It was totally inadequate and from that point to today there have been a series of moves to
ensure that we have better representation in those places. There was representation in both houses of the federal parliament as a part of South Australia. The Commonwealth Constitution Act made provision for the surrender to the Commonwealth of any territory or state. In 1911 the Territory formally passed to the control of the Commonwealth government for a whole range of efficiency reasons, as I understand it.

There is a history of campaigns like that of ‘no taxation without representation’. I think today a lot of people would be very surprised that people in the Northern Territory fought to have more politicians—and they actually put them in jail for it. Today you might think you would put them in an asylum for asking to have more politicians out on the street, but it was a very passionate place, the Northern Territory, and they felt very passionately about having more federal politicians then. I suspect that they would certainly want to maintain the representation they have at the moment.

I can recall speaking to Bob Kavanagh, a member of a family synonymous with Territory development, about how his grandfather spent time in jail as part of the ‘no taxation without representation’ campaign. This lobbying and protesting eventually succeeded with the passage of a couple of federal acts, including the Northern Territory Representation Act, which provided for a member for the Northern Territory in the House of Representatives. It was a small concession and I think a lot of people saw it as having a Clayton’s member because of the nature of the representation.

In a most important part of 1962, Aboriginals were given voting rights. It was absolutely central to measuring the capacity for representation to count the 30 per cent of the population who had previously not been counted. That was obviously a major step forward: that we had true population figures pertaining to the Northern Territory. There were a number of processes that established an increased level of representation in government, ending up with the adequate situation that we have at the moment. We have two senators and we have two members in the House of Representatives. In 1985 there was the statehood campaign by the Northern Territory government and that was pursued until the 1998 statehood referendum. That referendum was lost but as part of the referendum there was a broad agreement that, should the referendum succeed, there would be included in that a minimum parliamentary representation. In 2003, after a drop of simply 261 people in the Northern Territory population, we are now looking at a rationalisation of some seats.

It is important to have a look at the process of doing that and have a think about it. When you run a census, it has to be done to a standard error. Because of the Northern Territory, the census was run to a standard error of 0.6. That is plus or minus 2,500 people. We are only talking about 261 people here—a bloody busload! We are moving from a position where the highest number of people represented by a member is 133,147, which is in an electorate in New South Wales, to having one of the largest electorates in Australia, spreading from the Cocos Islands to Christmas Island and through a very large area of the Northern Territory, where 199,760 people are now going to be represented by one person. It is absolutely not equitable.

A change in population of 0.1 per cent causing us to lose 50 per cent of our representation is absolutely unacceptable. I will be calling on support from my colleagues in this and the other place to move to investigate amendments to the Commonwealth Electoral Act, specifically to section 48(2B), to allow for fixing a floor level, if you like, of representation in the House of Representatives. I am quite sure I will get support from my colleagues on that. I think it is very important to have minimum representation in parliament, and when amendments of that nature come to this place I will be looking for support from my colleagues.

Senate adjourned at 6.54 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:
Australian Capital Territory (Planning and Land Management) Act—National Capital Plan—
   Amendment 43.
   Approval of Amendment 43.

Indexed Lists of Files
The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended on 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2002—Statements of compliance—International Air Services Commission.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Research and Development: Renewable Energy Technologies
(Question Nos 1065 to 1068)

Senator Brown asked the Ministers representing the Prime Minister, the Minister for the Environment and Heritage, the Minister for Industry, Tourism and Resources and the Minister for Science, upon notice, on 7 January 2003:

With reference to the priority goals for research announced by the Prime Minister:

(1) (a) Which technologies are included in the goal of ‘reducing and capturing emissions in transport and energy generation’; (b) specifically, are the following renewable energy technologies included: photovoltaics, solar thermal, wind, hydrogen; and (c) are any renewable energy technologies excluded, in particular, those which do not result in the generation of power but replace power generation.

(2) (a) What range of activities is included in ‘capture and sequestration of carbon dioxide’; and (b) does it include biological sequestration such as in old-growth forests and geological sequestration.

(3) What was the recommendation of the expert advisory committee chaired by Dr Jim Peacock.

(4) Why is it that ‘capture and sequestration of carbon dioxide’ is specifically mentioned but renewable energy and energy efficiency are not.

(5) (a) What decisions have so far been influenced by the national research priorities; and (b) what guidelines or other information were given to the decision-makers in interpreting the priorities.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question on behalf of the Prime Minister and other ministers:

(1) (a) (b) (c); (2) (a) (b); and (4)

The Government has avoided an overly prescriptive approach to implementing national research priorities, and has not specified narrow areas of research that may be addressed through the priorities initiative. Designating narrow fields of research endeavour would be an attempt to “pick winners” and could constrain research in promising areas in the longer term. Instead, the Government has provided Commonwealth research and research funding agencies with considerable flexibility to respond to the priorities initiative, in accordance with their specific mandate or mission. The agencies will be expected, however, to explore ways to achieve a significant increase in research effort in priority areas, including by way of enhanced collaboration, and to describe how these strategies will add value to existing activities. Agencies will identify performance measures to enable the impact of the national research priorities initiative to be assessed.

The Government’s national research priority of An environmentally sustainable Australia has six accompanying ‘priority goals’. The fourth of these, Reducing and capturing emissions in transport and energy generation, is about performing research which will enable Australia to develop cleaner and more efficient fuels and energy sources.

(3) The committee recommended a range of thematic priorities and priority goals based on assessment of submissions received from the public consultation process.

(5) (a) No Commonwealth government funding decisions have been influenced to date by the priorities initiative. Individual Commonwealth agencies are required to take into account the research priorities and have been tasked to develop implementation plans by May 2003.

(b) Information about the priority areas and implementation arrangements was published on the website of the Department of Education, Science and Training, at the time of the announcement, at http://www.dest.gov.au/priorities/guidance_implementation.htm. Related information was also forwarded to relevant Ministers and to the management boards of the research agencies in the portfolio of the Minister for Science.

Science: Energy Policy
(Question No. 1137)

Senator Brown asked the Minister representing the Minister for Science, upon notice, on 24 January 2003:
(1) (a) What permanent committees with members from outside the public service advise the Minister on energy policy; and (b) for each committee can the following information be provided: (i) the committee’s terms of reference, and (ii) a list of its members, their terms of appointment, and the institutions or organisations to which they belong.

(2) (a) What temporary or ad hoc committees have advised the Minister on energy policy in the past 5 calendar years; and (b) for each committee can the following information be provided: (i) the committee’s terms of reference, and (ii) a list of its members, their terms of appointment, and the institutions or organisations to which they belong.

Senator Alston—the Minister for Science has provided the following answer to the honourable senator’s question:

My response is prefaced by noting that, as Minister for Science, I can only speak for the period following the transfer of the science functions to the Education, Science and Training portfolio as part of Administrative Arrangements Orders changes following the last election.

(1) There are no permanent committees with members from outside the public service having a specific remit to advise me, as Minister for Science, on energy policy.

(2) (a) In the context of the Prime Minister’s Science, Engineering and Innovation Council (PMSEIC), of which I am a member, the Council considered a report from a PMSEIC working group with energy policy implications at its 9th meeting held on 5 December 2002. The report was titled: BEYOND KYOTO: INNOVATION AND ADAPTATION.

(b) (i) The working group was asked to take a strategic view of how science, engineering and technology can best be adapted or developed by Australia to:

1. As part of Australia’s mitigation strategies identify opportunities to utilise and develop emission reduction technologies which build on and promote Australia’s competitive advantage in the energy and other industry sectors which are major sources of greenhouse emissions. The identification of opportunities is likely to have three distinct themes as set out below.

   • opportunities to reduce the emissions arising from existing carbon-cycle based activities;
   • opportunities to utilise existing non carbon-cycle technologies as practical future energy sources;
   • opportunities for research and development which can lead to new zero-emission energy sources capable of exploitation by Australian industry and energy consumers.

2. As part of Australia’s adaptation strategies, identify technology strategies and research activities which will assist Australian industries and communities to identify and adapt to the expected impacts of climate change.

   In preparing this strategic view, it was envisaged that the Working Group would undertake the following activities:

   • assess the relevance to Australia of existing, emerging and future developments in science and technology in areas such as energy production, transport, climate change science, and agriculture;
   • review the Australian situation in regards to the nature and trend of greenhouse gas emissions and the identification of any unique characteristics or problems;
   • review the capabilities of the Australian science engineering and technology base in terms of its ability to adapt and develop identified opportunities for Australia;
   • review opportunities for engagement with industry and for international collaboration and cooperation; and
   • identify potential risks and barriers associated with the development and implementation of identified new technologies.

(b) (ii) Members of the working group were:

   Professor Chris Fell, Federation of Australian Scientific and Technological Societies
   Mr Stuart Beil, Universal Carbon Exchange/CSIRO
   Dr David Cain, Rio Tinto Ltd
Dr Colin Grant, Bureau of Rural Sciences
Professor Paul Greenfield, University of Queensland
Dr John Wright, CSIRO

The working group operated for some five months in the lead-up to the 9th PMSEIC meeting.